

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,

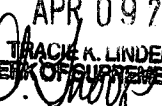
and

SUSAN SADLER AND JACK SADLER,
SR., INDIVIDUALLY AND ON BEHALF
OF ALL PERSONS SIMILARLY
SITUATED,

Real Parties in Interest.

No. 53356

FILED

APR 09 2009
TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER DENYING PETITION
FOR WRIT OF MANDAMUS OR PROHIBITION

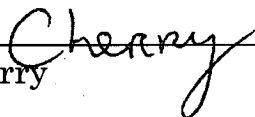
This original petition for a writ of mandamus or prohibition challenges the district court's denial of petitioner's motion for judgment on the pleadings.


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).

Having considered the petition and supporting documentation, we conclude that our intervention by way of extraordinary relief is not warranted, and we therefore deny the petition. See Smith, 107 Nev. at 677, 818 P.2d at 851; NRAP 21(b).

It is so ORDERED.¹


Cherry _____, J.


Saitta _____, J.


Gibbons _____, J.

¹We grant the motion for leave to file a joinder submitted by PacifiCare Life Assurance Company, United Health Care Insurance Company and United Health Group, LLC. The clerk of this court shall file the proposed joinder, which was provisionally received on April 3, 2009. Additionally, in light of this order, we deny as moot petitioner's motion for a stay.

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