

IN THE SUPREME COURT OF THE STATE OF NEVADA

HEALTH PLAN OF NEVADA, INC.,  
A NEVADA CORPORATION;  
SIERRA HEALTH AND LIFE  
INSURANCE COMPANY, A  
CALIFORNIA CORPORATION; AND  
SIERRA HEALTH SERVICES, INC.,  
A NEVADA CORPORATION,

Petitioners,

vs.

THE EIGHTH JUDICIAL DISTRICT  
COURT OF THE STATE OF  
NEVADA, IN AND FOR THE  
COUNTY OF CLARK, AND THE  
HONORABLE ALLAN R. EARL,  
DISTRICT JUDGE,

Respondents,

and

FRANK J. BEAM, JR.; SUE BEAM;  
SHERYL Y. SILVA; AND SHELDON  
SILVA, INDIVIDUALLY AND ON  
BEHALF OF ALL PERSONS  
SIMILARLY SITUATED,

Real Parties in Interest.

No. 52918

**FILED**

FEB 04 2009

TRACE 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 the district court's alleged refusal to dismiss the underlying action.

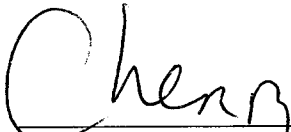
A writ of mandamus is available to compel the performance of an act that the law requires as a duty resulting from an office, trust, or station, or to control a manifest abuse of discretion. See NRS 34.160; Round Hill Gen. Imp. Dist. v. Newman, 97 Nev. 601, 603-04, 637 P.2d 534,


536 (1981). 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. See NRS 34.320. Neither mandamus nor prohibition will issue when the petitioner has a plain, speedy, and adequate remedy at law. NRS 34.170; NRS 34.330. Both mandamus and prohibition are extraordinary remedies, and whether a petition for extraordinary relief will be considered is solely within our discretion. See Smith v. District Court, 107 Nev. 674, 677, 818 P.2d 849, 851 (1991). It is petitioners' burden to demonstrate that our extraordinary intervention is warranted. Pan v. Dist. Ct., 120 Nev. 222, 228, 88 P.3d 840, 844 (2004).

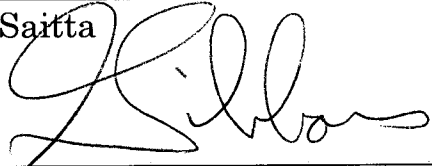
According to petitioners, a formal written order denying their motion to dismiss has not been entered by the district court. Indeed, the only supporting document provided by petitioners indicating that the district court has denied their motion is a copy of selected portions of the transcript of the hearing on petitioners' motion. This court has held, however, that the district court's oral pronouncement from the bench is "ineffective for any purpose." Rust v. Clark Cty. School District, 103 Nev. 686, 689, 747 P.2d 1380, 1382 (1987). Thus, although this petition raises important issues, we conclude that our intervention by way of extraordinary relief is not warranted at this time, and we therefore deny the petition. NRAP 21(b), Smith, 107 Nev. at 677, 818 P.2d at 851. Nothing in this order precludes petitioners from filing a new petition,

however, once a written, file-stamped order memorializing the district court's decision has been entered.<sup>1</sup>

It is so ORDERED.<sup>2</sup>

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

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

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

cc: Hon. Allan R. Earl, District Judge  
A. Grant Gerber & Associates  
Bryan Cave LLP  
Jones Vargas/Las Vegas  
David S. Ladwig Esq.  
Marquiz Law Office  
Parry Deering Futscher & Sparks, PSC  
George O. West III  
Eighth District Court Clerk

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<sup>1</sup>Based on our review of the transcripts submitted by petitioners, it appears that the district court may not yet have resolved every aspect of the issues raised by petitioners. Issues left unresolved by the district court are not properly raised in a writ petition filed in this court.

<sup>2</sup>In light of this order, we deny as moot petitioners' request for a stay.