

IN THE SUPREME COURT OF THE STATE OF NEVADA

KENNETH R. COLLINS, JR., AND
DIANE COLLINS, INDIVIDUALLY
AND AS PARENTS AND GUARDIANS
OF KENNETH R. COLLINS, III, A
MINOR,
Petitioners,

vs.
THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK, AND THE HONORABLE
MICHELLE LEAVITT, DISTRICT
JUDGE,
Respondents,
and
STEVEN KRAMER, M.D.,
Real Party in Interest.

No. 43304

FILED

SEP 22 2004

JANET H. BLOOM
CLERK OF SUPREME COURT
BY *J. Richards*
CHIEF DEPUTY CLERK

ORDER DENYING PETITION
FOR WRIT OF MANDAMUS

This original petition for a writ of mandamus challenges a district court order that denied a motion in limine.

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,¹ or to control an arbitrary or capricious exercise of discretion.² Mandamus will not issue, however, if petitioner has a plain, speedy and


¹See NRS 34.160.

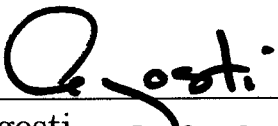
²See Round Hill Gen. Imp. Dist. v. Newman, 97 Nev. 601, 637 P.2d 534 (1981).

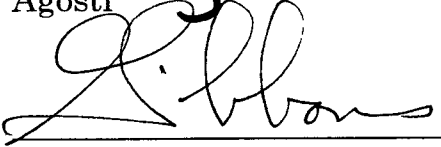
adequate remedy at law.³ Further, mandamus is an extraordinary remedy, and whether a petition will be entertained is entirely within the discretion of this court.⁴

We have considered this petition and answer, and we are not satisfied that this court's intervention by way of extraordinary relief is warranted at this time. Accordingly, we deny the petition.⁵

It is so ORDERED.⁶


_____, J.
Becker


_____, J.
Agosti


_____, J.
Gibbons

cc: Hon. Michelle Leavitt, District Judge
Benson, Bertoldo & Baker, Chtd.
Mandelbaum Gentile
Schuering Zimmerman & Scully
Clark County Clerk

³NRS 34.170.

⁴Poulos v. District Court, 98 Nev. 453, 455, 652 P.2d 1177, 1178 (1982); see also Smith v. District Court, 107 Nev. 674, 677, 818 P.2d 849, 851 (1991).

⁵See NRAP 21(b).

⁶In light of this order, we deny as moot petitioners' emergency motion for stay.