

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

THOMAS & KATHLEEN GARLAND
FAMILY TRUST; AND COURTNEY
DOLAN,
Petitioners,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK; AND THE HONORABLE
ELIZABETH GOFF GONZALEZ,
Respondents,

and

RAYMOND L. MELTON, AN
INDIVIDUAL; BART KOLBER, AN
INDIVIDUAL; OLYMPIA FUNDING,
INC., A CALIFORNIA CORPORATION;
WILLIAM HOGARTY, AN
INDIVIDUAL; COUNTRYWIDE HOME
LOANS, A CALIFORNIA
CORPORATION, A/K/A BANK OF
AMERICA, A NORTH CAROLINA
CORPORATION, D/B/A BAC HOME
LOANS SERVICING, LP, A
CALIFORNIA CORPORATION; BANK
OF NEW YORK MELLON BANK, ON
BEHALF OF CWALT, INC.,
ALTERNATIVE LOAN TRUST A-2004-
24CB, A NEW YORK CORPORATION;
MORTGAGE ELECTRONIC
REGISTRATION SYSTEMS, INC., A
DELAWARE CORPORATION; MERS
CORP, INC., A VIRGINIA CORP.; AND
NEVADA TITLE COMPANY, A
NEVADA CORPORATION,
Real Parties in Interest.

No. 76380

FILED

OCT 24 2018

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

*ORDER DENYING PETITION
FOR WRITS OF MANDAMUS AND CERTIORARI*

This is an original petition for writs of mandamus and certiorari seeking to disqualify counsel for certain real parties in interest.


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 petitioners have 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.


A writ of certiorari is available to correct a lower tribunal's judicial action if the tribunal exceeded its jurisdiction and "there is no appeal, nor, in the judgment of the court, any plain, speedy and adequate remedy." NRS 34.020(2); *Dangberg Holdings Nev., LLC v. Douglas Cnty.*, 115 Nev. 129, 138, 978 P.2d 311, 316 (1999). Whether a writ of certiorari will be considered is within this court's discretion. *Id.*

The supreme court has held that the availability of an appeal is generally a speedy and adequate remedy precluding writ relief.¹ See *Pan v. Eighth Judicial Dist. Court*, 120 Nev. 222, 224, 88 P.3d 840, 841 (2004). And petitioners bear the burden of demonstrating that extraordinary relief is warranted. See *id.* at 228, 88 P.3d at 844. Having considered the documents before us, we conclude petitioners have not demonstrated that our extraordinary intervention is warranted. *Id.*; NRAP 21(b)(1); NRAP 21(c). Accordingly, we deny the petition.

¹We note that petitioners recently filed an appeal arising from the underlying district court case, which is currently pending before the Nevada Supreme Court in Docket No. 77182 (*Garland Family Trust v. Melton*).

It is so ORDERED.²


_____, C.J.
Silver


_____, J.
Gibbons

cc: Hon. Elizabeth Goff Gonzalez, District Judge
Dolan Law Group, Ltd.
Black & LoBello
Akerman LLP/Las Vegas
Bart Kolber
Vegas Valley Law, LLC
Skrinjaric Law Office
William Hogarty
Eighth District Court Clerk

²In light of this order, we deny as moot all requests for relief currently pending in this matter.

The Honorable Jerome Tao, Judge, voluntarily recused himself from participating in the decision of this matter.