

IN THE SUPREME COURT OF THE STATE OF NEVADA

KRISTEN L. BELING AND WILLIAM
DOUGHERTY, JR.,

Petitioners,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA, IN
AND FOR THE COUNTY OF CLARK,
AND; THE HONORABLE MICHAEL
VILLANI, DISTRICT JUDGE,

Respondents,

and

CHERYL DAVIS; JAMES PENDRAY;
TRIPLE WIN, LLC; AND CHERYL DAVIS
AND ASSOCIATES,

Real Parties in Interest.

No. 52576

FILED

OCT 23 2008

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

ORDER DENYING PETITION
FOR WRIT OF MANDAMUS OR PROHIBITION

This original petition for a writ of mandamus or prohibition seeks to compel the district court to reverse its decision to grant two motions in limine and exclude certain evidence.

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, or to control a manifest abuse of discretion.¹ We 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 the district court's jurisdiction.² Both mandamus and prohibition are extraordinary

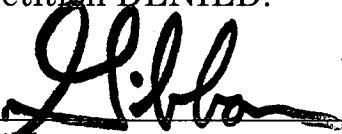
¹See NRS 34.160; Round Hill Gen. Imp. Dist. v. Newman, 97 Nev. 601, 603-04, 637 P.2d 534, 536 (1981).

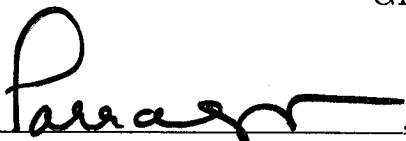
²See NRS 34.320.

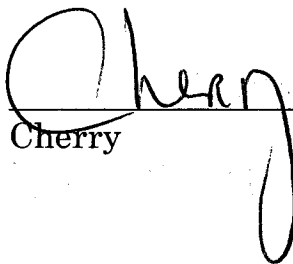
remedies, and whether a petition for extraordinary relief will be considered is solely within our discretion.³ It is petitioners' burden to demonstrate that our extraordinary intervention is warranted.⁴

To demonstrate that extraordinary relief is warranted, petitioners must, under NRAP 21(a), include "copies of any order or opinion or parts of the record which may be essential to an understanding of the matters set forth in the petition." Here, petitioners have not provided this court with copies of the motions in limine, any oppositions filed by petitioners, or any replies to those oppositions. Moreover, although petitioners assert, in their petition, that the district court allowed the parties to provide supplemental briefs on issues related to the motions in limine, petitioners have likewise not provided this court with copies of these documents. Accordingly, petitioners have failed to meet their NRAP 21(a) burden of demonstrating that extraordinary relief is warranted, and we

ORDER the petition DENIED.⁵


_____, C.J.
Gibbons


_____, J.
Parraguirre


_____, J.
Cherry

³See Smith v. District Court, 107 Nev. 674, 677, 818 P.2d 849, 851 (1991).

⁴Pan v. Dist. Ct., 120 Nev. 222, 228, 88 P.3d 840, 844 (2004).

⁵Id.; see also NRAP 21(b); Smith, 107 Nev. 674, 818 P.2d 849.

cc: Hon. Michael Villani, District Judge
John G. Benedict
Dziminski & Associates
David J. Winterton & Associates, Ltd.
Eighth District Court Clerk