

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

DAVID GEOFFRION; AND BEATRICE
GEOFFRION,

Petitioners,

vs.

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

Respondents,

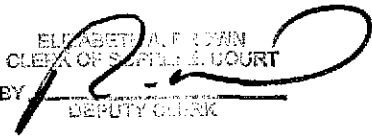
and

JUDITH BREVELL, INDIVIDUALLY
AND AS NATURAL PARENT AND
GUARDIAN OF; ELEANOR WAX;
FRANKLIN WAX; SAMUEL WAX; AND
VIVIENNA BREVELL, MINORS,
Real Parties in Interest.

No. 77641-COA

FILED

MAR 22 2009

ELIZABETH A. F. OWAN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

*ORDER DENYING PETITION
FOR WRITS OF MANDAMUS OR PROHIBITION*


This original writ petition seeks mandamus and prohibition relief to compel dismissal of the underlying contract and torts complaint that allegedly seeks damages below the jurisdictional minimum for the district court.

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 prohibition may be warranted when a district court acts without or in excess of its jurisdiction. NRS 34.320; *Club Vista Fin. Servs., LLC v. Eighth Judicial Dist. Court*, 128 Nev.


224, 228, 276 P.3d 246, 249 (2012). This court has discretion as to whether to entertain a petition for extraordinary relief and will not do so when the petitioners have a plain, speedy, and adequate remedy at law. NRS 34.170; NRS 34.330; *D.R. Horton, Inc. v. Eighth Judicial Dist. Court*, 123 Nev. 468, 474-75, 168 P.3d 731, 736-37 (2007). Petitioners bear 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 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.¹ *See* NRAP 21(b)(1); *D.R. Horton*, 123 Nev. at 475, 168 P.3d at 737.

It is so ORDERED.


_____, J.
Tao


_____, J.
Gibbons


_____, J.
Bulla

¹Petitioner asserts that, despite denying the motion to dismiss at issue in this matter, the district court has not ruled on real parties in interest's motion to amend the complaint to seek damages in excess of the jurisdictional threshold amount. Although we deny this petition, to the extent that this motion remains unresolved, the district court must resolve the motion and ensure that the underlying action is properly pending in the district court, rather than the justice court.

cc: Hon. Douglas Smith, District Judge
Atkin Winner & Sherrod
Shumway Van
Eighth District Court Clerk