

IN THE SUPREME COURT OF THE STATE OF NEVADA

CARROLL K. GAGNIER,  
Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT  
COURT OF THE STATE OF NEVADA,  
IN AND FOR THE COUNTY OF  
CLARK, AND THE HONORABLE  
TIMOTHY C. WILLIAMS, DISTRICT  
JUDGE,

Respondents,

and

CHARLES A. STEPHENS, JR.;  
KATHLEEN L. STEPHENS; AND  
LAREINE A. GAGNIER,  
Real Parties in Interest.

No. 47554

**FILED**

JUN 29 2006

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

ORDER DENYING PETITION FOR WRIT OF MANDAMUS

This original petition for a writ of mandamus challenges a district court order granting summary judgment in a property sale dispute.

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.<sup>1</sup> Mandamus is an extraordinary remedy, which is generally unavailable if the petitioner has a plain, speedy, and adequate legal remedy, such as an appeal from a final judgment.<sup>2</sup>


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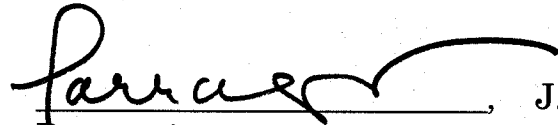
<sup>1</sup>See NRS 34.160; Round Hill Gen. Imp. Dist. v. Newman, 97 Nev. 601, 637 P.2d 534 (1981).

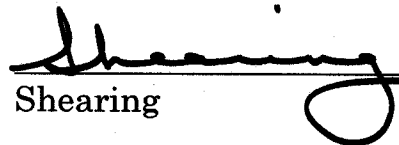
<sup>2</sup>NRS 34.170; Pan v. Dist. Ct., 120 Nev. 222, 224, 88 P.3d 840, 841 (2004) (stating that an appeal is an adequate legal remedy, precluding writ relief).

We have considered this petition, and we are not satisfied that this court's intervention by way of extraordinary relief is warranted. In particular, it appears that the challenged order is a final judgment that may be appealed,<sup>3</sup> as it resolves all claims as to all parties, leaving only post-judgment issues such as attorney fees, costs and enforcement still pending. Accordingly, since petitioner has an adequate legal remedy, we deny the petition.<sup>4</sup>

It is so ORDERED.<sup>5</sup>

  
\_\_\_\_\_, J.  
Becker

  
\_\_\_\_\_, J.  
Parraguirre

  
\_\_\_\_\_, Sr. J.  
Shearing

cc: Honorable Timothy C. Williams, District Judge  
George R. Carter  
Mark A. Jenkin  
McCullough, Perez & Associates, Ltd.  
Clark County Clerk

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<sup>3</sup>NRAP 3A(b)(1); Lee v. GNLV Corp., 116 Nev. 424, 996 P.2d 416 (2000). It appears that a timely appeal may still be taken if a notice of appeal is filed on or before July 3, 2006.

<sup>4</sup>NRS 34.170; Pan, 120 Nev. at 224, 88 P.3d at 841.

<sup>5</sup>The Honorable Miriam Shearing, Senior Justice, participated in the decision of this matter under a general order of assignment entered January 6, 2006.