

IN THE SUPREME COURT OF THE STATE OF NEVADA

RICK MARTIN, M.D.,
Petitioner,

No. 49894

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK, AND THE HONORABLE
JENNIFER TOGLIATTI, DISTRICT
JUDGE,

FILED

JUL 31 2007

JANE M. BLOOM
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

Respondents,
and
MELISSA VILLIATORA, ON BEHALF
OF THE ESTATE OF DALVYN
VILLIATORA AND MELISSA
VILLIATORA, INDIVIDUALLY,
Real Parties in Interest.

ORDER DENYING PETITION

This original petition for a writ of mandamus challenges the district court's denial of a motion to continue the underlying medical malpractice trial. A writ of mandamus is available to compel the performance of an act that the law requires, or to control an arbitrary or capricious exercise of discretion. NRS 34.160; Round Hill Gen. Imp. Dist. v. Newman, 97 Nev. 601, 637 P.2d 534 (1981). We have considered this petition and its supporting documentation, and we are not satisfied that this court's intervention by way of extraordinary relief is warranted. NRAP 21(b). Accordingly, we deny this petition and petitioner's request to stay the district court proceedings.

It is so ORDERED.

[Signature], J.
Douglas

[Signature], J.
Saitta

CHERRY, J., dissenting:

I most respectfully dissent.

Cherry, J.
Cherry

cc: Hon. Jennifer Togliatti, District Judge
Cotkin & Collins
Cobeaga Law Firm
Leslie Mark Stovall
Eighth District Court Clerk