

IN THE SUPREME COURT OF THE STATE OF NEVADA

CITY OF RENO,
Petitioner,

vs.

THE HONORABLE SCOTT N.
FREEMAN; AND THE SECOND
JUDICIAL DISTRICT COURT OF THE
STATE OF NEVADA, IN AND FOR THE
COUNTY OF WASHOE, DISTRICT
JUDGE,

Respondents,
and

SCOTT SORENSEN,
Real Party in Interest.

No. 62015

FILED

DEC 04 2012

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *T. Malone*
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 a motion for summary judgment in an employment 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

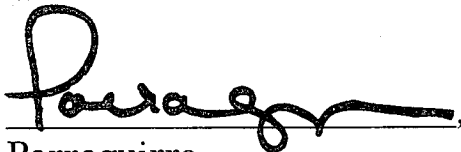
appeal is generally an adequate legal remedy precluding writ relief. Pan v. Dist. Ct., 120 Nev. 222, 224, 88 P.3d 840, 841 (2004).

Trial in the underlying case is set to begin on February 11, 2013, and petitioner can challenge the summary judgment order at issue here as part of an appeal from any final judgment entered below if it 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. Scott N. Freeman, District Judge
Reno City Attorney
Mark L. Mausert
Hager & Hearne
Washoe District Court Clerk