

IN THE SUPREME COURT OF THE STATE OF NEVADA

TESTING ENGINEERS-NEVADA, INC  
F/K/A BUENA ENGINEERS, INC.,  
Petitioner,  
vs.  
THE EIGHTH JUDICIAL DISTRICT  
COURT OF THE STATE OF NEVADA,  
IN AND FOR THE COUNTY OF  
CLARK; AND THE HONORABLE  
SUSAN JOHNSON,  
Respondents,  
and  
M & M CONSTRUCTION,  
Real Party in Interest.

No. 61925

**FILED**

NOV 16 2012

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY A. Malone  
DEPUTY CLERK

ORDER DENYING PETITION FOR WRIT OF MANDAMAUS

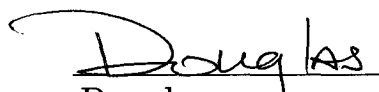
This original petition for a writ of mandamus challenges a district court order denying a motion to dismiss.

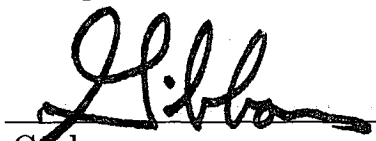
“A writ of mandamus is available to compel the performance of an act that the law requires as a duty resulting from an office, trust, or station or to control an arbitrary or capricious exercise of discretion.” International Game Tech. v. Dist. Ct., 124 Nev. 193, 197, 179 P.3d 556, 558 (2008) (citations omitted); see NRS 34.160. It is within this court’s discretion to determine whether a writ petition will be considered. Smith v. District Court, 107 Nev. 674, 677, 818 P.2d 849, 851 (1991). Petitioner bears the burden of demonstrating that this court’s extraordinary intervention is warranted. Pan v. Dist. Ct., 120 Nev. 222, 228, 88 P.3d 840, 844 (2004). Writ relief is generally available, however, only when there is no plain, speedy, and adequate remedy in the ordinary course of law. NRS 34.170. Moreover, this court has held that the right to appeal is


generally an adequate legal remedy precluding writ relief. Pan, 120 Nev. at 224, 88 P.3d at 841.

Having considered the petition and appendix filed in this matter, we conclude that petitioner has not demonstrated that our intervention by way of extraordinary relief is warranted. Petitioner has an adequate legal remedy in the form of an appeal from any adverse final judgment. NRAP 21(b)(1); Pan, 120 Nev. at 224, 88 P.3d at 841; Smith, 107 Nev. at 677, 818 P.2d at 851. Accordingly, we

ORDER the petition DENIED.

  
\_\_\_\_\_, J.  
Douglas

  
\_\_\_\_\_, J.  
Gibbons

  
\_\_\_\_\_, J.  
Parraguirre

cc: Hon. Susan Johnson, District Judge  
Wilson, Elser, Moskowitz, Edelman & Dicker, LLP/Las Vegas  
Bremer Whyte Brown & O'Meara, LLP  
Eighth District Court Clerk