

IN THE SUPREME COURT OF THE STATE OF NEVADA

MELAKU TESEMA; MINALE M.
ABEBE; METASEBIA MILLION; AND
ACMETHAY GEBERSECASA,
INDIVIDUALLY AND ON BEHALF OF
OTHERS SIMILARLY SITUATED,

Petitioners,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK; AND THE HONORABLE
KATHLEEN E. DELANEY, DISTRICT
JUDGE,

Respondents,

and

LUCKY CAB CO.; AND LUCKY
TRANSPORTATION, INC.,

Real Parties in Interest.

No. 70763

FILED

FEB 21 2017

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

*ORDER GRANTING IN PART AND DENYING
IN PART PETITION FOR WRIT OF MANDAMUS*

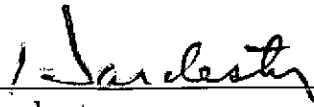
This original petition for a writ of mandamus seeks a declaration that the underlying matter has been stayed for purposes of NRCP 41(e).

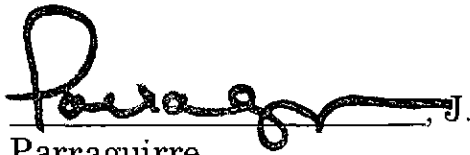
Having considered the parties' arguments and the record, we are persuaded that our intervention is warranted. *Pan v. Eighth Judicial Dist. Court*, 120 Nev. 222, 228, 88 P.3d 840, 844 (2004). In particular, the district court's delay in resolving petitioners' motion for class certification appears to be preventing petitioners from attempting to bring their action to trial within NRCP 41(e)'s five-year time frame. Moreover, the district court's failure to answer this court's September 29, 2016, order renders meaningful consideration of this petition impracticable.


Accordingly, we partially grant petitioners' request for writ relief, insofar as we direct the district court to enter an order deciding

petitioners' motion for class certification within 15 days from the date of this order. Petitioners shall notify this court if the district court fails to do so within the allotted time frame. We decline to consider within the confines of this writ petition whether to adopt a rule consistent with out-of-state law that would allow for tolling of NRCP 41(e)'s five-year time frame during the period in which a district court's inaction has prevented a party from bringing an action to trial.¹ In that respect, petitioners' request for writ relief is denied. Consistent with the foregoing, we

ORDER the petition PARTIALLY GRANTED and direct the clerk of this court to issue a writ of mandamus directing the district court to decide petitioners' motion for class certification within 15 days from the date of this order.²


_____, J.
Hardesty


_____, J.
Parraguirre


_____, J.
Stiglich

cc: Hon. Kathleen E. Delaney, District Judge
Leon Greenberg Professional Corporation
Lovato Law Firm, P.C.
Eighth District Court Clerk

¹In this regard, we note petitioners' reliance on *Moran v. Superior Court*, 673 P.2d 216 (Cal. 1983), *City of Pasadena v. City of Alhambra*, 207 P.2d 17 (Cal. 1949), and *Pacific Greyhound Lines v. Superior Court*, 168 P.2d 665 (Cal. 1946).

²Petitioners' motion for a stay is denied.