

IN THE SUPREME COURT OF THE STATE OF NEVADA

TONYA RUSHING,
Petitioner,

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

JULIE MENARD; MERLE RICHARDS;
SYLINA SINNOTT AND BOBBY
SINNOTT; RUSSEL RUFFER AND LAURA
RUFFER; KATHLEEN SCHLUMPF AND
MICHAEL SCHLUMPF; LORI NAEGLE
AND MARK NAEGLE; PEGGY SHOUSE;
ELSA MATEO; AGUSTIN MATEO; AND
MERILYN GROSSHANS,
Real Parties in Interest.

No. 54543

FILED

OCT 09 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 the district court's denial of petitioner's motion to dismiss.


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 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.
Saitta


_____, J.
Gibbons

cc: Hon. Allan R. Earl, District Judge
Hall Jaffe & Clayton, LLP
Edward M. Bernstein & Associates/Las Vegas
Gazda & Tadayon
McNulty Law Firm
Eighth District Court Clerk