

IN THE SUPREME COURT OF THE STATE OF NEVADA

THE LEXUS PROJECT, INC., A NEW
YORK NOT FOR PROFIT
CORPORATION BY ROBIN MITTASCH
AS TRUSTEE EX REL. A CERTAIN DOG
NAMED ONION,
Petitioner,
vs.
THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF CLARK;
AND THE HONORABLE JOANNA
KISHNER, DISTRICT JUDGE,
Respondents,
and
CITY OF HENDERSON, NEVADA; AND
HENDERSON ANIMAL CARE AND
CONTROL,
Real Parties in Interest.

No. 60939

FILED

MAY 24 2012

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

ORDER DENYING PETITION FOR WRIT OF MANDAMUS

This original petition for a writ of mandamus challenges a district court order setting motions for an in-chambers hearing and requests that this court exercise jurisdiction over the hearings.

A writ of mandamus is available to compel the performance of an act that the law requires or to control an arbitrary or capricious exercise of discretion. NRS 34.160; International Game Tech. v. Dist. Ct., 124 Nev. 193, 197, 179 P.3d 556, 558 (2008). Where there is no plain, speedy, and adequate remedy in the ordinary course of law, extraordinary relief may be available. NRS 34.170; Smith v. District Court, 107 Nev. 674, 677, 679, 818 P.2d 849, 851, 853 (1991). Whether a writ of mandamus will be considered is within our sole discretion. Id. at 677, 818 P.2d at 851. It is petitioner's burden to demonstrate that our

extraordinary intervention 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. NRAP 21(b)(1); Smith, 107 Nev. at 677, 818 P.2d at 851. Accordingly, we

ORDER the petition DENIED.¹

Cherry, C.J.
Cherry

Saitta, J.
Saitta

Gibbons, J.
Gibbons

cc: Hon. Joanna Kishner, District Judge
Koeller Nebeker Carlson & Haluck, LLP/Las Vegas
Las Vegas Litigation Firm
Henderson City Attorney
Eighth District Court Clerk

¹We note that a related matter, The Lexus Project, Inc. v. Dist. Ct. (City of Henderson), Docket No. 60910, is also currently pending before this court. That petition, however, is not affected by our resolution of the instant matter.