

IN THE SUPREME COURT OF THE STATE OF NEVADA

ERIC PETERSEN,
Petitioner,

vs.

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

Respondents,

and

LUXE ESTATES COLLECTION, LLC, A
NEVADA LIMITED LIABILITY
COMPANY; AND NEVADA TITLE
COMPANY, A NEVADA CORPORATION,
Real Parties in Interest.

No. 60058

FILED

JAN 20 2012

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *A. Magallon*
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 a motion to dismiss and directing, by writ of attachment, that funds be deposited with the district court clerk pending the resolution of the underlying case through mediation or arbitration.


A writ of mandamus or prohibition lies when there is no plain, speedy, and adequate remedy in the ordinary course of law. NRS 34.170 (mandamus); NRS 34.330 (prohibition). Whether a petition for extraordinary relief will be issued is purely discretionary with this court. Smith v. District Court, 107 Nev. 674, 677, 818 P.2d 849, 851 (1991).

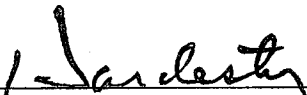
Having reviewed the petition and accompanying documentation, we conclude that this court's extraordinary intervention is not warranted. In particular, petitioner's arguments regarding the denial of his motion to dismiss can be raised in the context of an appeal from a final judgment. See Pan v. Dist. Ct., 120 Nev. 222, 224, 88 P.3d 840, 841

(2004) (explaining that the right to appeal is generally an adequate legal remedy precluding writ relief). Further, with regard to the writ of attachment, petitioner has failed to demonstrate that he has attempted to remove the attachment by district court motion pursuant to NRS 31.200. See State ex rel. Gutting v. Lamb, 86 Nev. 36, 464 P.2d 27 (1970) (explaining that a writ of mandamus seeking the release of a writ of attachment was not appropriate since NRS 31.200 provided an adequate remedy at law); see also Pan, 120 Nev. at 228, 88 P.3d at 844 (explaining that it is the petitioner's burden to demonstrate that extraordinary relief is warranted). Accordingly, for the reasons set forth above, we order the petition denied. NRAP 21(b)(1); Smith, 107 Nev. at 677, 818 P.2d at 851.

It is so ORDERED.¹


_____, J.
Cherry


_____, J.
Pickering


_____, J.
Hardesty

cc: Hon. Abbi Silver, District Judge
Glen J. Lerner & Associates
Michael R. Mushkin & Associates, P.C.
Law Offices of Michael F. Bohn, Ltd.
Eighth District Court Clerk

¹In light of this order, we deny as moot petitioner's January 19, 2012, motion for stay.