

IN THE SUPREME COURT OF THE STATE OF NEVADA

JIM FOUST, AN INDIVIDUAL,
Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK, AND THE HONORABLE
ELIZABETH GOFF GONZALEZ,
DISTRICT JUDGE,

Respondents,

and

EMERALD BUSINESS PARK, A
LIMITED LIABILITY COMPANY,
Real Party in Interest.

No. 47178

FILED

MAY 22 2006

ANNE T. WILSON
CLERK OF SUPREME COURT
DEPUTY CLERK

ORDER DENYING PETITION
FOR WRIT OF MANDAMUS OR PROHIBITION

This is an original petition for a writ of mandamus or prohibition challenging a district court's oral order expunging a notice of lis pendens in a real property contract dispute.

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,¹ or to control a manifest abuse of discretion.² 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

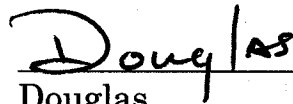
¹See NRS 34.160.


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

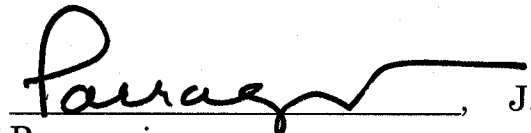
the district court's jurisdiction.³ Both mandamus and prohibition are extraordinary remedies, and the issuance of either writ is discretionary with this court.⁴

A petitioner seeking extraordinary relief has the burden of demonstrating that this court's intervention is warranted.⁵ In this case, we are not convinced that our intervention is warranted. Accordingly, we deny the petition.⁶

It is so ORDERED.⁷


_____, J.
Douglas


_____, J.
Becker


_____, J.
Parraguirre

cc: Hon. Elizabeth Goff Gonzalez, District Judge
Michael R. Pontoni
Simon & Berman
Clark County Clerk

³See NRS 34.320.

⁴See, e.g., Smith v. District Court, 107 Nev. 674, 818 P.2d 849 (1991).

⁵Pan v. Dist. Ct., 120 Nev. 222, 228-29, 88 P.3d 840, 844 (2004); NRAP 21(a).

⁶NRAP 21(b).

⁷In light of this order, we deny as moot petitioner's stay motion filed on April 27, 2006.