IN THE SUPREME COURT OF THE STATE OF NEVADA

CRISTALLI & SAGGESE, LTD., A
NEVADA CORPORATION; MICHAEL
V. CRISTALLI; AND MARC A.
SAGGESE,
Petitioners,
vs.
THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK; AND THE HONORABLE
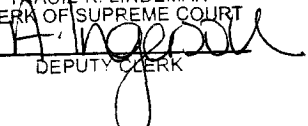ELISSA F. CADISH, DISTRICT JUDGE,
Respondents,
and
KTD, INC., A NEVADA
CORPORATION; DAVID HALEY; AND
KEVIN TODD,
Real Parties in Interest.

No. 59993

FILED

MAY 1 0 2012

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY_____
DEPUTY CLERK

ORDER DENYING PETITION
FOR WRIT OF MANDAMUS

This original petition for a writ of mandamus challenges the district court's denial in part of a motion for summary judgment and its subsequent denial of a motion to reconsider the challenged portion of the summary judgment order.
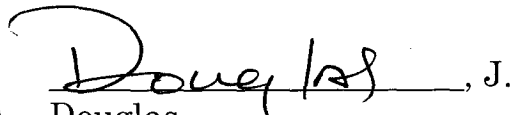
A writ of mandamus is available to compel the performance of an act that the law requires as a duty resulting from an office, trust, or station, or to control an arbitrary or capricious exercise of discretion. See NRS 34.160; International Game Tech. v. Dist. Ct., 124 Nev. 193, 197, 179 P.3d 556, 558 (2008). It is within this court's discretion to determine if such a petition will be considered. Smith v. District Court, 107 Nev. 674, 677, 818 P.2d 849, 851 (1991). Petitioners bear the burden of
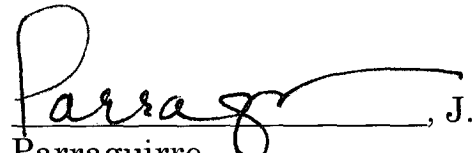
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demonstrating that extraordinary relief is warranted. <u>Pan v. Dist. Ct.</u>, 120 Nev. 222, 228, 88 P.3d 840, 844 (2004). Moreover, this court has held that an appeal is generally a speedy and adequate remedy that precludes writ relief. <u>Id.</u> at 224, 88 P.3d at 841.

Having considered the petition, we conclude that our intervention by way of extraordinary relief is not warranted. Accordingly, we deny the petition. <u>Smith</u>, 107 Nev. at 677, 818 P.2d at 851; NRAP 21(b)(1).

It is so ORDERED.[1]

_____, J.
Douglas

_____, J.
Gibbons

_____, J.
Parraguirre

cc: Hon. Elissa F. Cadish, District Judge
        Wilson, Elser, Moskowitz, Edelman & Dicker, LLP/Las Vegas
        Law Office of Vernon L. Bailey
        Eighth District Court Clerk

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[1]In light of this order, we deny as moot petitioners' motion for a stay.