

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

RICHARD J. MATHIAS, J.D.,
Petitioner,
vs.
THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK; AND THE HONORABLE
TIERRA DANIELLE JONES, DISTRICT
JUDGE,
Respondents,
and
MICHELE CROCKER-MAZZA AND
ERIKA PEREZ, AS CO-
ADMINISTRATORS OF THE ESTATE
OF GWINN ROSS CROCKER, SR.,
Real Parties in Interest.

No. 91386-COA

*ORDER GRANTING IN PART AND DENYING IN PART
PETITION FOR WRIT OF MANDAMUS OR PROHIBITION*

Richard J. Mathias, J.D., petitions for a writ of mandamus or prohibition challenging a district court temporary restraining order (TRO) and a subsequent order denying relief from the TRO.

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, NRS 34.160, or to control an arbitrary or capricious exercise of discretion, *Int'l Game Tech., Inc. v. Second Jud. Dist. Ct.*, 124 Nev. 193, 197, 179 P.3d 556, 558 (2008). A writ of prohibition arrests the proceedings of a tribunal that is acting in excess of, or without, jurisdiction. NRS 34.320; *Club Vista Fin. Servs. v. Eighth Jud. Dist. Ct.*, 128 Nev. 224, 228, 276 P.3d 246, 249 (2012). The decision whether to entertain a petition for extraordinary writ relief is within our sole discretion, *Smith v. Eighth Jud.*

Dist. Ct., 107 Nev. 674, 677, 818 P.2d 849, 851 (1991), and the petitioner has the burden of demonstrating that such relief is warranted, *Pan v. Eighth Jud. Dist. Ct.*, 120 Nev. 222, 228, 88 P.3d 840, 844 (2004).

In his writ petition, Mathias seeks relief from the challenged orders by presenting arguments concerning the evidentiary support for the TRO, his inability to participate at a hearing leading to the TRO, and the TRO's bond requirement. Having considered the petition, answer, reply, and the parties' appendices and other supporting documents, we conclude that Mathias has not met his burden of demonstrating that our extraordinary intervention is warranted with respect to these issues.¹ *Id.*

However, Mathias also argues that the district court improperly entered the challenged orders without setting a hearing to determine whether a preliminary injunction is warranted.² Temporary restraining orders are granted under urgent circumstances where relatively brief and informal proceedings are appropriate to prevent irreparable injury to the moving party until a hearing can be held to determine whether a preliminary injunction is warranted. 11A Mary Kay Kane & Alexandra D. Lahav, *Federal Practice and Procedure* § 2951 (3d ed. 2026) (explaining the same in the context of FRCP 65, which is the federal rule governing

¹We recognize that the TRO included a provision staying enforcement of foreclosure proceedings against the property even though the lender that commenced them was not named as a party to this case. But because the lender participated in the hearing on the underlying motion and acquiesced to a TRO being entered, we do not further address this issue.

²Real parties in interest fail to respond to this argument, which reinforces our decision to grant Mathias's petition in part for the reasons detailed below. See *Ozawa v. Vision Airlines, Inc.*, 125 Nev. 556, 563, 216 P.3d 788, 793 (2009) (treating the failure to respond to an argument in an answering brief as a confession of error).

temporary restraining orders); *Las Vegas Novelty, Inc. v. Fernandez* , 106 Nev. 113, 119, 787 P.2d 772, 776 (1990) (recognizing that NRCP 65, which governs temporary restraining orders in Nevada, was drawn from FRCP 65, making it appropriate to look to federal cases and treatises in construing Nevada’s rule). Thus, EDCR 2.10(b) prohibits district courts from entering orders granting temporary restraining orders “unless [they are] coupled with an order fixing the time for hearing a motion for preliminary injunction.”


Here, although real parties in interest moved for a TRO, they did not separately move for a preliminary injunction either before or after the TRO was entered.³ As a result, when the district court entered the challenged TRO, it did so without setting a hearing to determine whether a preliminary injunction was warranted. Likewise, the district court did not schedule such a hearing when it entered the order denying relief from the TRO. And while the TRO was in effect for approximately one month thereafter until this court stayed enforcement of the challenged orders, no hearing regarding a preliminary injunction was scheduled. Under these circumstances, we conclude that the district court abused its discretion by granting the TRO and denying the subsequent motions for relief from the TRO without setting the required preliminary injunction hearing. *Cf. Dangberg Holdings Nev., LLC v. Douglas County* , 115 Nev. 129, 142-43, 978 P.2d 311, 319 (1999) (reviewing an order granting temporary injunctive relief for an abuse of discretion); *see also, e.g., AA Primo Builders, LLC v. Washington*, 126 Nev. 578, 589, 245 P.3d 1190, 1197 (2010) (reviewing a

³Real parties in interest did, however, indicate in their amended complaint that they were seeking preliminary and permanent injunctions based on their claims.

district court's decision resolving a motion for reconsideration for an abuse of discretion). Accordingly, we

ORDER the petition GRANTED IN PART AND DENIED IN PART AND DIRECT THE CLERK OF THIS COURT TO ISSUE A WRIT OF MANDAMUS instructing the district court to vacate the TRO if real parties in interest do not move for a preliminary injunction within 14 days from the date of entry of this order and, upon completion of briefing, to set a hearing concerning the preliminary injunction expeditiously. ⁴


Bulla, C.J.


Gibbons, J.


Westbrook, J.

cc: Hon. Tierra Danielle Jones, District Judge
Richard J. Mathias
Jennings & Fulton, Ltd.
Eighth District Court Clerk

⁴Insofar as the parties raise arguments that are not specifically addressed in this order, we have considered the same and conclude that they do not present a basis for relief or need not be reached given our disposition of this writ petition. Further, in light of our order, Mathias's request for a writ of prohibition is denied, and we lift this court's October 20, 2025, order staying enforcement of the challenged orders.