

IN THE SUPREME COURT OF THE STATE OF NEVADA

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

Real Parties in Interest.

No. 53357

FILED

APR 08 2009
TRACIE A. 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 denial of petitioners' motion 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 petitioners have 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).

Having considered this petition, we are not satisfied that our intervention by way of extraordinary relief is warranted. Accordingly, we deny the petition.

See Smith, 107 Nev. at 677, 818 P.2d at 851; NRAP 21(b).

It is so ORDERED.¹

Cherry, J.
Cherry

Saitta, J.
Saitta

Gibbons, J.
Gibbons

¹In light of this order, we deny as moot petitioners' motion for a stay.

cc: Hon. Allan R. Earl, District Judge
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