

IN THE SUPREME COURT OF THE STATE OF NEVADA

BANK OF AMERICA, N.A., A
NATIONAL BANKING ASSOCIATION,
Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF CLARK;
AND THE HONORABLE ELIZABETH
GOFF GONZALEZ, DISTRICT JUDGE,
Respondents,

and

TOWN CENTER DRIVE AND 215, LLC,
A NEVADA LIMITED LIABILITY
COMPANY,

Real Party in Interest.

No. 60379

FILED

MAR 06 2012

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *T. Malone*
DEPUTY CLERK

ORDER DENYING PETITION FOR WRIT OF PROHIBITION

This original petition for a writ of prohibition challenges a district court order that granted a temporary restraining order (TRO) halting a foreclosure pending the district court's consideration of real party in interest's request for a preliminary and permanent injunction.

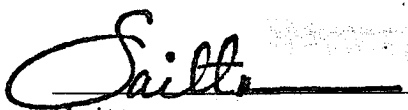
This court may issue a writ of prohibition to arrest the proceedings of a district court exercising its judicial functions, when such proceedings are in excess of the district court's jurisdiction. NRS 34.320; Smith v. District Court, 107 Nev. 674, 677, 818 P.2d 849, 851 (1991). Petitioner bears the "burden of demonstrating that extraordinary relief is warranted." Pan v. Dist. Ct., 120 Nev. 222, 228, 88 P.3d 840, 844 (2004).


Relying on NRS 33.010, petitioner argues that the district court lacks jurisdiction to consider a request for injunctive relief unless it "appear[s] by the complaint that the plaintiff is entitled to the relief demanded." That statute, however, governs when an injunction may be granted, not the district court's basis for jurisdiction over the request for such relief. See Edwards v. Emperor's Garden Rest., 122 Nev. 317, 324,

130 P.3d 1280, 1284 (2006) (pointing out that the district court has original jurisdiction over requests for injunctive relief). Thus, although petitioner asserts that the district court exceeded its jurisdiction warranting writ relief, petitioner's argument relates to the merits of the request for injunctive relief, in that petitioner contends that real party in interest's remaining counterclaim cannot support a request for such relief. Real party in interest's counterclaim seeks an order enjoining and restraining petitioner from engaging in any conduct complained of in the counterclaim, and while we make no determination on the merits of real party in interest's request for an injunction, or whether there is a meritorious basis for granting such relief, we conclude that the district court has jurisdiction over the request and that writ relief is therefore not appropriate. See NRAP 3A(b)(3) (providing for direct appeal from any order granting or denying an injunction).

Thus, we conclude that petitioner has not met its burden of showing that the district court acted in excess of its jurisdiction by granting the TRO and scheduling an evidentiary hearing on the injunction issues. Pan, 120 Nev. at 228, 88 P.3d at 844. Accordingly, we

ORDER the petition DENIED.


Saitta, C.J.


Hardesty, J.


Parraguirre, J.

cc: Hon. Elizabeth Goff Gonzalez, District Judge
Snell & Wilmer, LLP/Las Vegas
Black & LoBello
Eighth District Court Clerk