

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

5SEAT INVESTMENTS, LLC, A
NEVADA LIMITED LIABILITY
COMPANY A/K/A 5 SEAT
INVESTMENTS, LLC,
Petitioner,

vs.

THE FIRST JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CARSON CITY; AND THE
HONORABLE JAMES E. WILSON,
DISTRICT JUDGE,

Respondents,

and

TICO CONSTRUCTION COMPANY,
INC.,
Real Party in Interest.

No. 72967

FILED

JUL 13 2017

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

ORDER DENYING PETITION FOR WRIT OF MANDAMUS

This original petition for a writ of mandamus challenges a district court order granting partial summary judgment in a contract action.

A writ of mandamus is available to compel the performance of an act that the law requires as a duty resulting from an office, trust, or station or to control an arbitrary or capricious exercise of discretion. See NRS 34.160; *Int'l Game Tech., Inc. v. Second Judicial Dist. Court*, 124 Nev. 193, 197, 179 P.3d 556, 558 (2008). Writ relief is typically not available, however, when the petitioner has a plain, speedy, and adequate remedy at law. See NRS 34.170; *Int'l Game Tech.*, 124 Nev. at 197, 179 P.3d at 558. Whether to consider a writ petition is within this court's discretion. See *Smith v. Eighth Judicial Dist. Court*, 107 Nev. 674, 677,


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818 P.2d 849, 851 (1991). And petitioner bears the burden of demonstrating that extraordinary relief is warranted. *See Pan v. Eighth Judicial Dist. Court*, 120 Nev. 222, 228, 88 P.3d 840, 844 (2004).

Having considered the petition and supporting documents, we conclude that petitioner has failed to meet its burden of demonstrating that extraordinary writ relief is warranted. *See id.* Accordingly, we deny the petition. *See* NRAP 21(b)(1); *see also Smith*, 107 Nev. at 677, 818 P.2d at 851.

It is so ORDERED.


_____, C.J.
Silver


_____, J.
Tao


_____, J.
Gibbons

cc: Hon. James E. Wilson, District Judge
Richard L. Elmore, Chtd.
Humphrey Lopez PLLC
Carson City Clerk