

IN THE SUPREME COURT OF THE STATE OF NEVADA

NEW SOUTH FEDERAL SAVINGS
BANK AND PROFESSIONAL
LENDERS ALLIANCE,
Petitioners,

vs.

THE FIFTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF NYE,
AND THE HONORABLE ROBERT W.
LANE, DISTRICT JUDGE,

Respondents,

and

LARA RAE SPONSLER; ALUN G.C.
RICHARDS; AND JEREMY M.
BRITTON,
Real Parties in Interest.

No. 45803

FILED

SEP 16 2005

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. Richards*
DEPUTY CLERK

ORDER DENYING PETITION FOR
WRIT OF MANDAMUS

This is an original petition for a writ of mandamus challenging a district court's preliminary injunction order, which prevents petitioners from conducting a foreclosure sale of real property.

A writ of mandamus is available to compel the performance of an act that the law requires, or to control an arbitrary or capricious exercise of discretion.¹ Mandamus will not issue, however, if petitioner has a plain, speedy and adequate remedy at law.² Further, mandamus is

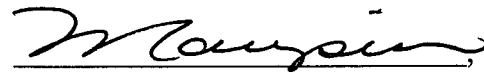
¹See NRS 34.160; Round Hill Gen. Imp. Dist. v. Newman, 97 Nev. 601, 637 P.2d 534 (1981).


²NRS 34.170.

an extraordinary remedy, and whether a petition will be entertained is entirely within the discretion of this court.³

NRAP 3A(b)(2) permits an appeal from an order “granting or refusing to grant or dissolving or refusing to dissolve an injunction.”⁴ Issues that are appealable are not appropriately considered in a writ petition.⁵ Accordingly, we deny the petition.

It is so ORDERED.

 J.
Maupin

 J.
Gibbons

 J.
Hardesty

³Poulos v. District Court, 98 Nev. 453, 455, 652 P.2d 1177, 1178 (1982); see also Smith v. District Court, 107 Nev. 674, 818 P.2d 849 (1991).

⁴See also Sobol v. Capital Management, 102 Nev. 444, 726 P.2d 335 (1986) (permitting an appeal from the district court’s refusal to grant a preliminary injunction).

⁵Pan v. Dist. Ct., 120 Nev. 222, 88 P.3d 840 (2004); Guerin v. Guerin, 114 Nev. 127, 131, 953 P.2d 716, 719 (1998) (recognizing that an appeal is an adequate legal remedy when challenging the validity of an injunction), abrogated on other grounds by Pengilly v. Rancho Santa Fe Homeowners, 116 Nev. 646, 5 P.3d 569 (2000).

cc: Hon. Robert W. Lane, District Judge
Miles, Bauer, Bergstrom & Winters, LLP
Richard R. Reed
Alun G.C. Richards
Lara Rae Sponsler
Nye County Clerk