

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

THOMAS ELARDI; AND TEEME, LLC,
Petitioners,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK; AND THE HONORABLE
KENNETH C. CORY, DISTRICT
JUDGE,

Respondents,


and

TAMMY ASHLEY, INDIVIDUALLY,
AND AS SPECIAL ADMINISTRATOR
OF THE ESTATE OF BENJAMIN
ASHLEY; AND UNIVERSAL SAFETY
RAIL, LLC,
Real Parties in Interest.

No. 78553-COA

FILED

AUG 29 2019

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER DENYING PETITION FOR WRIT OF MANDAMUS

This is an original petition for a writ of mandamus challenging a district court order denying a motion for summary judgment.

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 mandamus will not issue, however, if the petitioners have a plain, speedy, and adequate remedy at law. *See* NRS 34.170; *Int'l Game Tech.*, 124 Nev. at 197, 179 P.3d at 558. Further, mandamus is an extraordinary remedy, and it is within the discretion of this court to determine if a petition will be considered. *See* *Smith v. Eighth Judicial Dist. Court*, 107 Nev. 674, 677, 679, 818 P.2d 849,

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851, 853 (1991). 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 documents before us, we conclude that petitioners have failed to demonstrate that extraordinary writ relief is warranted. *See id.* Accordingly, we deny the petition. *See* NRAP 21(b)(1); *Smith*, 107 Nev. at 677, 818 P.2d at 851.¹

It is so ORDERED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. Kenneth C. Cory, District Judge
Resnick & Louis, P.C./Las Vegas
Dobberstein Law Group
Richard Harris Law Firm
Eighth District Court Clerk

¹In light of this order, we deny as moot petitioners' motion for a stay of the district court proceedings.