

IN THE SUPREME COURT OF THE STATE OF NEVADA

CAFE MODA, LLC D/B/A CAFE MODA,
Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK, AND THE HONORABLE
VALORIE J. VEGA, DISTRICT JUDGE,
Respondents,

and

DONNY PALMA AND MATT RYAN
RICHARDS,
Real Parties in Interest.

No. 54155

FILED

JUL 24 2009

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER DENYING PETITION FOR WRIT
OF MANDAMUS OR PROHIBITION

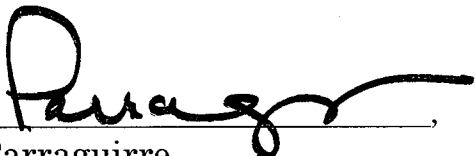
This original petition for a writ of mandamus or prohibition challenges a pretrial district court order concerning the apportionment of fault between the parties in a negligence and intentional tort action.

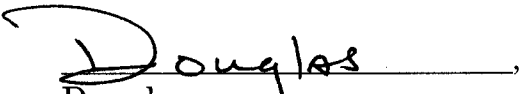
A writ of mandamus is available to compel the performance of an act that the law requires or to control a manifest abuse of discretion. NRS 34.160; Round Hill Gen. Imp. Dist. v. Newman, 97 Nev. 601, 603-04, 637 P.2d 534, 536 (1981). A writ of prohibition is available to arrest the proceedings of a district court exercising its judicial functions, when such proceedings are in excess of the district court's jurisdiction. NRS 34.320. Mandamus and prohibition are extraordinary remedies, and whether a petition will be considered is within our sole discretion. Smith v. District Court, 107 Nev. 674, 677, 818 P.2d 849, 851 (1991). Neither mandamus nor prohibition will issue when the petitioner has a plain, speedy, and adequate remedy at law, NRS 34.170; NRS 34.330, and we have

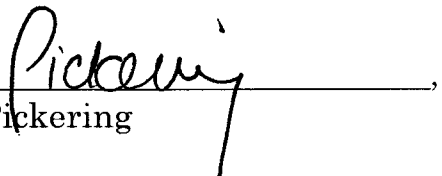
consistently held that an appeal is generally an adequate legal remedy precluding writ relief. Pan v. Dist. Ct., 120 Nev. 222, 224, 88 P.3d 840, 841 (2004).

Having reviewed the petition and its supporting documents, we are not persuaded that writ relief is warranted. In particular, petitioner has an adequate remedy in the form of an appeal from any adverse final judgment. Accordingly, we

ORDER the petition DENIED.


_____, J.
Parraguirre


_____, J.
Douglas


_____, J.
Pickering

cc: Hon. Valorie Vega, District Judge
Lewis & Roca, LLP/Las Vegas
Law Offices of Michael A. Koning
Eighth District Court Clerk