

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

KENNETH BERBERICH, TRUSTEE,  
ON BEHALF OF 4499 WEITZMAN  
PLACE TRUST, A NEVADA TRUST,  
AND ON BEHALF OF ALL OTHERS  
SIMILARLY SITUATED,  
Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT  
COURT OF THE STATE OF NEVADA,  
IN AND FOR THE COUNTY OF  
CLARK; AND THE HONORABLE  
JOANNA KISHNER, DISTRICT  
JUDGE,

Respondents,

and

SOUTHERN HIGHLANDS  
COMMUNITY ASSOCIATION, A  
NEVADA NON-PROFIT  
COOPERATIVE CORPORATION; MTC  
FINANCIAL INC., A CALIFORNIA  
CORPORATION REGISTERED IN  
NEVADA; OLYMPIA MANAGEMENT  
SERVICES, LLC, A NEVADA LIMITED  
LIABILITY COMPANY; FEDERAL  
HOME MORTGAGE CORPORATION, A  
FEDERALLY CHARTERED  
CORPORATION; AND CAM REAL  
ESTATE XIV, LLC, A DELAWARE  
LIMITED LIABILITY COMPANY,  
Real Parties in Interest.

No. 72114

**FILED**

JAN 20 2017

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY *[Signature]*  
DEPUTY CLERK

*ORDER DENYING PETITION*


*FOR WRITS OF MANDAMUS AND PROHIBITION*

This is an original petition for writs of mandamus and prohibition challenging various district court orders and rulings entered in the underlying action.

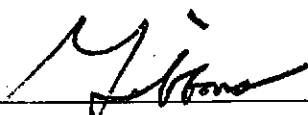
Writs of mandamus and prohibition are extraordinary remedies, and whether a petition for such relief will be considered is solely within our discretion. *See Smith v. Eighth Judicial Dist. Court*, 107 Nev. 674, 677, 679, 818 P.2d 849, 851, 853 (1991). Nonetheless, neither a writ of mandamus nor a writ of prohibition will issue when the petitioner has a plain, speedy, and adequate remedy at law. NRS 34.170; NRS 34.330. And our supreme court has consistently recognized that an appeal generally constitutes an adequate and speedy remedy that precludes writ relief. *See Pan v. Eighth Judicial Dist. Court*, 120 Nev. 222, 224, 88 P.3d 840, 841 (2004).

Our review of the petition and the supporting documents demonstrates that the majority of the issues presented in this matter can be reviewed in the context of an appeal from the final judgment in the underlying case. And to the extent that an award of attorney fees is ultimately made through a post-judgment order, such a determination would be independently appealable as a special order after final judgment. *See Winston Prods. Co. v. DeBoer*, 122 Nev. 517, 525, 134 P.3d 726, 731 (2006). Given the procedural posture of the underlying case, we conclude that an appeal constitutes a speedy and adequate remedy that precludes our intervention by way of writ relief. *See* NRS 34.170; NRS 34.330; *Pan*,

120 Nev. at 224, 88 P.3d at 841. Accordingly, we  
ORDER the petition DENIED.<sup>1</sup>

  
\_\_\_\_\_, C.J.  
Silver

  
\_\_\_\_\_, J.  
Tao

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

cc: Hon. Joanna Kishner, District Judge  
Brauer, Driscoll, Sun and Associates LLC  
Aldridge Pite, LLP  
Wolf, Rifkin, Shapiro, Schulman & Rabkin, LLP/Las Vegas  
Burke, Williams & Sorensen, LLP  
Kemp, Jones & Coulthard, LLP  
Eighth District Court Clerk

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<sup>1</sup>In light of our resolution of this matter, we deny as moot petitioner's emergency motion for stay.