

IN THE SUPREME COURT OF THE STATE OF NEVADA

PETER V. ANELLO, AN INDIVIDUAL;  
CRYSTAL PROPERTIES &  
INVESTMENTS, INC., A NEVADA  
CORPORATION; AA AND  
ASSOCIATES, A NEVADA  
CORPORATION; WARM SPRINGS 880-  
140, LLC; 180 JONES, LLC; AND AA  
CAPITAL INVESTMENTS, INC., A  
NEVADA CORPORATION,  
Petitioners,

vs.

DOUG GILLESPIE, IN HIS OFFICIAL  
CAPACITY AS SHERIFF OF CLARK  
COUNTY, NEVADA; ROBERT  
GRONAUER, IN HIS OFFICIAL  
CAPACITY AS CONSTABLE OF CLARK  
COUNTY, NEVADA; THE EIGHTH  
JUDICIAL DISTRICT COURT OF THE  
STATE OF NEVADA, IN AND FOR THE  
COUNTY OF CLARK, AND THE  
HONORABLE MICHELLE LEAVITT,  
DISTRICT JUDGE, IN HER OFFICIAL  
CAPACITY AS DISTRICT JUDGE,  
Respondents,  
and  
DEANNA DUTTON, AN INDIVIDUAL,  
Real Party in Interest.

No. 52592

**FILED**

FEB 05 2009

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY   
DEPUTY CLERK

ORDER DENYING PETITION FOR WRIT OF PROHIBITION

This original petition for a writ of prohibition challenges district court orders on prejudgment writs of garnishment and to show cause, as well as writs of garnishment and execution served on October 1, 2008, arising in a matter concerning allegedly unpaid real estate agent commissions.

Petitioners assert that the garnishment orders and writs lacked due process, as they resulted from oral motions at a contempt hearing; that no affidavit was filed, as required by statute; that the garnished rents improperly were to be given to real party in interest's counsel; and that the court improperly directed a writ of execution to issue.<sup>1</sup> Real party in interest has filed an answer, as directed, pointing out that the garnishments were directed as a means of enforcing the district court's mandatory injunction and arguing that, as petitioner Peter V. Anello testified as to his assets, the NRS 31.030 affidavit requirement was met. Real party in interest also notes that the district court reconsidered and upheld the garnishment orders during a November 2008 hearing and clarified that the garnished funds were to be deposited into a blocked account with the court.

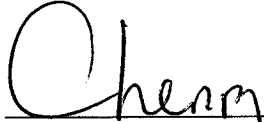
A writ of prohibition is available to arrest the proceedings of a district court exercising its judicial functions, when such proceedings are in excess of the district court's jurisdiction. NRS 34.320. Prohibition is an extraordinary remedy, and whether a petition will be considered is within our discretion. See Smith v. District Court, 107 Nev. 674, 818 P.2d 849 (1991). Petitioners bear the burden to demonstrate that our intervention by way of extraordinary relief is warranted. Pan v. Dist. Ct., 120 Nev. 222, 228, 88 P.3d 840, 844 (2004).


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<sup>1</sup>In their renewed motion for a stay, petitioners also contend that the writs of garnishment are invalid because real party in interest failed to post a bond, as set forth in NRS 31.030.

Having considered this petition, the answer thereto, and the parties' supporting documentation, we conclude that our extraordinary intervention in this matter is not warranted. Accordingly, we

ORDER the petition DENIED.<sup>2</sup>

  
\_\_\_\_\_, J.  
Cherry

  
\_\_\_\_\_, J.  
Saitta

  
\_\_\_\_\_, J.  
Gibbons

cc: Hon. Michelle Leavitt, District Judge  
Kajioka & Associates  
Goodman Law Group  
Eighth District Court Clerk

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<sup>2</sup>In light of this order, petitioners' renewed motion for a stay is denied.