

IN THE SUPREME COURT OF THE STATE OF NEVADA

BEAZER HOMES HOLDINGS CORP., A  
DELAWARE CORPORATION; DMB  
CONSOLIDATED HOLDINGS, LLP;  
AND BEAZER HOMES NEVADA, INC.,  
A PROPERLY DISSOLVED NEVADA  
CORPORATION,

Petitioners,

vs.

THE EIGHTH JUDICIAL DISTRICT  
COURT OF THE STATE OF NEVADA,  
IN AND FOR THE COUNTY OF  
CLARK, AND THE HONORABLE  
ALLAN R. EARL, DISTRICT JUDGE,

Respondents,

and

WILLIAM R. ROBINSON,  
Real Party in Interest.

No. 46292

**FILED**

APR 10 2006

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

ORDER DENYING PETITION  
FOR WRIT OF MANDAMUS OR PROHIBITION

This original petition for a writ of mandamus or prohibition challenges a district court order granting a motion for leave to file a second amended complaint.

Petitioners maintain that the district court abused its discretion in allowing the joinder of additional parties through the amendment of the complaint and in allowing those claims to relate back to the filing of the original complaint. They seek a writ of mandamus or prohibition to either compel the district court to vacate its order granting the motion for leave to amend and enter a new order denying the motion, or alternatively, if the amendment is allowed, to direct the district court

that the amendment should not relate back to the date of filing of the original complaint.

A writ of mandamus is available to compel the performance of an act that the law requires as a duty resulting from an office, trust, or station,<sup>1</sup> or to control a manifest abuse of discretion.<sup>2</sup> This court may issue a writ of prohibition to arrest the proceedings of a district court exercising its judicial functions, when such proceedings are in excess of the district court's jurisdiction.<sup>3</sup> Both mandamus and prohibition are extraordinary remedies, and it is within the discretion of this court to determine if a petition will be considered.<sup>4</sup>

A petitioner seeking extraordinary relief has the burden of demonstrating that this court's intervention is warranted.<sup>5</sup> Although this petition raises a potentially important issue concerning whether the claims of joined parties, who were previously members of a now-decertified class action, relate back to the filing of the original complaint, petitioners

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<sup>1</sup>See NRS 34.160.

<sup>2</sup>See Round Hill Gen. Imp. Dist. v. Newman, 97 Nev. 601, 637 P.2d 534 (1981).

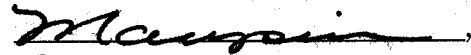
<sup>3</sup>See NRS 34.320.

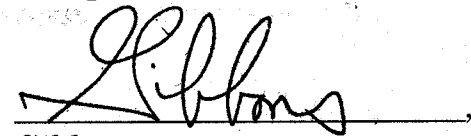
<sup>4</sup>See, e.g., Smith v. District Court, 113 Nev. 1343, 950 P.2d 280 (1997).

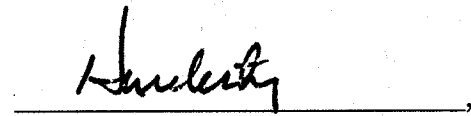
<sup>5</sup>Pan v. Dist. Ct., 120 Nev. 222, 228-29, 88 P.3d 840, 844 (2004).

have not met their burden of demonstrating that our intervention by way of extraordinary relief is warranted. We therefore deny the petition.<sup>6</sup>

It is so ORDERED.<sup>7</sup>

  
Maupin J.

  
Gibbons J.

  
Hardesty J.

cc: Hon. Allan R. Earl, District Judge  
Koeller Nebeker Carlson & Haluck, LLP  
Jimmerson Hansen  
Clark County Clerk

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<sup>6</sup>See NRAP 21(b); Smith v. District Court, 107 Nev. 674, 818 P.2d 849 (1991).

<sup>7</sup>We note that, to the extent that petitioners seek to have any plaintiffs who have sold their homes removed from the underlying case, they should raise that issue in the district court.