

IN THE SUPREME COURT OF THE STATE OF NEVADA

No. 35495

GORDON MUIR AND PENNY PERFECT,

Petitioners,

vs.

THE EIGHTH JUDICIAL DISTRICT COURT
OF THE STATE OF NEVADA, IN AND FOR
THE COUNTY OF CLARK, AND THE
HONORABLE LEE A. GATES, DISTRICT
JUDGE,

Respondents,

and

WEBDATA, INC., JOEL A. STONE, AND
MICHAEL RAZAR,

Real Parties in Interest.

FILED

JUL 07 2000

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. Richard*
CHIEF DEPUTY CLERK

ORDER DENYING PETITION FOR WRIT OF MANDAMUS OR PROHIBITION


This is an original petition for writ of mandamus or prohibition challenging a district court order denying petitioners' motion to quash service of process.

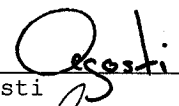
Petitioners argue that the district court exceeded its jurisdiction in denying their motion to quash service because WebData failed to submit any competent evidence outside of the "innuendo, bald assertions, and speculative assumptions" in its complaint to support a prima facie finding of personal jurisdiction. We conclude that WebData made a prima facie showing of personal jurisdiction by proffering competent evidence, including a verified complaint and emails from deNoyo. See Trump v. District Court, 109 Nev. 687, 692, 857 P.2d 740, 744 (1992); see also Kumarelas v. Kumarelas, 16 F. Supp. 2d 1249, 1254 (9th Cir. 1998); NRS 15.010. Although we conclude that WebData made a prima facie showing of personal jurisdiction, we note that WebData has a continuing


burden to establish jurisdiction in the trial court by a preponderance of the evidence, and thus personal jurisdiction might later be challenged after further discovery is conducted. See Trump, 109 Nev. at 692, 857 P.2d at 744.

Based on the aforementioned analysis, we conclude that this court's intervention by way of extraordinary relief is not warranted at this time. Accordingly, we deny the petition. See NRAP 21(b); Smith v. District Court, 107 Nev. 674, 818 P.2d 849 (1991).

It is so ORDERED.


_____, C.J.
Rose


_____, J.
Agosti


_____, J.
Leavitt

cc: Hon. Lee A. Gates, District Judge
Jones Vargas
Lionel Sawyer & Collins
Clark County Clerk

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FILED

MAR 23 2000

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. R. Razar*
CHIEF DEPUTY CLERK

ORDER DENYING MOTION

This petition for a writ of mandamus or prohibition challenges a district court order denying petitioners' motion to quash service or process. Real parties in interest have filed a motion requesting that this court take judicial notice of certain documents submitted to this court with the motion, or alternatively that this court "remand" the matter to the district court so that the record may be supplemented to include the proffered documents. The documents appear to have been taken from the internet. They include documents containing certain information purportedly filed with the Securities and Exchange Commission (SEC). The other documents are press releases. No affidavit of authentication accompanies the documents.

A judicially-noticed fact must be generally known within the territorial jurisdiction of the trial court, or capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned, so that the fact is not subject to reasonable dispute. See NRS

47.130(2); Jory v. Bennight, 91 Nev. 763, 766, 542 P.2d 1400, 1403 (1975). Documents taken from the internet, whether or not based on information allegedly filed with the SEC, are not unquestionably accurate. We note that inaccurate information has been known to find its way into SEC filings. See, e.g., U.S. S.E.C. v. Fehn, 97 F.3d 1276, 1290 (9th Cir. 1996). Press releases are also not unquestionably accurate.

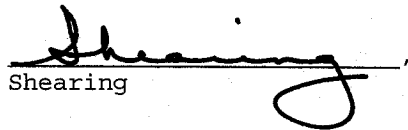
Further, we cannot "remand" this matter to the district court. The present matter is a writ petition, which is an original proceeding in this court. See Stephens v. Bank, 64 Nev. 292, 182 P.2d 146 (1947); Nev. Const. art. VI, sec. 4. Therefore, unlike an appeal, this writ petition cannot be remanded to the district court. We therefore deny the motion.

It is so ORDERED.¹



Maupin

J.



Shearing

J.



Becker

J.

cc: Hon. Lee A. Gates, District Judge
Ken R. Ashworth & Associates
Lionel Sawyer & Collins
Clark County Clerk

¹On January 31, 2000, this court entered a temporary stay. On February 3, 2000, petitioners moved to file a reply in support of their motion for a stay. We deny the motion as moot. The temporary stay shall remain in effect until further order of this court.