

IN THE SUPREME COURT OF THE STATE OF NEVADA

DOMINIC ANTHONY MARROCCO;  
AND TOMIYASU HOLDINGS, LLC,  
Petitioners,  
vs.  
THE EIGHTH JUDICIAL DISTRICT  
COURT OF THE STATE OF NEVADA,  
IN AND FOR THE COUNTY OF CLARK;  
AND THE HONORABLE TIMOTHY C.  
WILLIAMS, DISTRICT JUDGE,  
Respondents,  
and  
MARK A. HILL,  
Real Party in Interest.

No. 64337

**FILED**

NOV 26 2013

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

*ORDER GRANTING PETITION FOR WRIT OF MANDAMUS*


This is an emergency petition for a writ of mandamus challenging a district court order declining to expunge a lis pendens in a fraudulent transfer action.

Real party in interest Mark Hill filed an action seeking to undo an alleged fraudulent transfer of real property from petitioner Dominic Marrocco to petitioner Tomiyasu Holdings, LLC. In conjunction therewith, Hill recorded a lis pendens against the property. The district court denied petitioners' motion to expunge the lis pendens, and petitioners filed this writ petition. As directed, Hill filed an answer and petitioners filed a reply.

Having reviewed the parties' arguments and the appendices in this writ petition, we conclude that Hill's use of a lis pendens in this action is not appropriate and the district court acted arbitrarily and capriciously when it denied petitioners' motion to expunge the lis pendens. *Int'l Game Tech., Inc. v. Second Judicial Dist. Court*, 124 Nev. 193, 197, 179 P.3d 556, 558 (2008) (holding that a writ of mandamus is available to address an arbitrary or capricious abuse of discretion); *Levinson v. Eighth Judicial*

*Dist. Court*, 109 Nev. 747, 752, 857 P.2d 18, 21 (1993) (“[A] lis pendens is not available to merely enforce a personal or money judgment. There must be some claim of entitlement to the real property affected by the lis pendens. . . .”); *see also Weddell v. H2O, Inc.*, 128 Nev. \_\_\_, \_\_\_, 271 P.3d 743, 751 (2012). Accordingly, we

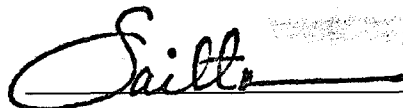
ORDER the petition GRANTED AND DIRECT THE CLERK OF THIS COURT TO ISSUE A WRIT OF MANDAMUS instructing the district court to issue an order expunging the lis pendens.

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

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

SAITTA, J., dissenting:

I respectfully dissent. Regardless of whether recording a lis pendens is appropriate, petitioners filed their writ petition as an emergency and have not demonstrated that our emergency intervention is warranted. NRAP 21(a)(6); NRAP 27(e). Therefore, I would deny the writ petition.

  
\_\_\_\_\_, J.  
Saitta

cc: Hon. Timothy C. Williams, District Judge  
Lionel Sawyer & Collins/Las Vegas  
Nersesian & Sankiewicz  
Eighth District Court Clerk