

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JON SIEMS; AND SIEMS ADVANCED
LASIK & EYE CENTER,
Petitioners,
vs.
THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK; AND THE HONORABLE
MARY KAY HOLTHUS, DISTRICT
JUDGE,
Respondents,
and
ALMA PEREZ,
Real Party in Interest.

No. 78788-COA

FILED

JUN 24 2019

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 relief challenges the district court's denial of petitioners' motion for summary judgment on a punitive damages claim.

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; *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 supporting documents 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.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. Mary Kay Holthus, District Judge
John H. Cotton & Associates, Ltd.
Marcek Law Offices
Eighth District Court Clerk