

IN THE SUPREME COURT OF THE STATE OF NEVADA

JASON HUFFER,
Petitioner,

vs.

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

Respondents,
and

PERRY KLEIN; AND RITA KLEIN,
Real Parties in Interest.

No. 61864

FILED

NOV 16 2012

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

ORDER DENYING PETITION FOR
WRIT OF MANDAMUS OR PROHIBITION


This original proper person petition for a writ of mandamus or, in the alternative, prohibition challenges a district court order denying a motion for summary judgment in a tort action.

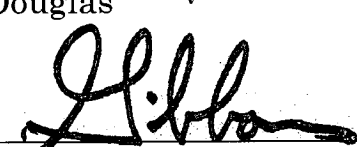
A writ of mandamus is available to compel the performance of an act that the law requires as a duty resulting from an office, trust, or station, or to control an arbitrary or capricious exercise of discretion. See NRS 34.160; International Game Tech. v. Dist. Ct., 124 Nev. 193, 197, 179 P.3d 556, 558 (2008). 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. An

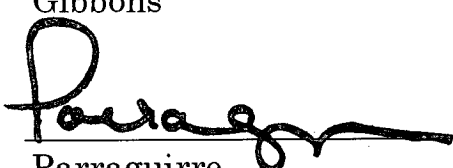
appeal is generally an adequate legal remedy precluding writ relief. Pan v. Dist. Ct., 120 Nev. 222, 224, 88 P.3d 840, 841 (2004).

Trial in the underlying case is set to begin on January 7, 2013, and petitioner can challenge the summary judgment order at issue here as part of an appeal from any final judgment entered below if he is ultimately aggrieved by that judgment. Consolidated Generator v. Cummins Engine, 114 Nev. 1304, 1312, 971 P.2d 1251, 1256 (1998) (explaining that a party may challenge an interlocutory order in the context of an appeal from a final judgment); see also NRAP 3A(b)(1); Lee v. GNLV Corp., 116 Nev. 424, 426, 996 P.2d 416, 417 (2000) (defining a final judgment). Accordingly, as petitioner has a speedy and adequate remedy available in the form of an appeal, we deny the petition. NRS 34.170; NRS 34.330; NRAP 21(b); Pan, 120 Nev. at 224, 88 P.3d at 841.

It is so ORDERED.

 _____, J.
Douglas

 _____, J.
Gibbons

 _____, J.
Parraguirre

cc: Hon. Gloria Sturman, District Judge
Jason Huffer
David J. Winterton & Associates, Ltd.
Eighth District Court Clerk