

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

SERVICE KING PAINT & BODY, LLC,
Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK; AND THE HONORABLE
CRISTINA D. SILVA, DISTRICT
JUDGE,

Respondents,

and

RONALD LEE BRECHEISEN; ROCSAN
EQUIPMENT, LLC; AND TEAM FORD,
D/B/A TEAM FORD LINCOLN,
Real Parties in Interest.

No. 79828-COA

FILED

DEC 13 2019

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER DENYING PETITION FOR WRIT OF MANDAMUS

This is an original petition for mandamus relief that seeks to compel the district court to grant petitioner's request for leave to amend its answer to an underlying third-party complaint.


A writ of mandamus is available to compel the performance of an act 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). But writ relief is typically not available when the petitioner has a plain, speedy, and adequate remedy at law. *See* NRS 34.170; *Int'l Game Tech.*, 124 Nev. at 197, 179 P.3d at 558. Moreover, whether such a petition will be considered rests within our sound discretion. *Smith v. Eighth Judicial Dist. Court*, 107 Nev. 674, 677, 818 P.2d 849, 851 (1991).

The supreme court has held that the availability of an appeal is generally a speedy and adequate remedy precluding writ relief. *See Pan v. Eighth Judicial Dist. Court*, 120 Nev. 222, 224, 88 P.3d 840, 841 (2004). And it is petitioner's burden to demonstrate that our extraordinary intervention is warranted. *Id.* at 228, 88 P.3d at 844.

Trial of the underlying matter is set to commence on February 10, 2020. And assuming petitioner is aggrieved by the final judgment in the underlying case, it has a speedy and adequate remedy available in that it can challenge the district court's denial of its motion for leave to amend in the context of an appeal from that judgment. Thus, having considered the petition and supporting documents, we conclude that petitioner has not demonstrated that our extraordinary intervention is warranted. *See id.* Accordingly, we decline to exercise our discretion and issue the relief requested in this matter, *Smith*, 107 Nev. at 677, 818 P.2d at 851, and we therefore deny the petition. NRAP 21(b)(1).

It is so ORDERED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. Cristina D. Silva, District Judge
Alverson Taylor & Sanders
Bighorn Law/Las Vegas
Wilson, Elser, Moskowitz, Edelman & Dicker LLP
Eighth District Court Clerk