

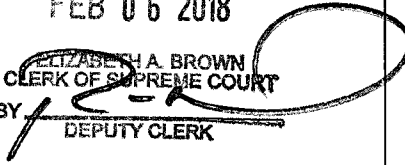
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

MARILYN LANGHANS,
Petitioner,
vs.
THE SECOND JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
WASHOE; AND THE HONORABLE
KATHLEEN M. DRAKULICH,
DISTRICT JUDGE,
Respondents,
and
HERITAGE CREEKSIDE, LLC,
DOMESTIC LIMITED LIABILITY
COMPANY,
Real Party in Interest.

No. 74767

FILED

FEB 06 2018

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER DENYING PETITION FOR WRIT OF MANDAMUS

This original petition for a writ of mandamus¹ challenges a district court order granting real party in interest's motion to set aside a default in a negligence 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). A writ of mandamus will not issue, however, if 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.

¹The petition is titled "Petition for Writ of Mandamus or, in the Alternative, Prohibition" however, we only address mandamus relief as that is only relief addressed by the petition, even though it is titled differently.

18-900182

Further, mandamus is an extraordinary remedy, and it is within the discretion of this court to determine if a petition will be considered. See *Smith v. Eighth Judicial Dist. Court*, 107 Nev. 674, 677, 679, 818 P.2d 849, 851, 853 (1991). 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 documents before us, we conclude that petitioner has failed to demonstrate that extraordinary writ relief is warranted. See *id.* Accordingly, we deny the petition. See NRAP 21(b)(1); *Smith*, 107 Nev. at 677, 818 P.2d at 851.

It is so ORDERED.



Silver

C.J.



Tao

J.



Gibbons

J.

cc: Hon. Kathleen M. Drakulich, District Judge
Galloway & Jensen
Georgeson Angaran, Chtd.
Washoe District Court Clerk