

IN THE SUPREME COURT OF THE STATE OF NEVADA

DAVITA, INC., A DELAWARE CORPORATION,  
D/B/A SUMMERLIN DIALYSIS CENTER,

Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT COURT OF  
THE STATE OF NEVADA, IN AND FOR THE  
COUNTY OF CLARK, AND THE HONORABLE  
SALLY L. LOEHRER, DISTRICT JUDGE,

Respondents,

and

BETTY LINDSEY, AN INDIVIDUAL; AND  
BETTY LINDSEY, AS SPECIAL  
ADMINISTRATRIX OF THE ESTATE OF  
RUFUS LINDSEY, DECEASED,

Real Party in Interest.

No. 47403

**FILED**

JUL 17 2006

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 affirming and adopting a discovery commissioner's report and recommendation.

Writ relief is an extraordinary remedy that will only issue at the discretion of this court.<sup>1</sup> 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, or to control a manifest abuse of discretion.<sup>2</sup> This court will generally not entertain an extraordinary writ challenging a


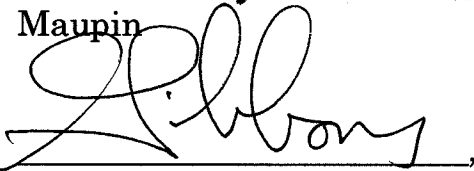
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<sup>1</sup>Smith v. District Court, 107 Nev. 674, 818 P.2d 849 (1991).

<sup>2</sup>See NRS 34.160; Round Hill Gen. Imp. Dist. v. Newman, 97 Nev. 601, 603-04, 637 P.2d 534, 536 (1981).

discovery order.<sup>3</sup> There are, however, two exceptions to this rule.<sup>4</sup> This court may consider entertaining a petition for a writ that challenges an order of the district court that either (1) is a blanket discovery order without regard to relevance, or (2) compels the disclosure of privileged information.<sup>5</sup> Having considered the arguments made by petitioner, we conclude that petitioner has not demonstrated that either of these exceptions applies to this case. Accordingly, this court's intervention by way of extraordinary relief is not warranted, and we deny the petition.<sup>6</sup> In denying the petition, however, we suggest that the district court consider an order prohibiting the disclosure of the information to third parties.

It is so ORDERED.<sup>7</sup>

  
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Maupin J.  
  
\_\_\_\_\_  
Gibbons J.

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<sup>3</sup>Clark County Liquor v. Clark, 102 Nev. 654, 730 P.2d 443, (1986).

<sup>4</sup>Id.

<sup>5</sup>Id.

<sup>6</sup>See NRAP 21(b); Smith, 107 Nev. 674, 818 P.2d 849.

<sup>7</sup>In light of this order we deny as moot petitioner's motion for a stay and real party in interest's motion to quash the petition.

Hardesty, J., dissenting:

I disagree with the majority and would grant the stay motion and direct an answer. This petition appears to raise discovery issues that pertain to privileged information, which this court has previously explained may warrant writ relief. Additionally, this court's decision in Hetter v. District Court,<sup>8</sup> suggests that requiring disclosure of the patient names would violate the doctor patient privilege. Accordingly, I dissent.

  
\_\_\_\_\_, J.  
Hardesty

cc: Hon. Sally L. Loehrer, District Judge  
Carroll, Kelly, Trotter, Franzen & McKenna  
Dempsey Roberts & Smith, Ltd.  
Clark County Clerk

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<sup>8</sup>110 Nev. 513, 874 P.2d 762 (1994).