

IN THE SUPREME COURT OF THE STATE OF NEVADA

VOLKSWAGEN OF AMERICA, INC., A
FOREIGN CORPORATION,

Petitioner,

vs.

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

Respondents,

and

FINDLAY AUTOMOTIVE OF NEVADA,
LLC, INDIVIDUALLY AND D/B/A
FINDLAY TOYOTA; AND ASHLEE
WHITMORE,
Real Parties in Interest.

No. 49480

FILED

JUN 08 2007

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

ORDER DENYING PETITION FOR WRIT OF MANDAMUS

This original petition for a writ of mandamus challenges a district court order denying a motion for a good faith settlement determination.

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 is an extraordinary remedy, however, and the decision to entertain such a petition is addressed to this court's sole discretion.² Mandamus relief generally is not available when

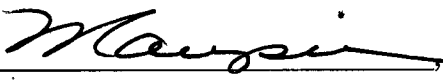
¹See NRS 34.160; Round Hill Gen. Imp. Dist. v. Newman, 97 Nev. 601, 637 P.2d 534 (1981).

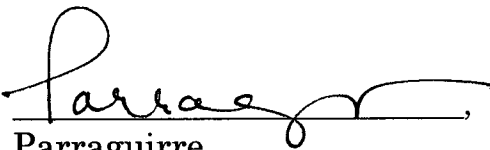
²See Poulos v. District Court, 98 Nev. 453, 455, 652 P.2d 1177, 1178 (1982).

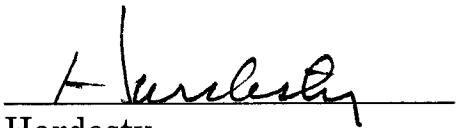
the petitioner has a plain, speedy, and adequate remedy in the ordinary course of law.³ Volkswagen of America, Inc., as petitioner, has the burden of demonstrating that our extraordinary intervention is warranted.⁴

Having reviewed the petition and supporting documentation, we conclude that Volkswagen has not met its burden to show that this court's extraordinary intervention is warranted, and, since Volkswagen has an adequate legal remedy by way of an appeal from any adverse final judgment, we decline to exercise our discretion to intervene. Accordingly, we

ORDER the petition DENIED.⁵


C.J.
Maupin


J.
Parraguirre


J.
Hardesty

³NRS 34.170; Pan v. Dist. Ct., 120 Nev. 222, 224, 88 P.3d 840, 841 (2004).

⁴Pan, 120 Nev. at 228, 88 P.3d at 844.

⁵See NRAP 21(b); Smith v. District Court, 107 Nev. 674, 818 P.2d 849 (1991).

In light of this order, we deny as moot real party in interest Findlay Automotive of Nevada, LLC's motion to strike any references to an offer of judgment served by Findlay upon Volkswagen.

cc: Hon. Elizabeth Halverson, District Judge
Gage & Gage, LLP
Mainor Eglet Cottle, LLP
Olson, Cannon, Gormley & Desruisseaux
Weinberg, Wheeler, Hudgins, Gunn & Dial, LLC
Eighth District Court Clerk