

IN THE SUPREME COURT OF THE STATE OF NEVADA

MICHELLE STALK AND URBAN
CONSTRUCTION COMPANY, LLC, A
NEVADA LIMITED LIABILITY COMPANY,
Petitioners,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA, IN
AND FOR THE COUNTY OF CLARK, AND
THE HONORABLE TIMOTHY C.
WILLIAMS, DISTRICT JUDGE,

Respondents,


and

MICHAEL MUSHKIN,
Real Party in Interest.

No. 54071

FILED

SEP 24 2009

THOMAS K. LINDEMAN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER DENYING PETITION FOR WRIT OF MANDAMUS

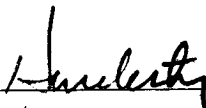
This is an original petition for a writ of mandamus, challenging a district court order denying a motion to amend a complaint in a legal malpractice action.

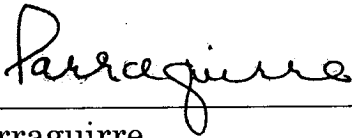
A writ of mandamus is available to compel the performance of an act that the law requires as a duty resulting from an office, trust, or station, or to control an arbitrary or capricious exercise of discretion. NRS 34.160; Round Hill Gen. Imp. Dist. v. Newman, 97 Nev. 601, 637 P.2d 534 (1981). Mandamus is not available when the petitioner has a plain, speedy, and adequate remedy in the ordinary course of law. NRS 34.170. An appeal is generally an adequate legal remedy precluding writ relief. Pan v. Dist. Ct., 120 Nev. 222, 224, 88 P.3d 840, 841 (2004). Whether a petition for a writ of mandamus will be considered is purely discretionary with this court. See Smith v. District Court, 107 Nev. 674, 677, 818 P.2d

849, 851 (1991). Petitioners bear the burden of demonstrating that such extraordinary relief is warranted. Pan, 120 Nev. at 228, 88 P.3d at 844.

Having considered the petition and supporting documents, we conclude that petitioners have not met their burden of demonstrating that our intervention by way of extraordinary relief is warranted. Accordingly, we order the petition denied. Smith, 107 Nev. at 677, 818 P.2d at 851.

It is so ORDERED.


_____, C.J.
Hardesty


_____, J.
Parraguirre


_____, J.
Douglas

cc: Hon. Timothy C. Williams, District Judge
Kenneth L. Hall
Patti, Sgro & Lewis
Eighth District Court Clerk