

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

ROSS CO. CONSTRUCTION, INC.,
Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK; AND THE HONORABLE
RICHARD SCOTTI, DISTRICT JUDGE,
Respondents,

and

SHAUN PHILLIPS; LINDA ERICA
PHILLIPS; GREAT SALT LAKE
ELECTRIC, INC., D/B/A GSL
ELECTRIC; TRE BUILDERS, LLC; AND
ROBERT BAKER,
Real Parties in Interest.

No. 76324-COA

FILED

DEC 07 2018

ELIZABETH A. BROWN
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 the denial of a motion for partial summary judgment, in which petitioner had joined, brought in a personal injury action.¹

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). This court has discretion as to whether to entertain a petition for extraordinary relief and will not do so when the petitioner has a plain, speedy, and adequate remedy at law. NRS 34.170;


¹Although labeled a petition for mandamus or prohibition relief on the cover page, the petition itself requests only mandamus relief.

D.R. Horton, Inc. v. Eighth Judicial Dist. Court, 123 Nev. 468, 474-75, 168 P.3d 731, 736-37 (2007). 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 appendix filed in this matter, we are not persuaded that this court's intervention by way of extraordinary relief is warranted. *Id.* Accordingly, we deny the petition. See NRAP 21(b)(1); *D.R. Horton*, 123 Nev. at 475, 168 P.3d at 737.

It is so ORDERED.


_____, C.J.
Silver


_____, J.
Tao


_____, J.
Gibbons

cc: Hon. Richard Scotti, District Judge
Resnick & Louis, P.C.
Eglet Prince
Bremer Whyte Brown & O'Meara, LLP/Las Vegas
Tyson & Mendes LLP
Eighth District Court Clerk