

**UNITED STATES BANKRUPTCY APPELLATE PANEL
OF THE TENTH CIRCUIT**

IN RE BALVINA SANDOVAL, as
Assignee to Claims of Heatland Trust
and as Assignee to Claims of NAFAP
Management Company, Inc. as Trustee;
and HOLLI LUNDAHL,

Petitioners.

BAP No. UT-03-054

ORDER DENYING PETITION

July 31, 2003

Before MICHAEL, BROWN, and McNIFF, Bankruptcy Judges.

The matter before the Court is the Petition for Writ of Mandamus and Prohibition (“Petition”), filed July 28, 2003.

The issuance of a writ of mandamus or prohibition is left to this Court’s discretion. *Kerr v. United States Dist. Court*, 426 U.S. 394, 403 (1976). Mandamus and prohibition are drastic remedies, to be used only in extraordinary situations. *Allied Chem. Corp. v. Daiflon, Inc.*, 449 U.S. 33, 34 (1980); *Weston v. Mann (In re Weston)*, 18 F.3d 860, 864 (10th Cir. 1994). A writ “will issue only in those exceptional cases where the inferior court has acted wholly without jurisdiction or so clearly abused its discretion as to constitute a judicial usurpation of power.” *Pacificare of Okla., Inc. v. Burrage*, 59 F.3d 151, 153 (10th Cir. 1995) (quoting *Kaiser Steel Corp. v. Frates (In re Kaiser Steel Corp.)*, 911 F.2d 380, 387 (10th Cir. 1990)); accord *Mallard v. United States Dist. Court*, 490 U.S. 296, 309 (1989); *Nichols v. Alley*, 71 F.3d 347, 350 (10th Cir. 1995) (per curiam). Petitioners have the burden to show that their right to the writ is clear and indisputable. *Weston*, 18 F.3d at 864.

The Court has carefully reviewed the petition, the exhibits to the petition, and the applicable case law, and concludes that the Petition should be denied.

Accordingly, it is HEREBY ORDERED that the Petition is DENIED.

For the Panel:

Barbara A. Schermerhorn, Clerk of Court

By: 
Deputy Clerk