IN THE SUPREME COURT OF THE STATE OF NEVADA

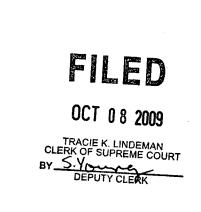
WASHOE COUNTY. Petitioner,

vs.

No. 54508

THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA, IN AND FOR THE COUNTY OF WASHOE, AND THE HONORABLE STEVEN R. KOSACH, DISTRICT JUDGE. Respondents, and

SUSAN THOMPSON, AN INDIVIDUAL AND ACTING AS EXECUTOR OF THE ESTATE OF DAVID THOMPSON, Real Party in Interest.



ORDER DENYING PETITION FOR WRIT OF MANDAMUS

This original petition for a writ of mandamus challenges a district court order granting real party in interest relief under NRCP 60(b)(2), from an order granting summary judgment in petitioner's favor, and an order denying reconsideration of the order granting NRCP 60(b)(2) relief.

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; <u>Round Hill Gen. Imp. Dist. v. Newman</u>, 97 Nev. 601, 603-04, 637 P.2d 534, 536 (1981). Mandamus will not issue when the petitioner has a plain, speedy, and adequate remedy at law. NRS 34.170. Mandamus is an extraordinary remedy, and whether a petition for extraordinary relief will be considered is solely within our discretion. See Smith v. District Court,

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107 Nev. 674, 677, 818 P.2d 849, 851 (1991). It is petitioner's burden to demonstrate that our extraordinary intervention is warranted. <u>Pan v.</u> <u>Dist. Ct.</u>, 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)(1).

It is so ORDERED.

J. Cherry J. Dougla J.

Gibbons

Hon. Steven R. Kosach, District Judge cc: Washoe County District Attorney Richard A. Gammick /Civil Division Law Offices of Michael B. Springer Washoe District Court Clerk

Supreme Court of Nevada

(O) 1947A