

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN RE: KITEC FITTING LITIGATION,

No. 52854

WL HOMES, LLC D/B/A JOHN LAING  
HOMES; WATT RESIDENTIAL  
CONSTRUCTION, INC.; WATT  
RESIDENTIAL ASSOCIATES, L.P.; AND  
WATT RESIDENTIAL PARTNERS,  
Petitioners,

vs.

THE EIGHTH JUDICIAL DISTRICT  
COURT OF THE STATE OF NEVADA, IN  
AND FOR THE COUNTY OF CLARK,  
AND THE HONORABLE TIMOTHY C.  
WILLIAMS, DISTRICT JUDGE,  
Respondents,

and

IPEX, INC.; ERIC W. QUINTERRO;  
TRACIE L. QUINTERRO; CHARLES  
PANUSIS; LADYBETH PANUSIS; RAUL  
GARCIA; AND BRENDA GARCIA,  
Real Parties in Interest.

**FILED**

JAN 09 2009

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 challenges a district court order granting a motion to quash and expunge petitioners' notice of lien recorded against real parties in interest's settlement.

The underlying class action stems from allegations that petitioners, among other homebuilders, constructed homes throughout Clark County, Nevada, with defective plumbing systems manufactured and distributed by real party in interest IPEX, Inc., and its related entities. According to petitioner, IPEX and its related entities reached a

settlement agreement with the owners of the homes containing the purportedly defective plumbing systems.

Thereafter, petitioners recorded a notice of lien against the settlement funds, based on principles of equitable subrogation. According to petitioners, because they had already repaired the plumbing systems in many of the homes involved in the homeowners' settlement with IPEX and its related entities, they were entitled to a portion of the settlement funds; they recorded the equitable lien to protect their interest in the funds.

Certain real parties in interest filed in the district court a motion to "quash and expunge" petitioners' lien notice. The district court granted the motion, apparently concluding that petitioners' voluntary repairs did not give rise to equitable lien rights and that any right of petitioners to a portion of the settlement funds based on their repairs was adequately protected by offsetting any liability that petitioners were subsequently determined to have with the settlement amount. This writ petition followed.

The writ of mandamus is available to compel the performance of an act that the law requires, or to control a manifest abuse of discretion. See NRS 34.160; Round Hill Gen. Imp. Dist. v. Newman, 97 Nev. 601, 637 P.2d 534 (1981). A writ of mandamus's counterpart, the 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. Both mandamus and prohibition are extraordinary remedies, however, 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).

Having considered this petition and its supporting documentation, we are not persuaded that our extraordinary intervention is warranted. Specifically, it does not appear that the district court abused its discretion when it granted the motion to quash and expunge petitioners' equitable lien. See, e.g., AT&T Technologies, Inc. v. Reid, 109 Nev. 592, 595-96, 855 P.2d 533, 535 (1993) (explaining in the workers' compensation context that equitable subrogation is implicated when "one party has been compelled to satisfy an obligation that is ultimately determined to be the obligation of another") (emphasis added). Accordingly, we

ORDER the petition DENIED.<sup>1</sup>

Hardesty, C.J.  
Hardesty

Douglas, J.  
Douglas

Gibbons, J.  
Gibbons

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<sup>1</sup>Petitioners' failures to include with their petition the required affidavit demonstrating their beneficial interest in obtaining writ relief, see NRS 34.170; NRS 34.330, and to provide proof of service of their petition on the respondent district court judge, see NRAP 21(a), constitute independent bases on which to deny writ relief.

cc: Hon. Timothy C. Williams, District Judge  
Wood, Smith, Henning & Berman, LLP  
Carraway & Associates  
Harrison, Kemp, Jones & Coulthard, LLP  
Eighth District Court Clerk