

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

MARK SMITH,
Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK; AND THE HONORABLE
CYNTHIA DIANNE STEEL, DISTRICT
JUDGE,

Respondents,

and

DAYNA SMITH,
Real Party in Interest.

No. 77433-COA

FILED

FEB 14 2019

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

*ORDER DENYING PETITION
FOR WRIT OF MANDAMUS AND PROHIBITION*

This original petition for writs of mandamus and prohibition challenges the district court's refusal to enforce a purported settlement agreement.


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.


_____, A.C.J.
Douglas


_____, J.
Tao


_____, J.
Gibbons

cc: Department G, Eighth Judicial District Court, Family Court Division
Hon. Linda Marie Bell, Chief Judge Eighth Judicial District Court
Hon. Bryce Duckworth, Presiding Judge, Eighth Judicial District
Court, Family Court Division
LBC Law Group
Radford J. Smith, Chartered
Eighth District Court Clerk