

IN THE SUPREME COURT OF THE STATE OF NEVADA

CHARLES W. FLEISHER, M.D., AND GREEN
VALLEY OB/GYN, LLP,

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

CAROLYN WATSON PATAI AND DONALD PATAI,
Real Parties in Interest.

No. 45426

FILED

NOV 03 2005

JANEITE 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 that denied a motion to dismiss.

Petitioner argues that the district court should have dismissed the real parties in interest's malpractice case for failure to comply with NRS 41A.071. Notably, the real parties in interest's complaint is based on Nevada's medical res ipsa loquitor statute.¹ In light of our recent opinion in Szydel v. Markman,² we deny this petition.

It is so ORDERED.

[Signature]

Gibbons

[Signature] J.

Maupin

[Signature] J.

Hardesty

¹NRS 41A.100.

²Szydel v. Markman, 121 Nev. ___, 117 P.3d 200 (2005) (holding that NRS 41A.071's expert affidavit requirement does not apply to claims brought pursuant to NRS 41A.100).

cc: Hon. Michelle Leavitt, District Judge
Alverson Taylor Mortensen Nelson & Sanders
Dickerson, Dickerson, Consul & Pocker
Clark County Clerk