

IN THE SUPREME COURT OF THE STATE OF NEVADA

EWING BROS., INC., A NEVADA
CORPORATION,

Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,

IN AND FOR THE COUNTY OF
CLARK; AND THE HONORABLE
JESSIE ELIZABETH WALSH,
DISTRICT JUDGE,

Respondents,

and

LAS VEGAS CRANE SERVICE,

Real Party in Interest.

No. 66027

FILED

JUL 14 2014

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

*ORDER DENYING EMERGENCY PETITION
FOR WRIT OF MANDAMUS OR PROHIBITION*

This emergency original petition for a writ of mandamus, or alternatively, prohibition, challenges a district court order denying motions to dismiss and for reconsideration 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. Either writ is an extraordinary remedy, and whether such a writ will be considered is within this court's sole discretion. *Smith v. Eighth Judicial Dist. Court*, 107 Nev. 674, 677, 679, 818 P.2d 849, 851, 853 (1991). Moreover, 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 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 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 are not persuaded that our intervention by way of extraordinary relief is warranted. NRAP 21(b)(1); *Smith*, 107 Nev. at 677, 818 P.2d at 851; *Pan*, 120 Nev. at 228, 88 P.3d at 844. Accordingly, we

ORDER the petition DENIED.

Hardesty, J.
Hardesty

Douglas, J.
Douglas

Cherry, J.
Cherry

cc: Hon. Jessie Elizabeth Walsh, District Judge
H. Bruce Cox
Bell and Young, Ltd.
Eighth District Court Clerk