

IN THE SUPREME COURT OF THE STATE OF NEVADA

DONALD K. MCGHAN,  
Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT  
COURT OF THE STATE OF NEVADA,  
IN AND FOR THE COUNTY OF  
CLARK, AND THE HONORABLE  
MARK R. DENTON, DISTRICT JUDGE,  
Respondents,

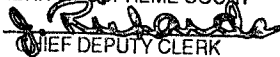
and

WEDBUSH MORGAN SECURITIES, A  
CORPORATION; RICHARD TALLEY,  
AN INDIVIDUAL; AND TALLEY &  
COMPANY, A CORPORATION,  
Real Parties in Interest.

No. 48104

**FILED**

**FEB 08 2007**

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY   
CHIEF DEPUTY CLERK

ORDER DENYING PETITION FOR  
WRITS OF MANDAMUS AND PROHIBITION

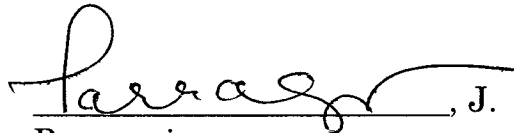
This original petition for writs of mandamus and prohibition challenges a district court order compelling arbitration. Petitioner and real parties in interest Richard Talley and Talley & Company contend that the district court, not the arbitrator, should resolve the issue of whether the claims asserted by real party in interest Wedbush Morgan Securities in a National Association of Securities Dealers arbitration are barred by res judicata. Wedbush argues that the district court properly concluded that the issue was for the arbitrator.

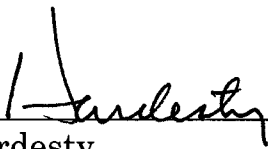
A writ of mandamus is available to compel the performance of an act that the law requires as a duty resulting from an office, trust, or

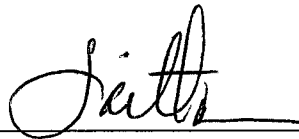
station,<sup>1</sup> or to control a manifest abuse of discretion.<sup>2</sup> The counterpart to a writ of mandamus, a writ of prohibition is available when a district court acts without or in excess of its jurisdiction.<sup>3</sup> Both mandamus and prohibition are extraordinary remedies, and it is within this court's discretion to determine if a petition will be considered.<sup>4</sup> Further, a writ of mandamus or prohibition may issue only when there is no plain, speedy, and adequate legal remedy.<sup>5</sup>

Having considered the petition and the answers thereto, we are not satisfied that this court's intervention by way of extraordinary relief is warranted. Accordingly, we deny the petition.<sup>6</sup>

It is so ORDERED.

  
Parraguirre, J.

  
Hardesty, J.

  
Saitta, J.

<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>State of Nevada v. Dist. Ct. (Anzalone), 118 Nev. 140, 146-47, 42 P.3d 233, 237 (2002); NRS 34.320.

<sup>4</sup>See Smith v. District Court, 107 Nev. 674, 677, 818 P.2d 849, 851 (1991).

<sup>5</sup>See NRS 34.170 and 34.330.

<sup>6</sup>See NRAP 21(b); Smith, 107 Nev. at 677, 818 P.2d at 851.

cc: Hon. Mark R. Denton, District Judge  
Snell & Wilmer, LLP/Las Vegas  
Dickerson Law Group  
Weinberg, Wheeler, Hudgins, Gunn & Dial, LLC  
Eighth District Court Clerk