

IN THE SUPREME COURT OF THE STATE OF NEVADA

SNFOPER, LLC, A NEVADA LIMITED
LIABILITY COMPANY D/B/A THE PLAZA
REGENCY AT SUN MOUNTAIN; AND
PAUL BOYAR, INDIVIDUALLY AND AS
ADMINISTRATOR OF THE PLAZA
REGENCY,
Petitioners,

vs.

THE EIGHTH JUDICIAL DISTRICT COURT
OF THE STATE OF NEVADA, IN AND FOR
THE COUNTY OF CLARK, AND THE
HONORABLE RONALD D. PARRAGUIRRE,
DISTRICT JUDGE,

Respondents,

and

PATRICK C. MURPHY, HEIR AND SPECIAL
ADMINISTRATOR TO THE ESTATE OF
ELLEN D. MURPHY,
Real Party in Interest.

No. 43624

FILED

NOV 15 2004

JANETTE M. 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 denying petitioners' motion to disqualify opposing counsel.

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 station¹ or to control an arbitrary or capricious exercise of discretion.² A

¹See NRS 34.160.

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

writ of mandamus will not issue, however, if petitioner has a plain, speedy and adequate remedy in the ordinary course of law.³ Further, mandamus is an extraordinary remedy, and it is within the discretion of this court to determine if a petition will be considered.⁴ In particular, we noted in Brown v. District Court,⁵ that disqualification is warranted if there is a “reasonable probability” that the challenged attorney acquired confidential information. We are not persuaded that the district court manifestly abused its discretion in concluding that disqualification was not warranted in this case. Accordingly, we deny the petition.⁶

It is so ORDERED.

Becker, J.
Becker

Agosti, J.
Agosti

Gibbons, J.
Gibbons

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).

⁵116 Nev. 1200, 1206, 14 P.3d 1266, 1270 (2000).

⁶See Smith, 107 Nev. 674, 818 P.2d 849.

We vacate the stay imposed by our September 14, 2004 order.

cc: Hon. Ronald D. Parraguirre, District Judge
Lewis Brisbois Bisgaard & Smith, LLP
Marquis & Aurbach
Clark County Clerk