

IN THE SUPREME COURT OF THE STATE OF NEVADA

DANIEL BYERS,

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

ELIZABETH L. VILLALOBOS,

Real Party in Interest.

No. 61449

FILED

NOV 16 2012

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

ORDER DENYING PETITION FOR WRIT OF MANDAMUS

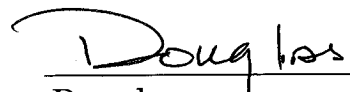
This original petition for a writ of mandamus challenges a district court order denying a motion to quash service of process or to dismiss a tort action.

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). Writ relief is generally not available, however, when the petitioner has a plain, speedy, and adequate remedy at law. See NRS 34.170; NRS 34.330; International Game Tech., 124 Nev. at 197, 179 P.3d at 558. It is within our discretion to determine if a writ petition will be considered. Smith v. District Court, 107 Nev. 674, 677, 818 P.2d 849, 851 (1991). This court generally will not consider writ petitions challenging district court orders denying motions to dismiss unless no factual dispute exists and the district court was obligated to dismiss the action pursuant


to clear authority or unless an important issue of law needs clarification.
International Game Tech., 124 Nev. at 197-98, 179 P.3d at 558-59.

Having considered the petition and appendix, we decline to exercise our discretion to entertain this petition. See NRAP 21(b)(1); Smith, 107 Nev. at 677, 818 P.2d at 851. Accordingly, we


ORDER the petition DENIED.

 _____, J.

Douglas

 _____, J.

Gibbons

 _____, J.

Parraguirre

cc: Hon. Abbi Silver, District Judge
Prince & Keating, LLP
Aaron & Paternoster, Ltd.
Eighth District Court Clerk