

IN THE SUPREME COURT OF THE STATE OF NEVADA

THE STATE OF NEVADA  
DEPARTMENT OF  
TRANSPORTATION,  
Petitioner,

vs.

THE SIXTH JUDICIAL DISTRICT  
COURT OF THE STATE OF NEVADA,  
IN AND FOR THE COUNTY OF  
PERSHING; AND THE HONORABLE  
RICHARD WAGNER, DISTRICT  
JUDGE,

Respondents,  
and

JOHN A. FRANCOIS; JOHN N.  
THACKER, INDIVIDUALLY AND D/B/A  
THACKER RANCHES; AND JILL  
THACKER, INDIVIDUALLY AND D/B/A  
THACKER RANCHES,  
Real Parties in Interest.

No. 66692

**FILED**

DEC 12 2014

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY S. Young  
DEPUTY CLERK

*ORDER DENYING PETITION FOR WRIT OF MANDAMUS*

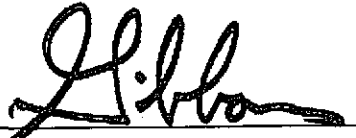
This original petition for a writ of mandamus challenges a district court order denying a motion to dismiss in a tort action.

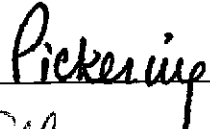
A writ of mandamus is an extraordinary remedy available to compel the performance of an act that the law requires or to control an arbitrary or capricious exercise of discretion. NRS 34.160; *Int'l Game Tech., Inc. v. Second Judicial Dist. Court*, 124 Nev. 193, 197, 179 P.3d 556, 558 (2008). Whether a petition for writ of mandamus will be considered is within this court's sole discretion, *Smith v. Eighth Judicial Dist. Court*, 107 Nev. 674, 677, 818 P.2d 849, 851 (1991), and 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).


Moreover, writ relief is generally available only when there is no plain, speedy, and adequate remedy in the ordinary course of law. NRS 34.170; *Int'l Game Tech.*, 124 Nev. at 197, 179 P.3d at 558. Generally, an appeal is 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 is warranted at this time. NRAP 21(b)(1); *Pan*, 120 Nev. at 228, 88 P.3d at 844; *Smith*, 107 Nev. at 677, 818 P.2d at 851. Accordingly, we

ORDER the petition DENIED.

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

  
\_\_\_\_\_, J.  
Pickering

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

cc: Hon. Richard Wagner, District Judge  
Attorney General/Transportation Division/Carson City  
Ranalli & Zaniel, LLC/Reno  
Bradshaw Law LLC  
Pershing County Clerk