

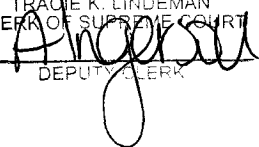
IN THE SUPREME COURT OF THE STATE OF NEVADA

KRISTY ANN JACKSON; AND ARIANA
STARR WARM,
Petitioners,
vs.
THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK; AND THE HONORABLE
DAVID B. BARKER, DISTRICT JUDGE,
Respondents,
and
LESLIE SARA SADOVIA,
Real Party in Interest.

No. 62319

FILED

JUN 14 2013

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER DENYING PETITION FOR WRIT OF MANDAMUS

This is an original petition for a writ of mandamus challenging a district court order denying a motion to strike real party in interest's complaint for failure to timely serve process. Real party in interest has filed an answer, and petitioners have filed a reply.

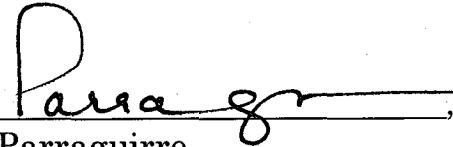
A writ of mandamus is available to compel the performance of an act that the law requires as a duty resulting from an office, trust, or station, or to control an arbitrary or capricious exercise of discretion. *See* NRS 34.160; *Int'l Game Tech., Inc. v. Second Judicial Dist. Court*, 124 Nev. 193, 197, 179 P.3d 556, 558 (2008). It is within our discretion to determine if a writ petition will be considered. *Smith v. Eighth Judicial Dist. Court*, 107 Nev. 674, 677, 818 P.2d 849, 851 (1991). Petitioner bears the burden of demonstrating that extraordinary relief is warranted. *Pan v. Eighth Judicial Dist. Court*, 120 Nev. 222, 228, 88 P.3d 840, 844 (2004). This court generally will not consider writ petitions challenging district court orders denying motions to dismiss, unless no factual dispute exists

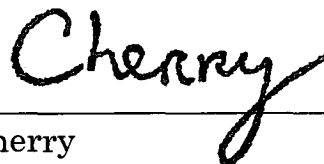
and the district court was obligated to dismiss the action pursuant to clear authority. *Int'l Game Tech.*, 124 Nev. at 197-98, 179 P.3d at 558-59.

Having considered the petition, we conclude that petitioners have not demonstrated that the district court was required to strike the complaint and dismiss the action below.¹ *See id.*; *Pan*, 120 Nev. at 228, 88 P.3d at 844. Accordingly, we deny the petition. *See* NRAP 21(b)(1); *Smith*, 107 Nev. at 677, 818 P.2d at 851.

It is so ORDERED.


_____, J.
Hardesty


_____, J.
Parraguirre


_____, J.
Cherry

cc: Hon. David B. Barker, District Judge
Sarah A. Smith
Law Firm of Rene L. Rosich, Ltd.
Eighth District Court Clerk

¹In light of this conclusion, we need not address real party in interest's procedural arguments.