

IN THE SUPREME COURT OF THE STATE OF NEVADA

HAROLD BRIAN KRIEG,  
Appellant,  
vs.  
REGINA FRIEDMAN,  
Respondent.

No. 37123

HAROLD BRIAN KRIEG,  
Petitioner,  
vs.  
THE EIGHTH JUDICIAL DISTRICT  
COURT OF THE STATE OF NEVADA,  
IN AND FOR THE COUNTY OF  
CLARK, AND THE HONORABLE  
MICHAEL L. DOUGLAS, DISTRICT  
JUDGE,  
Respondents,  
and  
REGINA FRIEDMAN,  
Real Party in Interest.

No. 42199

**FILED**

**DEC 05 2003**

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

ORDER DENYING REHEARING (DOCKET NO. 37123) AND  
ORDER DENYING PETITION (DOCKET NO. 42199)

On October 20, 2003, appellant/petitioner Harold Krieg submitted a document entitled "Petition for Review." Because, this court could not determine if Krieg sought rehearing of his appeal in Docket No. 37123, or if he sought to invoke this court's original jurisdiction through a petition for a writ of mandamus, prohibition, or certiorari, Krieg's document was docketed as a petition for rehearing in Docket No. 37123, and as an original petition for writ relief under a new docket number (42199).

Krieg argues many of the same points at issue in his appeal. He challenges the district court's attorney fees and costs award. He also

alleges that the district court allowed opposing counsel to ask an improper question at voir dire, and that respondent/real party in interest improperly served him with several documents.

Docket No. 37123

On June 3, 2003, this court affirmed a district court order that entered judgment on a jury verdict and awarded attorney fees and costs to respondent/real party in interest under NRCP 68 and NRS 17.115. On October 20, 2003, Krieg submitted his "Petition for Review." To the extent that Krieg seeks rehearing of his appeal in Docket No. 37123, his request is untimely. NRAP 40(a)(1) sets forth an eighteen-day time limit for filing a petition for rehearing. Krieg's request is well past eighteen days. Accordingly, we deny his petition for rehearing.

Docket No. 42199

This court may issue a writ of certiorari or prohibition when an inferior tribunal, such as a district court, has exceeded its jurisdiction.<sup>1</sup> 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,<sup>2</sup> or to control an arbitrary or capricious exercise of discretion.<sup>3</sup> Mandamus, prohibition, or certiorari will not issue, however, if petitioner has a plain, speedy and adequate remedy in the ordinary course of law.<sup>4</sup> Further,

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<sup>1</sup>See NRS 34.020 (certiorari); NRS 34.320 (prohibition); Ashokan v. State, Dep't of Ins., 109 Nev. 662, 856 P.2d 244 (1993).

<sup>2</sup>See NRS 34.160


<sup>3</sup>See Round Hill Gen. Imp. Dist. v. Newman, 97 Nev. 601, 637 P.2d 534 (1981).

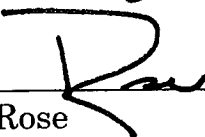
<sup>4</sup>NRS 34.020(2); NRS 34.170; NRS 34.330.


whether a petition will be entertained is entirely within the discretion of this court.<sup>5</sup>

We have considered this petition, and we are not satisfied that our intervention by way of extraordinary relief is warranted at this time. This court has previously considered and rejected in Krieg's appeal the arguments Krieg raises in his "Petition for Review." Accordingly, we deny the petition.<sup>6</sup>

It is so ORDERED.

  
\_\_\_\_\_, C.J.  
Agosti

  
\_\_\_\_\_, J.  
Rose

  
\_\_\_\_\_, J.  
Maupin

cc: Hon. Michael L. Douglas, District Judge  
Edwards, Hale, Sturman, Atkin & Cushing, Ltd.  
Harold Brian Krieg  
Clark County Clerk

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<sup>5</sup>Poulos 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).

<sup>6</sup>See NRAP 21(b).