

IN THE SUPREME COURT OF THE STATE OF NEVADA

SCHAEFER-NEVADA, INC., A  
NEVADA CORPORATION,  
Petitioner,

vs.

THE FIFTH JUDICIAL DISTRICT  
COURT OF THE STATE OF NEVADA,  
IN AND FOR THE COUNTY OF NYE,  
AND THE HONORABLE JOHN P.  
DAVIS, DISTRICT JUDGE,  
Respondents,  
and  
DESERT BOILERS & CONTROLS,  
INC., A NEVADA CORPORATION,  
Real Party in Interest.

No. 55300

FILED

APR 09 2010

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY *A. Ingersoll*  
DEPUTY CLERK

ORDER DENYING PETITION  
FOR WRITS OF CERTIORARI OR MANDAMUS

This original petition for writs of certiorari or mandamus challenges the district court's order resolving an appeal from a justice court decision.

A writ of certiorari is available to correct an inferior tribunal's judicial action if the tribunal exceeded its jurisdiction and "there is no appeal, nor, in the judgment of the court, any plain, speedy and adequate remedy." NRS 34.020(2); Dangberg Holdings v. Douglas Co., 115 Nev. 129, 978 P.2d 311 (1999). Whether a petition for a writ of certiorari will be considered is within this court's discretion. Dangberg Holdings, 115 Nev. at 138, 978 P.2d at 316. 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). Mandamus is an extraordinary remedy, and whether a petition will be considered is also within this court's discretion. See Smith v. District Court, 107 Nev. 674, 677, 818 P.2d 849, 851 (1991).

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 Dangberg Holdings, 115 Nev. at 138, 978 P.2d at 316; Smith, 107 Nev. at 679, 818 P.2d at 853; NRAP 21(c); NRAP 21(b)(1).

It is so ORDERED.

Cherry, J.  
Cherry

Saitta, J.  
Saitta

Gibbons, J.  
Gibbons

cc: Hon. John P. Davis, District Judge  
Marquis & Aurbach  
Keith E. Gregory & Associates  
Nye County Clerk