

IN THE SUPREME COURT OF THE STATE OF NEVADA

ROBERT JAMES,  
Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT COURT OF  
THE STATE OF NEVADA, IN AND FOR THE  
COUNTY OF CLARK, AND THE HONORABLE  
DOUGLAS HERNDON, DISTRICT JUDGE,

Respondents,

and


FIDELITY NATIONAL TITLE COMPANY, A  
CALIFORNIA CORPORATION; OPTION ONE  
MORTGAGE, AN UNKNOWN ENTITY; AND  
AMERICAN HOME MORTGAGE SERVICING,  
INC., A DELAWARE CORPORATION,

Real Parties in Interest.

No. 54070

**FILED**

**JUN 30 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, among other things, various district court orders related to the district court's decision to expunge a notice of lis pendens and seeks to stay petitioner's eviction from the subject property.

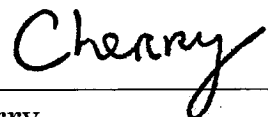
A writ of mandamus is available to compel the performance of an act that the law requires as a duty resulting from an office, trust, or station, or to control a manifest abuse of discretion. See NRS 34.160; Round Hill Gen. Imp. Dist. v. Newman, 97 Nev. 601, 603-04, 637 P.2d 534, 536 (1981). We may issue 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 this petition, we are not satisfied that our intervention by way of extraordinary relief is warranted.<sup>1</sup> Accordingly, we deny the petition. See Smith, 107 Nev. at 677, 818 P.2d at 851; NRAP 21(b).

It is so ORDERED.

  
\_\_\_\_\_, J.  
Douglas

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

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

---

<sup>1</sup>We note that petitioner, through his counsel, could have sought appropriate relief at a number of points in the lower court proceedings prior to seeking extraordinary relief in this court on the day before petitioner was to be evicted from the subject property. Based on our review of the petition and the documents before us, however, it is apparent that petitioner failed to take advantage of these opportunities.

cc: Hon. Douglas W. Herndon, District Judge  
Ciciliano & Associates, LLC  
John C. Wawerna  
Gerrard Cox & Larsen  
Jolley Urga Wirth Woodbury & Standish  
Eighth District Court Clerk