

IN THE SUPREME COURT OF THE STATE OF NEVADA

CARSON-TAHOE REGIONAL
HEALTHCARE, A NEVADA
NONPROFIT CORPORATION,
Petitioner,

vs.

THE FIRST JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR CARSON CITY; THE
HONORABLE CHARLES M. MCGEE,
SENIOR JUDGE; AND THE
HONORABLE ROBERT ROSE, SENIOR
JUDGE,
Respondents,
and
KENT SKOGERSON, M.D.,
Real Party in Interest.

No. 49893

FILED

APR 14 2008

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER DENYING PETITION FOR WRIT OF MANDAMUS

This is an original petition for a writ of mandamus challenging a district court order disqualifying petitioner's counsel.

A writ of mandamus is an extraordinary remedy, and the determination of whether to consider a petition is solely within our discretion.¹ A writ of mandamus is available to compel the performance of an act that the law requires, or to control a manifest abuse of discretion.² The petition will only be granted when the petitioner has a clear right to the relief requested and no plain, speedy, and adequate remedy in the

¹See Smith v. District Court, 107 Nev. 674, 818 P.2d 849 (1991).

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

ordinary course of law.³ Furthermore, the burden is on the petitioner to establish that mandamus relief is appropriate.⁴

A petition for writ of mandamus is appropriate for challenging a district court order disqualifying counsel.⁵ The district court has broad discretion in making this determination, and our intervention is warranted only for a manifest abuse of that discretion.⁶

We have established three factors that must be demonstrated by the person seeking to disqualify another party's counsel based on a conflict of interest from a prior representation:

- (1) that it had an attorney-client relationship with the lawyer, (2) that the former matter and the current matter are substantially related, and (3) that the current representation is adverse to the party seeking disqualification.⁷

Additionally, the district court must balance "the individual right to be represented by counsel of one's choice, each party's right to be free from the risk of even inadvertent disclosure of confidential information, and the

³Gumm v. State, Dep't of Education, 121 Nev. 371, 375, 113 P.3d 853, 856 (2005).

⁴Pan v. Dist. Ct., 120 Nev. 222, 228, 88 P.3d 840, 844 (2004); NRAP 21(a).

⁵Nevada Yellow Cab Corp. v. Dist. Ct., 123 Nev. ___, ___, 152 P.3d 737, 740 (2007).

⁶Id. at ___, 152 P.3d at 743.

⁷Id. at ___, 152 P.3d at 741.

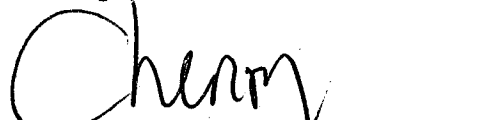
public's interest in the scrupulous administration of justice" to determine whether disqualification is proper.⁸

Applying the above standards, we are not persuaded that the district court manifestly abused its discretion in disqualifying petitioner's counsel. Accordingly, we deny the petition.

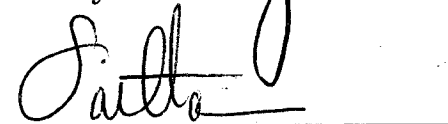
It is so ORDERED.⁹

 _____, J.

Maupin

 _____, J.

Cherry

 _____, J.

Saitta

cc: Chief Judge, First Judicial District
Hon. Charles M. McGee, Senior Judge
Hon. Robert E. Rose, Senior Justice
Molof & Vohl
Beckett, Yott & McCarty/Reno
King & Russo, Ltd.
Carson City Clerk

⁸Id. at ___, 152 P.3d at 742-43 (quoting Brown v. Dist. Ct., 116 Nev. 1200, 1205, 14 P.3d 1266, 1270 (2000)).

⁹We direct the clerk of this court to return unfiled the joinder to the real party in interest's answer received from Linda Hoxie, as she is not a party to this petition and therefore the joinder is improper.