

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

PAUL MAXWELL; AND LAS VEGAS
PAVING CORPORATION,
Petitioners,

vs.

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

Respondents,

and

EUGENE ANTHONY ADAMS, JR.,
Real Party in Interest.

No. 85231-COA

FILED

JAN 13 2023

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

*ORDER DENYING PETITION
FOR WRIT OF MANDAMUS OR WRIT OF PROHIBITION*

This original petition for a writ of mandamus or a writ of prohibition challenges a district court order granting a motion to reopen discovery and continue the trial of the underlying matter.¹

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. 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,

¹Although the challenged order was signed by Senior District Court Judge Carolyn Ellsworth, the ruling memorialized therein was made by former District Court Judge Michael Villani, who has since retired.


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). 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 and supporting documents, we conclude that petitioners have not demonstrated that our extraordinary intervention is warranted. *See 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.
Gibbons


_____, J.
Bulla


_____, J.
Westbrook

cc: Chief Judge, Eighth Judicial District Court
Hon. Carolyn Ellsworth, Senior District Judge
Eighth Judicial District Court, Dept. 17
Marquis Aurbach Chtd.
Law Offices of Carl E.G. Arnold
Eighth District Court Clerk