

IN THE SUPREME COURT OF THE STATE OF NEVADA

NITZ WALTON & HEATON, LTD.,
Petitioner,

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

TOWER HOMES, LLC,
Real Party in Interest.

No. 62252

FILED

JUN 14 2013

TRAGIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *Angela*
DEPUTY CLERK

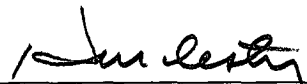
*ORDER DENYING PETITION FOR
WRIT OF MANDAMUS OR PROHIBITION*

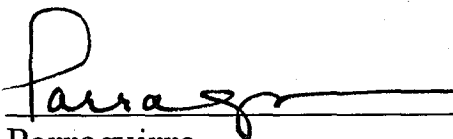
This original petition for a writ of mandamus, or alternatively, prohibition, challenges a district court order denying a motion to dismiss in a legal malpractice action.

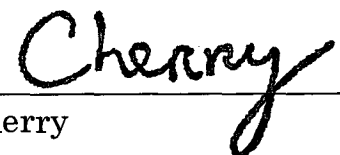
A writ of mandamus is available to compel the performance of an act that the law requires or to control an arbitrary or capricious exercise of discretion. NRS 34.160; *Int'l Game Tech., Inc. v. Second Judicial Dist. Court*, 124 Nev. 193, 197, 179 P.3d 556, 558 (2008). A writ of prohibition may be warranted when the district court exceeds its jurisdiction. NRS 34.320. Either writ is an extraordinary remedy, and whether such a writ will be considered is within our sole discretion. *Smith v. Eighth Judicial Dist. Court*, 107 Nev. 674, 677, 818 P.2d 849, 851 (1991). Moreover, it is petitioner's burden to demonstrate that our extraordinary intervention is warranted. *Pan v. Eighth Judicial Dist. Court*, 120 Nev. 222, 228, 88 P.3d 840, 844 (2004).

Having considered the petition, answer, reply, and appendices, we conclude that petitioner has not demonstrated that our intervention by way of extraordinary relief is warranted. *Id.*; *Smith*, 107 Nev. at 677, 818 P.2d at 851. Accordingly, we

ORDER the petition DENIED.

_____, J.
Hardesty

_____, J.
Parraguirre

_____, J.
Cherry

cc: Hon. Gloria Sturman, District Judge
Lewis Brisbois Bisgaard & Smith, LLP/Las Vegas
Prince & Keating, LLP
Eighth District Court Clerk