

IN THE SUPREME COURT OF THE STATE OF NEVADA

WESTERN POTTERY, LLC,
Petitioner,
vs.
THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK; AND THE HONORABLE
JESSIE ELIZABETH WALSH,
DISTRICT JUDGE,
Respondents,
and
UNITED SERVICES AUTOMOBILE
ASSOCIATION,
Real Party in Interest.

No. 61452

FILED

NOV 16 2012

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

ORDER DENYING PETITION
FOR WRIT OF MANDAMUS OR PROHIBITION

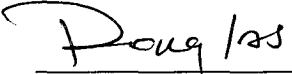
This original petition for a writ of mandamus or prohibition challenges a district court order denying petitioner's motion to dismiss the underlying action.


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). A writ of prohibition may be warranted when the district court exceeds its jurisdiction. NRS 34.320. Whether a writ of mandamus or prohibition will be considered is purely discretionary with this court. Smith v. District Court, 107 Nev. 674, 677, 818 P.2d 849, 851 (1991). Neither writ is appropriate when the petitioner has a plain, speedy, and adequate remedy at law, NRS 34.170; NRS 34.330, and we have consistently held that an appeal is generally an

adequate legal remedy precluding writ relief. Pan v. Dist. Ct., 120 Nev. 222, 224, 88 P.3d 840, 841 (2004).

Having reviewed the petition and its supporting documents, we are not persuaded that writ relief is warranted. In particular, petitioners have an adequate legal remedy in the form of an appeal from any final judgment. Id. Accordingly, we deny the petition. Id.; NRAP 21(b)(1).

It is so ORDERED.


_____, J.
Douglas


_____, J.
Gibbons


_____, J.
Parraguirre

cc: Hon. Jessie Elizabeth Walsh, District Judge
Springel & Fink
Law Office of Lisa A. Taylor
Eighth District Court Clerk