

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

WYKOFF NEWBERG CORPORATION,
A NEVADA CORPORATION; AND
INTERNATIONAL SMELTING
COMPANY, A NEVADA
CORPORATION,

Petitioners,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK; AND THE HONORABLE
GLORIA STURMAN, DISTRICT
JUDGE,

Respondents,

and

IMAGINE NATION ENTERTAINMENT
CORPORATION, A NEVADA
CORPORATION; AND MOSAIC LAND,
LLC, A NEVADA LIMITED LIABILITY
COMPANY,

Real Parties in Interest.

No. 75598

FILED

JUL 27 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 an order directing the district court to cancel and expunge a lis pendens.

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). Writ relief is typically not available, however, when the petitioners have a plain, speedy, and adequate remedy


at law. See NRS 34.170; *Int'l Game Tech.*, 124 Nev. at 197, 179 P.3d at 558. Moreover, whether to consider a writ petition is within this court's discretion. *Smith v. Eighth Judicial Dist. Court*, 107 Nev. 674, 677, 818 P.2d 849, 851 (1991). And 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).


Having considered the petition, we conclude that petitioners have failed to demonstrate that extraordinary writ relief is warranted. See *id.* In particular, although the supreme court has recognized that there is no plain, speedy, and adequate remedy from the district court's improper denial of a motion to cancel and expunge a lis pendens and that a writ petition is thus the proper vehicle for challenging such a determination, see *Levinson v. Eighth Judicial Dist. Court*, 109 Nev. 747, 752, 857 P.2d 18, 21 (1993), because the district court had not yet ruled on petitioners' underlying motion, this petition was premature at the time of filing. Indeed, this is the second premature petition for extraordinary writ relief filed in this matter. See *Wykoff Newberg Corp. v. Eighth Judicial Dist. Court (Imagine Nation)*, Docket No. 74998 (Order Denying Petition for Writ of Mandamus, March 6, 2018). But based on the Eighth Judicial District Court's online docket, it appears that petitioners' motion to cancel and expunge the lis pendens has since been granted.¹ Under these


¹While the online docket reflects that motion was orally granted on July 10, 2018, a written, file-stamped order resolving the motion is not yet reflected on the district court's docket.

circumstances, we conclude our extraordinary intervention is not warranted and we deny the petition. See NRAP 21(b)(1); *Smith*, 107 Nev. at 677, 818 P.2d at 851.

It is so ORDERED. ²


_____, C.J.
Silver


_____, J.
Tao


_____, J.
Gibbons

cc: Hon. Gloria Sturman, District Judge
Fennemore Craig, P.C./Las Vegas
Ellsworth & Bennion Chtd.
Eighth District Court Clerk

²In light of this order, we deny as moot all other requests for relief pending in this matter.