

IN THE SUPREME COURT OF THE STATE OF NEVADA

MAXINE SILVERBERG,

No. 37624

Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT  
COURT OF THE STATE OF NEVADA,  
IN AND FOR THE COUNTY OF  
CLARK, AND THE HONORABLE  
MICHAEL L. DOUGLAS, DISTRICT  
JUDGE,

FILED

JAN 09 2002

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY *J. Richard*  
CHIEF DEPUTY CLERK

Respondents,

and

CHRISTENSEN LAW OFFICES,  
CHTD., AND MAINOR & HARRIS,

Real Parties in Interest.

ORDER DENYING PETITION FOR WRIT  
OF MANDAMUS OR PROHIBITION

This proper person petition for a writ of mandamus or prohibition challenges a district court order enforcing an attorney's lien in the underlying personal injury suit and releasing funds in partial satisfaction of the lien. We have reviewed the petition, the answers filed by the real parties in interest at our direction and petitioner's reply, and we conclude that extraordinary relief is not warranted.

A writ of mandamus is available to compel the district court to perform a required act,<sup>1</sup> or to control an arbitrary or capricious exercise of discretion,<sup>2</sup> while a writ of prohibition is available to arrest proceedings that exceed the court's jurisdiction.<sup>3</sup> Petitions for extraordinary relief are addressed to this court's sound discretion, and may only issue when there is no plain, speedy and adequate remedy at law.<sup>4</sup>

NRS 18.015(1) gave petitioner's attorneys a lien upon her cause of action for the amount of the fee agreed upon by the attorneys and petitioner: "40% of all monies [] recovered, or offered[.]" Under NRS 18.015(3), the lien attached to any money recovered. NRS 18.015(4) gave the court jurisdiction to adjudicate and enforce the lien upon the lien-holding attorney's motion. Here, petitioner recovered \$100,000 from one tort-feasor, which was deposited with the court, but rejected an additional \$450,000, which was offered by the other tort-feasor. Therefore, the lien was for 40% of \$550,000, which is \$220,000, and the lien attached to the recovered \$100,000 deposited with the court. Petitioner did not oppose the motion to enforce the lien. The court granted the unopposed motion, and awarded attorney fees in the amount of \$220,000, and costs in the amount of \$16,266.46. In addition, the court ordered that the funds held by the court be released in partial satisfaction of the lien. The district court was

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<sup>1</sup>NRS 34.160.

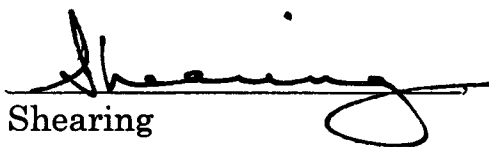
<sup>2</sup>Round Hill Gen. Imp. Dist. v. Newman, 97 Nev. 601, 637 P.2d 534 (1981).

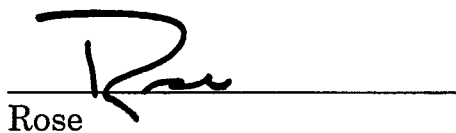
<sup>3</sup>NRS 34.320.


<sup>4</sup>Michel v. Dist. Ct., 117 Nev. \_\_\_, 17 P.3d 1003 (2001); NRS 34.170; NRS 34.330.

not required by duty to do otherwise, did not abuse its discretion and did not exceed its jurisdiction. We therefore deny the petition.

It is so ORDERED.

 J.  
Shearing

 J.  
Rose

 J.  
Becker

cc: Hon. Michael L. Douglas, District Judge  
Maxine Silverberg  
Christensen Law Offices  
Mainor & Harris  
Clark County Clerk