

IN THE SUPREME COURT OF THE STATE OF NEVADA

RANDAL PEOPLES, M.D.,
Petitioner,

vs.

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

Respondents,

and

DEBORAH REITER, INDIVIDUALLY, AND
ROBERT REITER, INDIVIDUALLY, AND AS
HUSBAND AND WIFE,
Real Parties in Interest.

No. 50319

FILED

FEB 08 2008

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER DENYING PETITION FOR WRIT OF MANDAMUS

This original petition for a writ of mandamus challenges a district court order denying petitioner's motion to dismiss the underlying medical malpractice action.

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,¹ or to control a manifest abuse or an arbitrary or capricious exercise of discretion.² Mandamus is an extraordinary remedy, however, and it is within our discretion to determine if a petition will be considered.³ Generally, we will not exercise our discretion to consider writ

¹See NRS 34.160.

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


³Smith v. District Court, 107 Nev. 674, 818 P.2d 849 (1991).

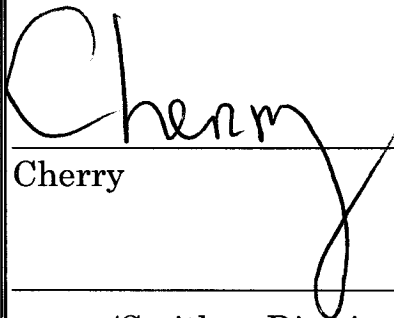



petitions that challenge district court orders denying motions to dismiss unless no disputed factual issues remain and dismissal is clearly required by a statute or rule, or an important issue of law requires clarification.⁴ Instead, an appeal from any adverse final judgment generally provides an adequate legal remedy, precluding writ relief.⁵

After considering this petition, real parties in interest's answer, and the parties' supporting documents, we are not satisfied that this court's intervention by way of extraordinary relief is warranted.⁶ Specifically, petitioner appears to have an adequate legal remedy available in the form of an appeal from any adverse final judgment, and he has not demonstrated that this matter fits firmly within any exception to our general policy to decline to consider petitions challenging district court orders denying motions to dismiss. Accordingly, we deny the petition.⁷

It is so ORDERED.


_____, J.
Maupin


_____, J.
Cherry


_____, J.
Saitta

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

⁵See Pan v. Dist. Ct., 120 Nev. 222, 88 P.3d 840 (2004).

⁶See Borger v. Dist. Ct., 120 Nev. 1021, 1029-30, 102 P.3d 600, 606 (2004) (explaining that “a district court, within its sound discretion . . . may grant leave to amend malpractice complaints supported by disputed affidavits under circumstances where justice so requires”).

⁷See Smith, 107 Nev. 674, 818 P.2d 849.

cc: Hon. Valerie Adair, District Judge
Tuverson & McBride
Glen J. Lerner & Associates
Eighth District Court Clerk