

IN THE SUPREME COURT OF THE STATE OF NEVADA

GRUMA CORPORATION, A NEVADA
CORPORATION; AND MISSION
FOODS,
Petitioners,

vs.

THE SECOND JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
WASHOE; AND THE HONORABLE
STEVEN P. ELLIOTT, DISTRICT
JUDGE,

Respondents,

and

PAUL A. PRYOR,
Real Party in Interest.

No. 62139

FILED

DEC 11 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 granting a temporary restraining order and scheduling a hearing on a request for a preliminary injunction.

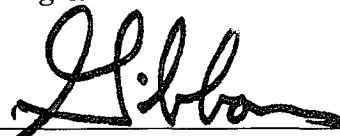
A writ of mandamus is available to compel the performance of an act that the law requires as a duty resulting from an office, trust, or station, or to control an arbitrary or capricious exercise of discretion. See NRS 34.160; International Game Tech. v. Dist. Ct., 124 Nev. 193, 197, 179 P.3d 556, 558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

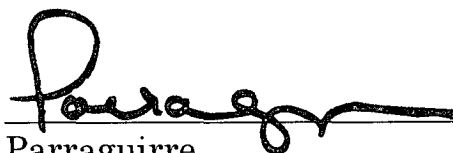
34.330; International Game Tech., 124 Nev. at 197, 179 P.3d at 558. An appeal is generally an adequate legal remedy precluding writ relief. Pan v. Dist. Ct., 120 Nev. 222, 224, 88 P.3d 840, 841 (2004).

Based on our review of the documents before us, we conclude that our intervention by way of extraordinary relief is not warranted because petitioners have a speedy and adequate remedy at law. In their petition, petitioners acknowledge that they have filed a motion to vacate the temporary restraining order challenged in this matter, which appears to remain pending below. Moreover, the district court has scheduled a hearing on real party in interest's request for a preliminary injunction, which petitioners have already opposed, for December 11, 2012. Upon entry of a written, file-stamped order resolving the request for a preliminary injunction, petitioners, if aggrieved by that order, may challenge that decision by way of an appeal to this court. NRAP 3A(b)(3). Under these circumstances, we conclude that the petition should be denied. 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. Steven P. Elliott, District Judge
McCormick, Barstow, Sheppard, Wayte & Carruth, LLP/Las Vegas
Robison Belaustegui Sharp & Low
Washoe District Court Clerk