

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

NANCY GILBERT, AN INDIVIDUAL,
Petitioner,

vs.

THE SECOND JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
WASHOE; AND THE HONORABLE
DAVID A. HARDY, DISTRICT JUDGE,

Respondents,

and

JAMES R. LAFRIEDA; AND ELLEN A.
LAFRIEDA, INDIVIDUALS,

Real Parties in
Interest.

No. 72237

FILED

FEB 01 2017

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

ORDER DENYING PETITION

This original petition for a writ of mandamus or prohibition challenges the district court's denial of petitioner's motion for summary judgment in a legal malpractice action arising from the dismissal of one defendant and the allegedly reduced settlement amount received from a second defendant in an underlying construction defect case. Petitioner requests this court to require the district court to grant her motion for summary judgment.¹

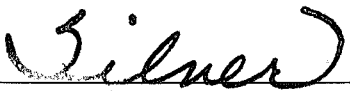
A writ of mandamus is available to compel the performance of an act that the law requires as a duty resulting from an office, trust, or station or to control an arbitrary or capricious exercise of discretion. See

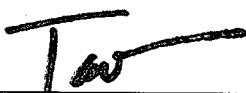
¹Petitioner indicates that the real parties in interest are also pursuing a claim regarding the costs associated with defending a successful motion to dismiss filed by a third defendant in the construction defect case, which is not implicated by this petition.

NRS 34.160; *Int'l Game Tech., Inc., v. Second Judicial Dist. Court*, 124 Nev. 193, 197, 179 P.3d 556, 558 (2008). And this court may issue a writ of prohibition to arrest the proceedings of a tribunal exercising its judicial functions when such proceedings are in excess of the tribunal's jurisdiction. See NRS 34.320; *Smith v. Eighth Judicial Dist. Court*, 107 Nev. 674, 677, 818 P.2d 849, 851 (1991). Writ relief is typically not available, however, when the petitioner has a plain, speedy and adequate remedy at law. See NRS 34.170; NRS 34.330; *Int'l Game Tech.*, 124 Nev. At 197, 179 P.3d at 558. Additionally, whether to entertain a writ petition is within this court's discretion, and we generally "will not exercise our discretion to consider petitions for extraordinary writ relief that challenge district court orders denying motions for summary judgment, unless summary judgment is clearly required by a statute or rule, or an important issue of law requires clarification." *Anse, Inc. v. Eighth Judicial Dist. Court*, 124 Nev. 862, 867, 192 P.3d 738, 742 (2008) (citing *Smith v. District Court*, 113 Nev. 1343, 950 P.2d 280 (1997)).

Having considered the petition and appendix, we conclude that petitioner has not met the burden of demonstrating that extraordinary relief is warranted in this matter. Accordingly, we deny the petition.

It is so ORDERED.


_____, C.J.
Silver


_____, J.
Tao


_____, J.
Gibbons

cc: Hon. David A. Hardy, District Judge
Lemons, Grundy & Eisenberg
Brownstein Hyatt Farber Schreck, LLP/Reno
Washoe District Court Clerk