

IN THE SUPREME COURT OF THE STATE OF NEVADA

KB HOME NEVADA, INC., A NEVADA
CORPORATION,

Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF

CLARK, AND THE HONORABLE
JACKIE GLASS, DISTRICT JUDGE,

Respondents,

and

RICK BERRY,

Real Party in Interest.

No. 49458

FILED

MAY 31 2007

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 requests that this court direct the district court to (1) grant petitioner's pending motion to expunge a lis pendens, or (2) expedite its resolution of that motion.

A writ of mandamus is available to compel the performance of an act that the law requires, or to control a manifest abuse or arbitrary or capricious exercise of discretion.¹ Mandamus, moreover, is an extraordinary remedy, and the decision to entertain such a petition is

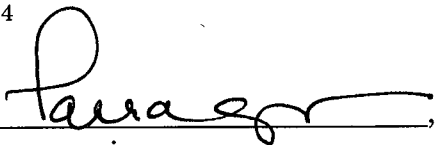
¹See NRS 34.160; Round Hill Gen. Imp. Dist. v. Newman, 97 Nev. 601, 637 P.2d 534 (1981).

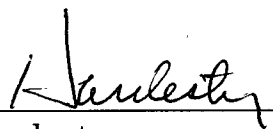
addressed to this court's sole discretion.² To demonstrate that our extraordinary intervention is warranted is petitioner's burden.³

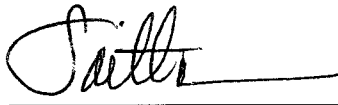
Here, petitioner has not met its burden. In particular, we note that, according to petitioner, the district court has scheduled a hearing related to petitioner's motion to expunge the lis pendens for June 4, 2007. As a hearing on petitioner's motion appears imminent, we are not satisfied that our intervention by way of extraordinary relief is warranted.

Accordingly, we

ORDER the petition DENIED.⁴


_____, J.
Parraguirre


_____, J.
Hardesty


_____, J.
Saitta

cc: Hon. Jackie Glass, District Judge
Hamrick & Evans LLP
Kirk-Hughes & Associates
Eighth District Court Clerk

²See Poulos v. District Court, 98 Nev. 453, 455, 652 P.2d 1177, 1178 (1982).

³Pan v. Dist. Ct., 120 Nev. 222, 228, 88 P.3d 840, 844 (2004).

⁴NRAP 21(b); Smith v. District Court, 107 Nev. 674, 818 P.2d 849 (1991).