

IN THE SUPREME COURT OF THE STATE OF NEVADA

PATRICIA RICKS,
Petitioner,
vs.
THE SECOND JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
WASHOE, AND THE HONORABLE
PATRICK FLANAGAN, DISTRICT
JUDGE,
Respondents,
and
STEVEN L. PHILLIPS, M.D.; AND
GERIATRIC CARE OF NEVADA,
Real Parties in Interest.

No. 49789

FILED

AUG 08 2007

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY Arado
DEPUTY CLERK

ORDER DENYING PETITION FOR WRIT OF MANDAMUS

This original petition for a writ of mandamus challenges a district court order that partially dismissed petitioner's medical malpractice action.

A writ of mandamus is available to compel the performance of an act that the law requires, or to control a manifest abuse or arbitrary or

capricious exercise of discretion.¹ Mandamus is an extraordinary remedy, however, and the decision to entertain such a petition is addressed to this court's sole discretion.² Mandamus relief generally is not available when petitioner has a plain, speedy, and adequate remedy in the ordinary course of law, such as an appeal.³ Because an aggrieved party may appeal from an order dismissing a complaint, this court usually declines to exercise its discretion to consider writ petitions that challenge district court orders resolving motions to dismiss, unless an important issue of law requires clarification and judicial economy weighs in favor of granting the petition.⁴ Petitioner has the burden of demonstrating that this court's extraordinary intervention is warranted.⁵

Having reviewed the petition and supporting documentation, we conclude that petitioner has not met her burden to show that this court's extraordinary intervention is warranted, and, since petitioner has an adequate legal remedy by which to challenge this interlocutory order—

¹See NRS 34.160; Round Hill Gen. Imp. Dist. v. Newman, 97 Nev. 601, 637 P.2d 534 (1981).

²See Poulos v. District Court, 98 Nev. 453, 455, 652 P.2d 1177, 1178 (1982).


³NRS 34.170; Pan v. Dist. Ct., 120 Nev. 222, 224, 88 P.3d 840, 841 (2004).

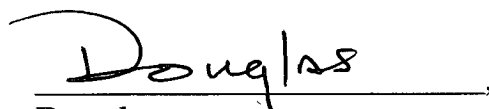
⁴Smith v. District Court, 113 Nev. 1343, 950 P.2d 280 (1997).

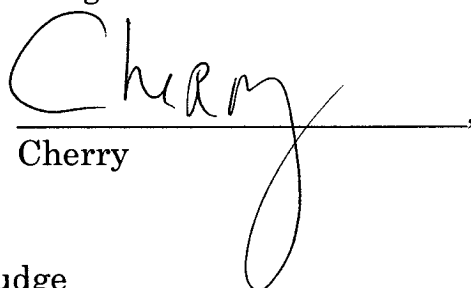
⁵Pan, 120 Nev. at 228, 88 P.3d at 844.

an appeal from the final judgment—we decline to exercise our discretion to intervene.⁶ Accordingly, we

ORDER the petition DENIED.⁷


_____, J.
Gibbons


_____, J.
Douglas


_____, J.
Cherry

cc: Hon. Patrick Flanagan, District Judge
Galloway & Jensen
Schuering Zimmerman Scully Tweedy & Doyle LLP
Washoe District Court Clerk

⁶From the documents submitted to this court, it does not appear that Ricks requested the district court to certify as final the order dismissing her complaint against Dr. Phillips and GCN. Although the decision to grant NRCP 54(b) certification is discretionary with the district court, and thus does not necessarily provide petitioner with the option to appeal as a matter of right, a properly certified order presents an aggrieved party with an adequate remedy at law, *i.e.*, an immediate appeal.

⁷NRAP 21(b); Smith v. District Court, 107 Nev. 674, 818 P.2d 849 (1991).