

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JASON STOFFEL, IN HIS INDIVIDUAL
CAPACITY AND AS AN ATTORNEY
DULY LICENSED IN THE STATE OF
NEVADA; AND ROBERTS LAW GROUP
P.C., D/B/A ROBERTS STOFFEL
FAMILY LAW GROUP, A NEVADA
PROFESSIONAL CORPORATION,
Petitioners,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK; AND THE HONORABLE
MARK B. BAILUS, DISTRICT JUDGE,
Respondents,
and
RUSSELL ZITCH,
Real Party in Interest.

No. 74655

FILED

FEB 06 2018

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

*ORDER DENYING PETITION
FOR WRIT OF MANDAMUS*

This original petition for a writ of mandamus seeks to direct the district court to grant petitioners' special motion to dismiss.

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 or to control an arbitrary or capricious exercise of discretion. *See* NRS 34.160; *Int'l Game Tech., Inc. v. Second Judicial Dist. Court*, 124 Nev. 193, 197, 179 P.3d 556, 558 (2008). Where there is no plain, speedy, and adequate remedy in the ordinary course of the law, extraordinary relief may be available. NRS 34.170; *D.R. Horton, Inc. v. Eighth Judicial Dist. Court*, 123 Nev. 468, 474, 168 P.3d 731, 736 (2007). Petitioners bear the burden of demonstrating that extraordinary relief is warranted. *See Pan v. Eighth Judicial Dist. Court*, 120 Nev. 222, 228, 88 P.3d 840, 844 (2004).

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Having considered the petition, we conclude that petitioners have a plain, speedy, and adequate remedy available in the form of an interlocutory appeal from the district court's order denying their special motion to dismiss.¹ See NRS 41.670(4) ("If the court denies the special motion to dismiss filed pursuant to NRS 41.660, an interlocutory appeal lies to the Supreme Court."). As such, petitioners have failed to demonstrate that extraordinary writ relief is warranted. See *Pan*, 120 Nev. at 228, 88 P.3d at 844. Accordingly, we deny the petition. See NRAP 21(b)(1); *D.R. Horton*, 123 Nev. at 475, 168 P.3d at 737.

It is so ORDERED.



Silver

C.J.



Tao

J.



Gibbons

J.

cc: Hon. Mark B. Bailus, District Judge
Lipson Neilson Cole Seltzer & Garin, P.C.
Law Offices of Shawanna L. Johnson
Eighth District Court Clerk

¹Although it is not clear from the record before us, to the extent the time to appeal the denial of the special motion to dismiss may have passed, writ relief will not lie to correct an untimely notice of appeal. See *Pan*, 120 Nev. at 224-25, 88 P.3d at 841.