IN THE SUPREME COURT OF THE STATE OF NEVADA

FRANCHISE TAX BOARD OF THE STATE OF CALIFORNIA, Petitioner, vs. THE EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA, IN AND FOR THE COUNTY OF CLARK, AND THE HONORABLE NANCY M. SAITTA, DISTRICT JUDGE, Respondents, and GILBERT P. HYATT, Real Party in Interest.	No. 39274
FRANCHISE TAX BOARD OF THE STATE OF CALIFORNIA, Appellant vs. GILBERT P. HYATT, Respondent.	No. 39312

FILED

APR 04 2002

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY
DEPUTY CLERK

ORDER DENYING PETITION FOR WRIT OF MANDAMUS OR PROHIBITION AND DISMISSING APPEAL

Docket No. 39274 is a petition for a writ of mandamus or prohibition, which challenges a district court order denying petitioner's motion to vacate a protective discovery order. Docket No. 39312 is an appeal from the same order.

In related writ proceedings, Docket No. 35549 and Docket No. 36390, we vacated the stay upon which petitioner's motion to vacate was premised. We rejected petitioner's argument that the district court lacked subject matter jurisdiction, and we also declined to review the propriety of the protective order. We conclude that extraordinary relief is also not

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warranted in this proceeding. Franchise Tax Board has a plain, speedy and adequate remedy; it may challenge the protective order on appeal if it is aggrieved by the district court's final judgment. Accordingly, we deny the petition in Docket No. 39274.[1]

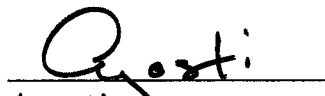
The protective discovery order is an interlocutory order, which is not substantively appealable. The right to appeal is statutory; if no statute or court rule provides for an appeal, no right to appeal exists.[2] Accordingly, as we lack jurisdiction, we dismiss the appeal in Docket No. 39312.

It is so ORDERED.[3]

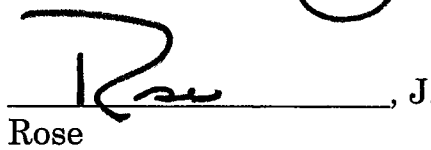
, C.J
Maupin

, J
Young

, J.
Shearing



, J.
Agosti



, J.
Rose

, J.
Leavitt

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[1]See NRAP 21(b); Smith v. District Court, 107 Nev. 674, 818 P.2d 849 (1991); NRS 34.170 (mandamus); NRS 34.330 (prohibition).

[2]See Taylor Constr. Co. v. Hilton Hotels, 100 Nev. 207, 678 P.2d 1152 (1984); Kokkos v. Tsalikis, 91 Nev. 24, 530 P.2d 756 (1975).

[3]The Honorable Nancy Becker, Justice, voluntarily recused herself from participation in the decision of this matter.

cc: Hon. Nancy M. Saitta, District Judge
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