

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

DOUGLAS E. CHEEK,  
Petitioner,

vs.

THE SECOND JUDICIAL DISTRICT  
COURT OF THE STATE OF NEVADA,  
IN AND FOR THE COUNTY OF  
WASHOE; AND THE HONORABLE  
LINDA M. GARDNER, ACTING  
DISTRICT JUDGE FAMILY COURT  
DIVISION, DEPT. 2,

Respondents,

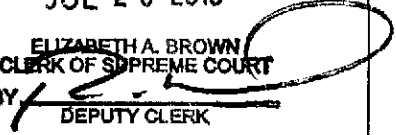
and

KIMBERLY R. CHEEK,  
Real Party in Interest.

No. 75426

**FILED**

JUL 20 2018

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY   
DEPUTY CLERK

*ORDER DENYING PETITION  
FOR WRIT OF MANDAMUS OR PROHIBITION*

This is an original petition for a writ of mandamus or prohibition challenging a district court determination that it had jurisdiction to consider real party in interest's motion to modify spousal support.

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). A writ of prohibition may be warranted when a district court acts without or in excess of its jurisdiction. NRS 34.320; *Club Vista Fin. Servs., LLC v. Eighth Judicial Dist. Court*, 128 Nev. 224, 228, 276 P.3d 246, 249 (2012). This court has discretion as to whether to entertain a petition for extraordinary relief and will not do so when the

petitioner has a plain, speedy, and adequate remedy at law. NRS 34.170; NRS 34.330; *D.R. Horton, Inc. v. Eighth Judicial Dist. Court*, 123 Nev. 468, 474-75, 168 P.3d 731, 736-37 (2007). Petitioner bears 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).

Having considered the petition and appendix filed in this matter, we are not persuaded that this court's intervention by way of extraordinary relief is warranted. *Id.* 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.

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

Silver

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

Tao

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

Gibbons

cc: Chief Judge, Second Judicial District Court  
Hon. Linda M. Gardner, Senior Judge  
Silverman, Kattelman, Springgate, Chtd.  
Kathleen T. Breckenridge  
Washoe District Court Clerk