

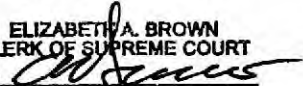
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

WARREN LEE BELL; AND LT
TRANSPORTS, LLC,
Petitioners,
vs.
THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK; AND THE HONORABLE
JACQUELINE M. BLUTH, DISTRICT
JUDGE,
Respondents,
and
THOMAS COST,
Real Party in Interest.

No. 80263-COA

FILED

DEC 21 2020

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 district court orders that resulted in a motion to enforce a settlement agreement being denied.

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. And "an appeal from the final judgment typically constitutes an adequate and speedy legal remedy" precluding writ relief. *See 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, 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).

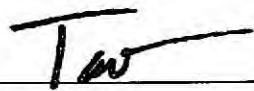
Having reviewed the petition and the attached documents, we are not persuaded that our extraordinary intervention in this matter would be appropriate. The questions surrounding the parties' purported settlement agreement are factual ones entrusted to the district court's discretion, *see Mack v. Estate of Mack*, 125 Nev. 80, 95, 206 P.3d 98, 108 (2009) (explaining that a settlement agreement is a contract and that whether one exists is a question of fact subject to the district court's discretion), and we may only disturb the district court's exercise of that discretion if it is manifestly abused, or if the court acts arbitrarily or capriciously. *See Martinez Guzman v. Second Judicial Dist. Court*, 136 Nev. 103, 105, 460 P.3d 443, 446 (2020); *see also Round Hill Gen. Improvement Dist. v. Newman*, 97 Nev. 601, 604, 637 P.2d 534, 536 (1981) (explaining that an appellate court is not an appropriate forum in which to resolve disputed questions of fact).

But petitioner has not demonstrated the type of overtly erroneous conduct that would make the extraordinary writ of mandamus an available remedy in the present case, particularly since petitioner will have a plain, speedy, and adequate legal remedy in the form of an appeal from the final judgment if he is aggrieved thereby. *See State v. Eighth Judicial Dist. Court*, 127 Nev. 927, 932, 267 P.3d 777, 780 (2011) (providing that mandamus relief is unavailable where a discretionary district court decision constitutes a "mere error in judgment," instead, mandamus relief

only lies “when the law is overridden or misapplied, or when the judgment exercised is manifestly unreasonable or the result of partiality, prejudice, bias or ill will” (internal quotation marks omitted); *see also Int’l Game Tech.*, 124 Nev. at 197, 179 P.3d at 558; *Washoe Cty. v. City of Reno*, 77 Nev. 152, 156, 360 P.2d 602, 603 (1961) (“A remedy does not fail to be speedy and adequate, because, by pursuing it through the ordinary course of law, more time probably would be consumed than in a mandamus proceeding.”). Consequently, we decline to exercise our discretion to consider this writ petition. *See* NRAP 21(b)(1); *Smith*, 107 Nev. at 677, 818 P.2d at 851. Accordingly, we deny the petition.

It is so ORDERED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. Jacqueline M. Bluth, District Judge
Barron & Pruitt, LLP
Nettles Morris
Baker Law Offices
Eighth District Court Clerk