

IN THE SUPREME COURT OF THE STATE OF NEVADA

BECHTEL NEVADA CORPORATION,
Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK, AND THE HONORABLE
JAMES C. MAHAN, DISTRICT JUDGE,
Respondents,

and

SANDRA J. SMITH, INDIVIDUALLY
AND AS EXECUTRIX FOR THE
ESTATE OF RALPH E. SMITH, JR.;
LEONARD GENE; EDWARD DUCSAK;
JAY MAXWELL; JOHN THOMAS
TRUAX; AND PATRICK DOMINGUEZ,
Real Parties in Interest.

No. 39074

FILED

FEB 15 2002

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

ORDER DENYING PETITION FOR WRIT OF MANDAMUS

This petition for a writ of mandamus challenges three separate district court orders that denied petitioner's motions for summary judgment. A writ of mandamus is available to compel the performance of an act, which the law requires as a duty resulting from an office, trust or station,¹ or to control an arbitrary or capricious exercise of discretion.² A writ of mandamus will not issue, however, if petitioner has a plain, speedy and adequate remedy in the ordinary course of law.³

¹NRS 34.160

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

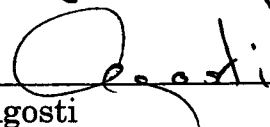
³NRS 34.170.

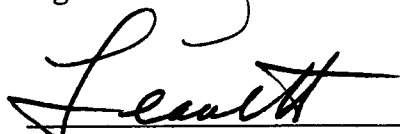
Further, mandamus is an extraordinary remedy, and it is within the discretion of this court to determine if a petition will be considered.⁴

We have considered this petition, as well as the addendum to appendix filed January 22, 2002, and we are not satisfied that this court's intervention by way of extraordinary relief is warranted at this time. Accordingly, we deny the petition.⁵

It is so ORDERED.⁶


_____, J.
Young


_____, J.
Agosti


_____, J.
Leavitt

⁴Poulos v. District Court, 98 Nev. 453, 455, 652 P.2d 1177, 1178 (1982); see also Smith v. District Court, 107 Nev. 674, 677, 818 P.2d 849, 851 (1991).

⁵See NRAP 21(b); Smith, 107 Nev. 674, 818 P.2d 849.

⁶On February 11, 2002, we received a letter dated February 6, 2000, from real party in interest Sandra J. Smith requesting leave to file a response, in proper person, to the writ petition. In light of our disposition of this writ petition, we deny Smith's request as moot. Smith's non-compliance with NRAP 25(1)(d), and apparent non-compliance with NRAP 25(1)(b), provides an independent basis upon which we deny her request for leave to file a response.

cc: Hon. James C. Mahan, District Judge
Ricciardi Law Group
John Peter Lee Ltd.
Edward Ducsak
Sandra J. Smith
Clark County Clerk