

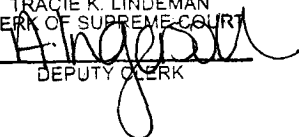
IN THE SUPREME COURT OF THE STATE OF NEVADA

MATTHEW Q. CALLISTER, ESQ.,  
Petitioner,  
vs.  
THE EIGHTH JUDICIAL DISTRICT  
COURT OF THE STATE OF NEVADA,  
IN AND FOR THE COUNTY OF  
CLARK; AND THE HONORABLE  
STEFANY MILEY, DISTRICT JUDGE,  
Respondents,  
and  
ALBERT D. MASSI, ESQ.; CHAD A.  
BOWERS, ESQ.; AND ALBERT D.  
MASSI, LTD.,  
Real Parties in Interest.

No. 60048

**FILED**

MAY 10 2012

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY   
DEPUTY CLERK

ORDER DENYING PETITION  
FOR WRIT OF MANDAMUS AND/OR PROHIBITION

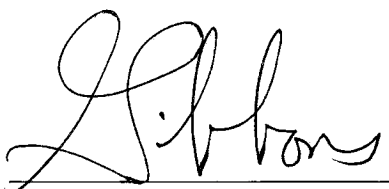
This original petition for a writ of mandamus and/or prohibition challenges the district court's scheduling of an evidentiary hearing on real parties in interest's motion to adjudicate attorney fees.

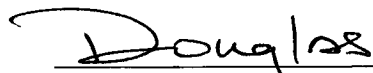
A writ of mandamus is available to compel the performance of an act that the law requires as a duty resulting from an office, trust, or station, or to control an arbitrary or capricious exercise of discretion. See NRS 34.160; International Game Tech. v. Dist. Ct., 124 Nev. 193, 197, 179 P.3d 556, 558 (2008). This court may issue a writ of prohibition to arrest the proceedings of a district court exercising its judicial functions when such proceedings are in excess of the district court's jurisdiction. See NRS 34.320; Smith v. District Court, 107 Nev. 674, 677, 818 P.2d 849, 851 (1991). Writs of mandamus and prohibition are only available when the petitioner has no speedy and adequate remedy at law. NRS 34.170; NRS

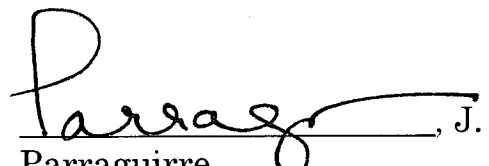
34.330. Moreover, it is within this court's discretion to determine if a writ petition will be considered. Smith, 107 Nev. at 677, 818 P.2d at 851. Petitioner bears the burden of demonstrating that extraordinary relief is warranted. Pan v. Dist. Ct., 120 Nev. 222, 228, 88 P.3d 840, 844 (2004).

Having considered the petition, we conclude that our intervention by way of extraordinary relief is not warranted. Accordingly, we deny the petition. Smith, 107 Nev. at 677, 818 P.2d at 851; NRAP 21(b)(1). Our denial of this petition is without prejudice, however, to petitioner's right to file a new petition for extraordinary relief in this court should real parties in interest ultimately prevail on their motion for adjudication of attorney fees.

It is so ORDERED.

  
\_\_\_\_\_, J.  
Gibbons

  
\_\_\_\_\_, J.  
Douglas

  
\_\_\_\_\_, J.  
Parraguirre

cc: Hon. Stefany Miley, District Judge  
Callister & Frizell  
Albert D. Massi, Ltd.  
Chad A. Bowers, Ltd.  
Susan Frankewich, Ltd.  
Eighth District Court Clerk