

IN THE SUPREME COURT OF THE STATE OF NEVADA

ANTIQUUE SAMPLER SHOPPES, INC.;  
AND JAMES R. HOYT,  
Petitioners,

vs.

THE EIGHTH JUDICIAL DISTRICT  
COURT OF THE STATE OF NEVADA,  
IN AND FOR THE COUNTY OF  
CLARK, AND THE HONORABLE  
STEWART L. BELL, DISTRICT JUDGE,  
Respondents,  
and  
TROP & JONES, LLC,  
Real Party in Interest.

No. 42384

FILED

MAR 26 2004

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

ORDER DENYING PETITION FOR  
WRITS OF MANDAMUS AND PROHIBITION

This original petition for a writ of mandamus and prohibition challenges a November 17, 2003 district court order that denied petitioners' motion to enjoin their eviction and ordered petitioners to surrender their leasehold interest.<sup>1</sup> On November 25 and 26, 2003, we temporarily stayed petitioners' eviction, and we ordered petitioners to show cause why their petition should not be dismissed on the ground that an appeal is an adequate legal remedy. Petitioners responded, conceding that an appeal is available from the denial of injunctive relief, but arguing that an appeal is not available here because the district court never "actually issued" a writ of restitution. But in petitioners' docketing

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<sup>1</sup>Petitioners' appeal from the district court's order was filed in this court under Docket No. 42553. On March 12, 2004, we dismissed that appeal on the parties' stipulated settlement.

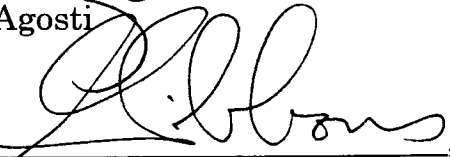
statement, subsequently filed in petitioners' related appeal, they assert that the eviction order is an appealable final judgment.

It is well-settled that a petition for extraordinary relief may not be used as a substitute for an appeal.<sup>2</sup> The district court's November 17 order appears to be an appealable determination. NRAP 3A(b)(2) authorizes an appeal from the denial of an injunction; NRAP 3A(b)(1) and NRS 40.380 authorize appeals from eviction judgments. Consequently, we are not satisfied that this court's intervention by way of extraordinary relief is warranted.<sup>3</sup> Accordingly, we deny the petition.<sup>4</sup>

It is so ORDERED.<sup>5</sup>

  
\_\_\_\_\_, J.  
Becker

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

  
\_\_\_\_\_, J.  
Gibbons

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<sup>2</sup>NRS 34.170; NRS 34.330; Karow v. Mitchell, 110 Nev. 958, 878 P.2d 978 (1994).

<sup>3</sup>Smith v. District Court, 107 Nev. 674, 818 P.2d 849 (1991).

<sup>4</sup>See NRAP 21(b).

<sup>5</sup>Petitioners' January 9, 2004 motion to strike and for leave to file a reply is denied as moot. Real party in interest's January 21, 2004 motion to dismiss is also denied as moot. Finally, we vacate our temporary stay.

cc: Hon. Stewart L. Bell, District Judge  
Snell & Wilmer, LLP  
Jones Vargas/Las Vegas  
Clark County Clerk