

IN THE SUPREME COURT OF THE STATE OF NEVADA

GREGORY S. LISH, AN INDIVIDUAL;
AND AMY M. LISH, AN INDIVIDUAL,
Petitioners,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF CLARK;
AND THE HONORABLE MICHAEL
VILLANI, DISTRICT JUDGE,

Respondents,

and

FIRST SECURITY BANK OF NEVADA,
Real Party in Interest.

No. 59069

FILED

FEB 21 2012

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY R. Malora
DEPUTY CLERK

ORDER DENYING PETITION FOR WRIT OF MANDAMUS

This original petition for a writ of mandamus challenges a district court order denying a motion to amend a counterclaim.

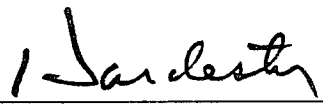
A writ of mandamus is available to compel the performance of an act that the law requires or to control an arbitrary or capricious exercise of discretion. NRS 34.160; International Game Tech. v. Dist. Ct., 124 Nev. 193, 197, 179 P.3d 556, 558 (2008). Mandamus is an extraordinary remedy, and whether a petition will be considered is within our sole discretion. Smith v. District Court, 107 Nev. 674, 677, 679, 818 P.2d 849, 851, 853 (1991). Mandamus is not available when the petitioner has a plain, speedy, and adequate remedy at law, NRS 34.170, and we have consistently held that an appeal is generally an adequate legal remedy precluding writ relief. Pan v. Dist. Ct., 120 Nev. 222, 224, 88 P.3d 840, 841 (2004).

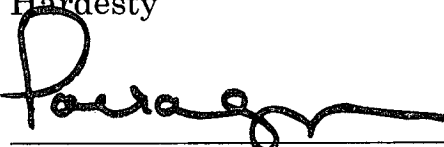
Having reviewed the petition and its supporting documents, along with the answer and reply, we are not persuaded that writ relief is

warranted. In particular, petitioners have an adequate remedy in the form of an appeal from any adverse final judgment. See Consolidated Generator v. Cummins Engine, 114 Nev. 1304, 1312, 971 P.2d 1251, 1256 (1998) (holding that a party may challenge interlocutory orders in the context of an appeal from a final judgment). Accordingly, we

ORDER the petition DENIED.¹


_____, J.
Douglas


_____, J.
Hardesty


_____, J.
Parraguirre

cc: Hon. Michael Villani, District Judge
David J. Winterton & Associates, Ltd.
Christensen James & Martin
Eighth District Court Clerk

¹In light of this order, we deny as moot real party in interest's motion to file a sur-reply.