

IN THE SUPREME COURT OF THE STATE OF NEVADA

JEFFREY A. FELDMAN AND PENNY I.
FELDMAN,
Petitioners,

vs.

THE SECOND JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
WASHOE, AND THE HONORABLE
JANET J. BERRY, DISTRICT JUDGE,
Respondents,
and
DEMARIS JANE-KAY GULLEKSON,
Real Party in Interest.

No. 41742

FILED

SEP 05 2003

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY 
CHIEF DEPUTY CLERK

ORDER DENYING PETITION FOR WRIT
OF PROHIBITION OR MANDAMUS

This original petition for a writ of prohibition or mandamus challenges a district court order that granted a motion to strike petitioners' punitive damages claims. 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,¹ or to control an arbitrary or capricious exercise of discretion.² A writ of prohibition may be issued to compel a government body or official to cease performing acts beyond its legal authority.³ Mandamus or prohibition will not issue, however, if petitioner

¹See NRS 34.160

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

³NRS 34.320; Ashokan v. State, Dep't of Ins., 109 Nev. 662, 856 P.2d 244 (1993).

has a plain, speedy and adequate remedy at law.⁴ Further, mandamus and prohibition are extraordinary remedies, and whether a petition will be entertained is entirely within the discretion of this court.⁵

We have considered this petition, and we are not satisfied that our intervention by way of extraordinary relief is warranted at this time. Accordingly, we deny the petition.⁶

It is so ORDERED.

Becker, J.
Becker

Shearing, J.
Shearing

Gibbons, J.
Gibbons

cc: Hon. Janet J. Berry, District Judge
Raleigh, Hunt & McGarry
Lemons Grundy & Eisenberg
Washoe District Court Clerk

⁴NRS 34.170; NRS 34.330.

⁵Poulos 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).

⁶See NRAP 21(b). We note that it appears this court can review the district court's order granting the motion to strike the claim for punitive damages on direct appeal from any adverse final judgment. NRAP 3A(b)(1); see Consolidated Generator v. Cummins Engine, 114 Nev. 1304, 1312, 971 P.2d 1251, 1256 (1998) (stating that interlocutory orders may be heard on appeal from final judgment).