

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

RUSSELL FABER,
Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK; AND THE HONORABLE
NADIA KRALL, DISTRICT JUDGE,
Respondents,

and

AD DISTRIBUTIONS, LLC, D/B/A
BLACK & CHERRY REAL ESTATE
AND PROPERTY MANAGEMENT, A
DOMESTIC LIMITED LIABILITY
COMPANY DULY AUTHORIZED AND
LICENSED TO DO BUSINESS IN
HENDERSON, CLARK COUNTY,
NEVADA; TIMOTHY S. DENISON,
INDIVIDUALLY AND AS TRUSTEE OF
THE DENISON REVOCABLE TRUST;
AND DIANE S. DENISON,
INDIVIDUALLY AND AS TRUSTEE OF
THE DENISON REVOCABLE TRUST,
Real Parties in Interest.

No. 84024-COA

FILED

FEB 22 2022

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

ORDER DENYING PETITION FOR WRIT OF MANDAMUS

This is an original petition for a writ of mandamus¹ challenging a district court order denying a motion for leave to amend a complaint in a tort action.

¹Although petitioner styles the petition as one seeking mandamus or, in the alternative, prohibition, he does not contend that the district court


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. 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 petitioner has a plain, speedy, and adequate remedy at law. NRS 34.170; *Int'l Game Tech.*, 124 Nev. at 197, 179 P.3d at 558; *Pan v. Eighth Judicial Dist. Court*, 120 Nev. 222, 224, 88 P.3d 840, 841 (2004) (noting that “the right to appeal is generally an adequate legal remedy that precludes writ relief”). Further, mandamus is an extraordinary remedy, and it is within the discretion of this court to determine if a petition will be considered. *Smith v. Eighth Judicial Dist. Court*, 107 Nev. 674, 677, 679, 818 P.2d 849, 851, 853 (1991). The petitioner bears the burden of demonstrating that extraordinary relief is warranted. *Pan*, 120 Nev. at 228, 88 P.3d at 844.

Having reviewed the petition and the documents submitted to this court, we decline to exercise our discretion to consider the petition on its merits, as petitioner has failed to demonstrate that extraordinary relief is warranted. *See Pan*, 120 Nev. at 228, 88 P.3d at 844; *Smith*, 107 Nev. at 677, 679, 818 P.2d at 851, 853. Specifically, petitioner has a plain, speedy, and adequate remedy at law in the form of an appeal from a final judgment

exceeded its jurisdiction, and we therefore construe the petition solely as one seeking mandamus. *See Clay v. Eighth Judicial Dist. Court*, 129 Nev. 445, 449 n.1, 305 P.3d 898, 901 n.1 (2013) (citing NRS 34.320).

in the event that he is aggrieved by such a judgment. *See Pan*, 120 Nev. at 224, 88 P.3d at 841. We therefore deny the petition.² *See* NRAP 21(b)(1).

It is so ORDERED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. Nadia Krall, District Judge
Law Office of George T. Bochanis
Dennett Winspear, LLP
Shumway Van
Eighth District Court Clerk

²Although we take no position on the merits of the petition, we note that “punitive damages is a remedy, not a cause of action.” *Droge v. AAAA Two Star Towing, Inc.*, 136 Nev. 291, 313, 468 P.3d 862, 881 (Ct. App. 2020).