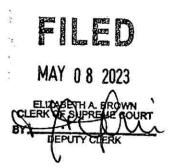
## IN THE COURT OF APPEALS OF THE STATE OF NEVADA

KENNETH CHARLES SMALL, A/K/A KEN SMALL, AN INDIVIDUAL; SSA ARCHITECTURE; AND SMALL STUDIO ASSOCIATES, LLC, A NEVADA 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 CHRISTY L. CRAIG, DISTRICT JUDGE, Respondents, and SPRING MOUNTAIN, LLC, A WYOMING LIMITED LIABILITY COMPANY, Real Party in Interest.

No. 85518-COA



## ORDER DENYING PETITION FOR WRIT OF MANDAMUS OR PROHIBITION

This original petition for a writ of mandamus or prohibition challenges a district court order that, among other things, granted a motion to continue the trial and allowed real party in interest to seek special damages at trial.

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). This court may issue a writ of prohibition to

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arrest the proceedings of a district court exercising its judicial functions when such proceedings are in excess of the district court's jurisdiction. NRS 34.320; Smith v. Eighth Judicial Dist. Court, 107 Nev. 674, 677, 818 P.2d 849, 851 (1991). Mandamus and prohibition are extraordinary remedies, and it is within the discretion of this court to determine if a petition will be considered. Id. Petitioners bear the burden to show that extraordinary relief is warranted, and such relief is proper only when there is no plain, speedy, and adequate remedy at law. Pan v. Eighth Judicial Dist. Court, 120 Nev. 222, 224, 228, 88 P.3d 840, 841, 844 (2004). An appeal is generally an adequate remedy precluding writ relief. Id. at 224, 88 P.3d at 841.

Based on our review of the documents before us, we conclude petitioners have not demonstrated that our extraordinary intervention is warranted. Id. at 228, 88 P.3d at 844. Notably, petitioners have a speedy and adequate remedy available in the form of an appeal, if they are aggrieved by the final judgment entered in the underlying case. Id. at 224, 88 P.3d at 841. Accordingly, we deny the petition.

It is so ORDERED.

C.J. Gibbons

J.

Bulla

Westbrook

cc: Hon. Christy L. Craig, District Judge Brandon L. Phillips, Attorney at Law, PLLC Lewis Roca Rothgerber Christie LLP/Las Vegas Eighth District Court Clerk

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