

IN THE SUPREME COURT OF THE STATE OF NEVADA

DESERT OAK HOMES; AND S & C
CLAIMS SERVICES, INC.,

Petitioners,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK; AND THE HONORABLE
JEROME T. TAO, DISTRICT JUDGE,

Respondents,

and

STATE OF NEVADA DEPARTMENT
OF BUSINESS AND INDUSTRY,
DIVISION OF INDUSTRIAL
RELATIONS; AND LUIS MACHADO,
Real Parties in Interest.

No. 61781

FILED

NOV 16 2012

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

ORDER DENYING PETITION FOR
WRIT OF MANDAMUS OR PROHIBITION

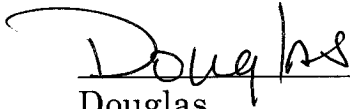
This original petition for a writ of mandamus or prohibition challenges a district court order granting in part a petition for judicial review in a workers' compensation matter.

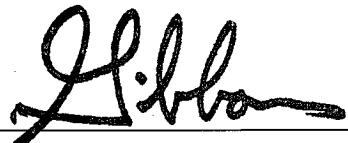
A writ of mandamus is available to compel the performance of an act that the law requires as a duty resulting from an office, trust, or station, or to control an arbitrary or capricious exercise of discretion. See NRS 34.160; International Game Tech. v. Dist. Ct., 124 Nev. 193, 197, 179 P.3d 556, 558 (2008). 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. See NRS 34.320; Smith v. District Court, 107 Nev. 674, 677, 818 P.2d 849, 851 (1991). Writ relief is generally not available, however, when the petitioner

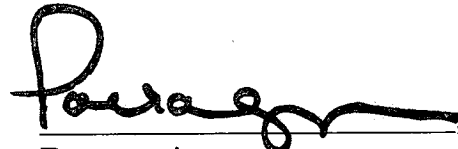
has a plain, speedy, and adequate remedy at law. See NRS 34.170; NRS 34.330; International Game Tech., 124 Nev. at 197, 179 P.3d at 558.

Here, petitioners challenge a district court order granting in part a petition for judicial review of an administrative agency decision and remanding the matter to the agency for further factual findings. Petitioners, if aggrieved, can challenge any final agency decision on remand through a petition for judicial review, NRS 233B.130(1), and if aggrieved by any subsequent district court decision, may appeal to this court. NRS 233B.150; see Pan v. Dist. Ct., 120 Nev. 222, 224, 88 P.3d 840, 841 (2004) (explaining that the right to appeal is generally an adequate legal remedy precluding writ relief). Petitioners' speculative contention that the district court may deny a request for a stay brought following any administrative decision on remand and the filing of a petition for judicial review does not warrant extraordinary relief. Thus, having considered the petition and the attached documents, we conclude that petitioners have not demonstrated that extraordinary relief is warranted. See Pan, 120 Nev. at 228, 88 P.3d at 844 (explaining that it is petitioner's burden to demonstrate that extraordinary relief is warranted). Accordingly, we deny the writ petition. NRAP 21(b)(1); see Smith, 107 Nev. at 677, 818 P.2d at 851 (recognizing that whether a writ petition will be considered is solely within this court's discretion).

It is so ORDERED.


_____, J.
Douglas


_____, J.
Gibbons


_____, J.
Parraguirre

cc: Hon. Jerome T. Tao, District Judge
Lewis Brisbois Bisgaard & Smith, LLP/Las Vegas
Greenman Goldberg Raby & Martinez
Dept of Business and Industry /Div of Industrial
Relations/Henderson
Eighth District Court Clerk