

IN THE SUPREME COURT OF THE STATE OF NEVADA

PACIFICARE OF NEVADA, INC., A
NEVADA CORPORATION,
Petitioner,

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

SUSAN SADLER AND JACK
SADLER, SR., INDIVIDUALLY
AND ON BEHALF OF ALL
PERSONS SIMILARLY SITUATED,
Real Parties in Interest.

No. 52919

FILED

FEB 04 2009

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
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 grant petitioner's motion for judgment on the pleadings.

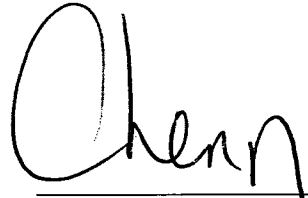
A writ of mandamus is available to compel the performance of an act that the law requires as a duty resulting from an office, trust, or station, or to control a manifest abuse of discretion. See NRS 34.160; Round Hill Gen. Imp. Dist. v. Newman, 97 Nev. 601, 603-04, 637 P.2d 534, 536 (1981). We may issue 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 petitioner's burden to demonstrate that our extraordinary intervention is warranted. Pan v. Dist. Ct., 120 Nev. 222, 228, 88 P.3d 840, 844 (2004). Under NRAP 21(a), in order to satisfy its burden of demonstrating that extraordinary relief is warranted, petitioner must ensure that its petition includes "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."

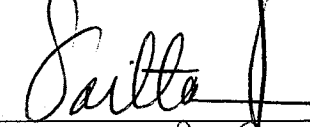
Here, petitioner challenges the district court's denial of its motion for judgment on the pleadings. Petitioner has not, however, provided this court with a copy of the challenged order, and thus, petitioner has not failed to meet its NRAP 21(a) burden of demonstrating that extraordinary relief is warranted. Pan, 120 Nev. at 228, 88 P.3d at 844. To the extent that no written, file-stamped order denying the motion has been entered, this court has held 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), and 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 deny the petition.¹ NRAP 21(b), Smith, 107 Nev. at 677, 818 P.2d at 851.

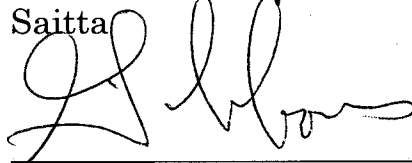
It is so ORDERED.²

 _____, J.

Cherry

 _____, J.

Saitta

 _____, J.

Gibbons

cc: Hon. Allan R. Earl, District Judge
Bryan Cave LLP
Jones Vargas/Las Vegas
Marquiz Law Office
George O. West III
Eighth District Court Clerk

¹To the extent that any aspects of the issues raised in this petition may not have yet been resolved by the district court, we note that even if a written order had been entered, issues left unresolved by the district court are not properly raised in a writ petition filed in this court. Additionally, we note that nothing in this order precludes petitioner from filing a new petition for extraordinary relief with this court accompanied by written, file-stamped order, resolving petitioner's motion.

²In light of this order, we deny as moot petitioner's request for a stay.