

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

DENNIS VILLANUEVA, AN
INDIVIDUAL; AND DIESEL MACHINE
WORKS, LLC, A CALIFORNIA
LIMITED LIABILITY COMPANY,
Petitioners,

vs.

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

Respondents,

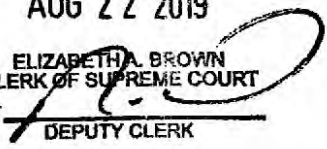
and

CHRIS DARLING, AN INDIVIDUAL,
Real Party in Interest.

No. 78960-COA

FILED

AUG 22 2019

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

*ORDER DENYING PETITION FOR
WRIT OF PROHIBITION*


This original petition for a writ of prohibition challenges a district court order denying a motion to dismiss in a contract action.

A writ of prohibition may be warranted when a district court acts without or in excess of its jurisdiction. *See* NRS 34.320; *Smith v. Eighth Judicial Dist. Court*, 107 Nev. 674, 677, 818 P.2d 849, 851 (1991). This court has discretion as to whether to entertain a petition for extraordinary relief and will not do so when the petitioners have a plain, speedy, and adequate remedy at law. *See* NRS 34.330; *D.R. Horton, Inc. v. Eighth Judicial Dist. Court*, 123 Nev. 468, 474-75, 168 P.3d 731, 736-37 (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).

Having considered the petition, we are not persuaded that this court's intervention by way of extraordinary relief is warranted. *See id.* Indeed, because the district court denied petitioners' motion to dismiss without prejudice pending discovery, they may still challenge the district court's exercise of personal jurisdiction in the underlying proceeding, and therefore they have a plain, speedy, and adequate remedy at law. *See, e.g., Trump v. Eighth Judicial Dist. Court*, 109 Nev. 687, 694, 857 P.2d 740, 744 (1993) (explaining that the defendant may require the plaintiff to prove personal jurisdiction by a preponderance of the evidence at trial or in a pretrial evidentiary hearing). 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.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. James Crockett, District Judge
CV3 Legal
Michael J. Harker
Eighth District Court Clerk