

IN THE SUPREME COURT OF THE STATE OF NEVADA

MARCIA M. BERGENFIELD, AN
INDIVIDUAL; MOISHE RODMAN, AN
INDIVIDUAL; AND PAULA RODMAN,
AN INDIVIDUAL,

Petitioners,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF CLARK;

THE HONORABLE T. ARTHUR
RITCHIE, JR., DISTRICT JUDGE; AND
THE HONORABLE DONALD M.

MOSLEY, DISTRICT JUDGE,

Respondents,

and

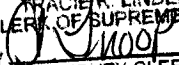
BANK OF AMERICA,

Real Party in Interest.

No. 57060

FILED

NOV 01 2010

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY: 
DEPUTY CLERK

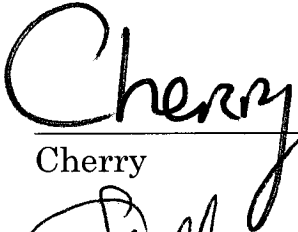
ORDER DENYING PETITION FOR
WRIT OF MANDAMUS OR PROHIBITION


This original petition for a writ of mandamus or prohibition challenges a district court order denying petitioners' motion to disqualify the district court judge assigned to the underlying case.

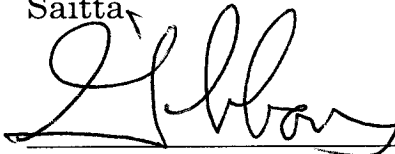
A petition for a writ of mandamus is the appropriate vehicle to seek disqualification of a judge. Towbin Dodge, LLC v. Dist. Ct., 121 Nev. 251, 254-55, 112 P.3d 1063, 1066 (2005). Because writs of mandamus and prohibition are extraordinary remedies, however, whether a petition seeking those forms of relief will be considered is entirely within this court's discretion. See Smith v. District Court, 107 Nev. 674, 818 P.2d 849 (1991). Having reviewed this petition and its supporting documentation, we conclude that petitioners' stated ground for disqualification, the

district court judge's statements regarding the suitability of NRS 107.086(5)'s loan modification sanction, is insufficient to require our intervention by way of extraordinary relief, and the petition must therefore be denied. NRAP 21(b)(1); Smith, 107 Nev. 674, 818 P.2d 849. Our denial of the petition, however, does not bar petitioners from raising this issue in the context of an appeal from a final judgment in the underlying proceedings, if aggrieved.

It is so ORDERED.¹


_____, J.
Cherry


_____, J.
Saitta


_____, J.
Gibbons

cc: Hon. Donald M. Mosley, District Judge
Hon. T. Arthur Ritchie, Jr., District Judge, Family Court Division
Law Office of Jacob L. Hafter & Associates
Pite Duncan
Eighth District Court Clerk

¹In light of this order, we deny as moot petitioners' October 28, 2010, emergency motion for a stay.