

IN THE SUPREME COURT OF THE STATE OF NEVADA

COUNTRY CLUB AUTO SPA, LLC, A
NEVADA LIMITED LIABILITY COMPANY;
STEVEN CUCCIO, AN INDIVIDUAL; AND
TIM BOLTON, AN INDIVIDUAL,
Petitioners,

vs.

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

Respondents,

and

ALL AMERICAN AUTO GLASS, INC., A
NEVADA CORPORATION,
Real Party in Interest.

No. 54963

FILED

DEC 03 2009

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY T. Chapp
DEPUTY CLERK

ORDER DENYING PETITION
FOR WRIT OF MANDAMUS OR PROHIBITION

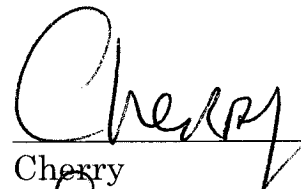
This original petition for a writ of mandamus or prohibition challenges the district court's refusal to continue or vacate a December 14, 2009, trial date and extend the period for conducting discovery.


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. Both mandamus and prohibition are extraordinary remedies, and whether a petition for extraordinary relief will be

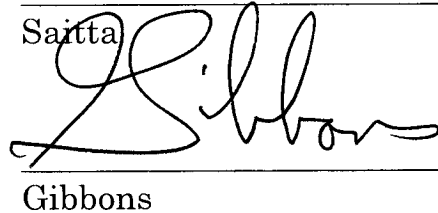
considered is solely within this court's discretion. See Smith v. District Court, 107 Nev. 674, 677, 818 P.2d 849, 851 (1991). It is petitioners' burden to demonstrate that our extraordinary intervention is warranted. Pan v. Dist. Ct., 120 Nev. 222, 228, 88 P.3d 840, 844 (2004).

Based on our review of the documents before us, we conclude that our intervention by way of extraordinary relief is not warranted. Accordingly, we 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. Doug Smith, District Judge
Barron & Pruitt, LLP
Glaser, Weil, Fink, Jacobs, Howard & Shapiro, LLC.
Eighth District Court Clerk