

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

KATHRYN REYNOLDS; AND NORMAN
GARAND,

Petitioners,

vs.

THE JUSTICE COURT OF RENO,
STATE OF NEVADA, IN AND FOR THE
COUNTY OF WASHOE; AND JUSTICE
OF THE PEACE PIERRE HASCHEFF,

Respondents,

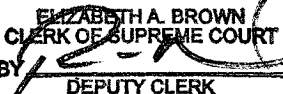
and

FEDERAL HOME LOAN MORTGAGE
CORPORATION, ITS ASSIGNEES OR
SUCCESSORS; MCCARTHY &
HOLTHUS LLP, A CALIFORNIA
LIMITED LIABILITY CORPORATION,
QUALIFIED TO DO BUSINESS IN
NEVADA; AND PRISCILLA BAKER,
NEVADA ATTORNEY FOR BOTH
MCCARTHY & HOLTHUS LLP,
AND/OR FEDERAL HOME LOAN
MORTGAGE CORPORATION AND/OR,
ITS ASSIGNEES OR SUCCESSORS,
Real Parties in Interest.

No. 75638

FILED

APR 27 2018

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

*ORDER DENYING PETITION
FOR WRIT OF MANDAMUS OR PROHIBITION*

This emergency petition for a writ of mandamus seeks to stay a justice court temporary writ of possession, clear title, and related relief.

Having considered the petition and its supporting documents, we conclude that our extraordinary intervention is not warranted at this time. NRS 34.160; NRS 34.320. Included in the appendix is a copy of a


18-900885


November 30, 2015, trustee's deed upon sale granting the subject property to real party in interest Federal Home Loan Mortgage Corporation. Upon the filing of a complaint, issuance of summons, and a hearing on an order to show cause, the district court granted Federal Home Loan Mortgage Corporation a temporary writ of restitution after posting a bond under NRS 40.300. Petitioners assert, primarily among other things, that the original lender's deed of trust on the subject property was breached, rendering the note unsecured; that no valid foreclosure sale occurred and, thus, Federal Home Loan Mortgage Corporation has no right of possession; and that the justice court lacks both subject matter and personal jurisdiction and has proceeded in the action irregularly.

Because the challenged writ of restitution is merely temporary pending further decision on the merits, which concern the right to possess the property, not necessarily title, and because many of the issues raised herein have not been addressed below, this writ petition appears premature. Moreover, the petition raises numerous issues of fact, and it thus appears that the relief that petitioners seek is more properly sought in the district court in the first instance. *See Round Hill Gen. Improvement Dist. v. Newman*, 97 Nev. 601, 604, 637 P.2d 534, 536 (1981) ("When disputed factual issues are critical in demonstrating the propriety of a writ of mandamus, the writ should be sought in the district court, with appeal from an adverse judgment to this court."); *State v. County of Douglas*, 90 Nev. 272, 276-77, 524 P.2d 1271, 1274 (1974) ("Usually, this court prefers that such an application [for a writ of mandate] be addressed to the discretion of the appropriate district court, since that court also is invested with the power of mandamus."). As petitioners have not met their burden

of demonstrating that our extraordinary intervention is warranted,¹ *Pan v. Eighth Judicial Dist. Court*, 120 Nev. 222, 228, 88 P.3d 840, 844 (2004), we
ORDER the petition DENIED.


_____, C.J.
Silver


_____, J.
Tao


_____, J.
Gibbons

cc: Pierre Hascheff, Justice of the Peace
Kathryn Reynolds
Norman Garand
McCarthy & Holthus, LLP/Las Vegas

¹We note that petitioners' appendix is missing pages after page 260.
See NRAP 21(a)(4).