

IN THE SUPREME COURT OF THE STATE OF NEVADA

FLETCHER JONES LAS VEGAS, INC.,
D/B/A FLETCHER JONES IMPORTS, A
NEVADA CORPORATION,
Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA, IN
AND FOR THE COUNTY OF CLARK,
AND THE HONORABLE MARK R.
DENTON, DISTRICT JUDGE,
Respondents,
and
SAMSON LEWIS,
Real Party in Interest.

No. 45514

FILED

JUL 06 2005

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 the district court's refusal to continue a trial in a personal injury case. Petitioner, the employer of the driver who is alleged to have caused injury to real party in interest in an automobile accident, asserts that there exists good cause to continue the trial scheduled for July 11, 2005.¹ In particular, petitioner asserts that a stay of the district court proceedings is

¹See EDCR 7.30.

mandatory under the Soldiers' and Sailors' Civil Relief Act² because the driver has been called to complete military training and will therefore be unavailable as a witness at trial, and because the district court made no findings that petitioner's ability to conduct its defense would not be materially affected by the driver's absence.

We have considered this petition and supplement thereto, and we are not satisfied that this court's intervention by way of extraordinary relief is warranted. In particular, petitioner has failed to meet its burdens under NRAP 21 to supply all documentation necessary to an understanding of the matters set forth in the petition.³ Further, petitioner has failed to sufficiently explain why, as a matter of law, the district court was required to continue the trial date, such that extraordinary relief is appropriate.⁴ Accordingly, we deny the petition.⁵

²We note that the Soldiers' and Sailors' Civil Relief Act was repealed and replaced with the Servicemembers Civil Relief Act in 2003. See 50 U.S.C.A. App. §§ 501-596 (West 2003); Pub. L. No. 108-189, 117 Stat. 2835.

³See Pan v. Dist. Ct., 120 Nev. 222, 88 P.3d 840 (2004) (discussing petitioners' NRAP 21 burden).

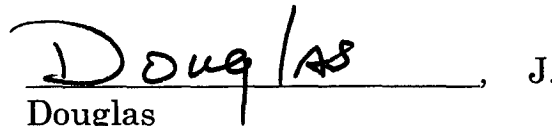
⁴50 U.S.C.A. App. § 522; Hrabak v. Hummel, 55 F. Supp. 775 (E.D. Pa. 1943) (distinguishing Ilderton and concluding that a continuance was not warranted under circumstances similar to those at hand); King v. Irvin, 2005 WL 913670 (Ga. Ct. App. 2005) (discussing the Servicemembers Civil Relief Act's stay provision requirements); Welsh v. Mercy Hospital, 151 P.2d 17 (Cal. Ct. App. 1944) (agreeing that a continuance was not warranted in a negligence case when the employer had available the subject nurse's deposition, even though she was unavailable at trial due to military service); cf. Ilderton v. Charleston

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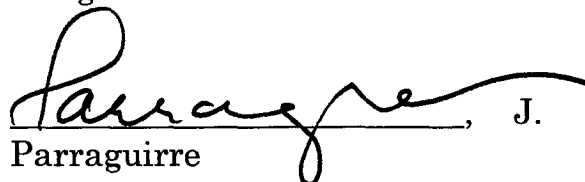
It is so ORDERED.⁶

 J.

Maupin

 J.

Douglas

 J.

Parraguirre

cc: Hon. Mark R. Denton, District Judge
Pearson, Foley & Kurtz, P.C.
Vannah Costello Vannah & Ganz
Clark County Clerk

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Consol. Ry. & Lighting Co., 101 S.E. 282 (S.C. 1919) (recognizing that the trial should be stayed when a military member's testimony, essential to his employer's defense, was unobtainable through no negligence of his employer and when the court action would affect his rights despite his absence).

⁵NRAP 21(b); Smith v. District Court, 107 Nev. 674, 818 P.2d 849 (1991).

⁶Petitioner's request for a stay pending our consideration of this matter is denied as moot.