

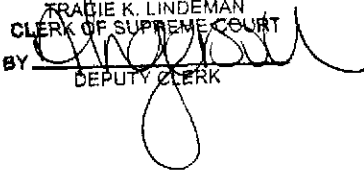
IN THE SUPREME COURT OF THE STATE OF NEVADA

WILLIAM A. ZAMBONI, M.D.,
Petitioner,
vs.
THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK; AND THE HONORABLE
KENNETH C. CORY, DISTRICT
JUDGE,
Respondents,
and
ERIN HEGARTY,
Real Party in Interest.

No. 63212

FILED

FEB 13 2014

TRADIE K. LINDEMAN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

*ORDER DENYING PETITION
FOR WRIT OF MANDAMUS OR PROHIBITION*

This original petition for a writ of mandamus, or alternatively, prohibition, challenges a district court order denying a motion for partial summary judgment in a tort action.

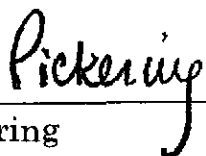
A writ of mandamus is available to compel the performance of an act that the law requires or to control an arbitrary or capricious exercise of discretion. NRS 34.160; *Int'l Game Tech., Inc. v. Second Judicial Dist. Court*, 124 Nev. 193, 197, 179 P.3d 556, 558 (2008). A writ of prohibition may be warranted when the district court exceeds its jurisdiction. NRS 34.320. Whether a petition for mandamus or prohibition relief will be considered is purely discretionary with this court. *Smith v. Eighth Judicial Dist. Court*, 107 Nev. 674, 677, 818 P.2d 849, 851 (1991). It is petitioner's burden to demonstrate that our extraordinary intervention is warranted. *Pan v. Eighth Judicial Dist. Court*, 120 Nev. 222, 228, 88 P.3d 840, 844 (2004). Writ relief is generally available only

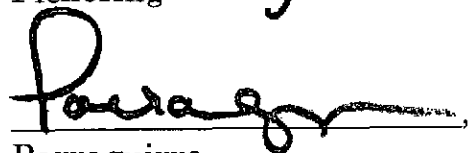
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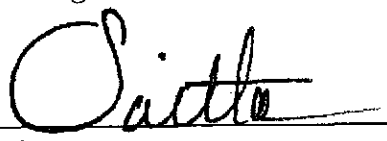
when there is no plain, speedy, and adequate remedy in the ordinary course of law. NRS 34.170; NRS 34.330; *Smith*, 107 Nev. at 677, 818 P.2d at 851. Moreover, this court has held that the right to an appeal is typically an adequate legal remedy precluding writ relief. *Pan*, 120 Nev. at 224, 88 P.3d at 841.

Having considered the petition, we conclude that our intervention by way of extraordinary relief is not warranted. *Smith*, 107 Nev. at 677, 818 P.2d at 851. Specifically, petitioner has an adequate legal remedy in the form of an appeal from any adverse final judgment. *Pan*, 120 Nev. at 224, 88 P.3d at 841. Accordingly, we

ORDER the petition DENIED.¹


_____, J.
Pickering


_____, J.
Parraguirre


_____, J.
Saitta

cc: Hon. Kenneth C. Cory, District Judge
Mandelbaum, Ellerton & McBride
Sterling Law, LLC
Cohen & Padua, LLP
Eighth District Court Clerk

¹We vacate the stay of the district court proceedings in Eighth Judicial District Court Case No. A580226 entered by this court on July 23, 2013.