

IN THE SUPREME COURT OF THE STATE OF NEVADA

FRED LESSMAN, AN INDIVIDUAL;
AND THE FRED LESSMAN 2001
LIVING TRUST,

Petitioners,

vs.

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

Respondents,

and

NV-RES TVL, LLC, A FLORIDA
LIMITED LIABILITY COMPANY;
TOWNE VISTAS, LLC, A NEVADA
LIMITED LIABILITY COMPANY;
PHILIP H. DAVIS, AN INDIVIDUAL;
PHD DEVELOPMENT, LLC, A
NEVADA LIMITED LIABILITY
COMPANY; AND S.B.A.
DEVELOPMENT, INC., A NEVADA
CORPORATION,
Real Parties in Interest.

No. 60980

FILED

AUG 10 2012

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *A. Angerson*
DEPUTY CLERK

ORDER DENYING PETITION FOR WRIT OF MANDAMUS

This original petition for a writ of mandamus challenges a district court order denying a motion to dismiss in a deficiency judgment action.

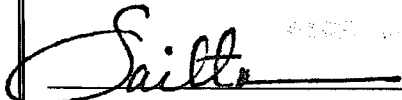
A writ of mandamus is available to compel the performance of an act that the law requires or to control an arbitrary or capricious exercise of discretion. NRS 34.160; International Game Tech. v. Dist. Ct., 124 Nev. 193, 197, 179 P.3d 556, 558 (2008). Whether a writ of mandamus will be considered is within this court's sole discretion. Smith v. District

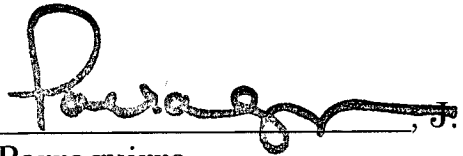
Court, 107 Nev. 674, 677, 818 P.2d 849, 851 (1991). Extraordinary relief is generally not available when there is a plain, speedy, and adequate remedy in the ordinary course of law. NRS 34.170; Smith, 107 Nev. at 677, 679, 818 P.2d at 851, 853. This court has consistently held that an appeal is typically an adequate legal remedy precluding writ relief. Pan v. Dist. Ct., 120 Nev. 222, 224, 88 P.3d 841, 844 (2004).

Having considered the petition, we conclude that our intervention by way of extraordinary relief is not warranted. In particular, petitioners have an adequate legal remedy in the form of an appeal from any final judgment. Id., NRAP 21(b)(1). Accordingly, we

ORDER the petition DENIED.¹


_____, J.
Douglas


_____, J.
Saitta


_____, J.
Parraguirre

cc: Hon. Susan Scann, District Judge
Glen J. Lerner & Associates
Lionel Sawyer & Collins/Las Vegas
Watt, Tieder, Hoffar & Fitzgerald, LLP
Eighth District Court Clerk

¹In light of this order, we deny as moot petitioners' motion to stay the district court proceedings.