

IN THE SUPREME COURT OF THE STATE OF NEVADA

BRIAN SALAFIA,  
Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT  
COURT OF THE STATE OF NEVADA,  
IN AND FOR THE COUNTY OF  
CLARK, AND THE HONORABLE  
JESSIE WALSH, DISTRICT JUDGE,  
Respondents,  
and  
ADRIAN ALBITE-VILELA,  
Real Party in Interest.

No. 50687

**FILED**

JAN 15 2008

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY *[Signature]*  
DEPUTY CLERK

ORDER DENYING PETITION FOR WRIT OF MANDAMUS

This is an original petition for a writ of mandamus that challenges a district court's oral ruling that denied petitioner's motion to strike real party in interest's request for a trial de novo, following mandatory arbitration in a negligence action.

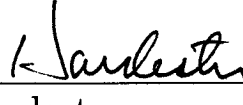
A writ of mandamus is available to compel the performance of an act which the law requires as a duty resulting from an office, trust, or station, or to control a manifest abuse or arbitrary or capricious exercise of discretion.<sup>1</sup> Mandamus is an extraordinary remedy, however, and it is within our discretion to determine if a petition will be considered.<sup>2</sup> Furthermore, petitioner bears the burden of demonstrating that


<sup>1</sup>See NRS 34.160; Mineral County v. State, Dep't of Conserv., 117 Nev. 235, 20 P.3d 800 (2001).

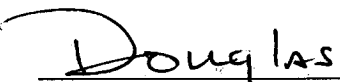
<sup>2</sup>Smith v. District Court, 107 Nev. 674, 677, 818 P.2d 849, 851 (1991).

extraordinary relief is warranted.<sup>3</sup> Having reviewed the petition, we are not persuaded that writ relief is warranted. Accordingly, we

ORDER the petition DENIED.<sup>4</sup>

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

  
\_\_\_\_\_, J.  
Parraguirre

  
\_\_\_\_\_, J.  
Douglas

cc: Hon. Jessie Elizabeth Walsh, District Judge  
Benjamin B. Childs  
David L. Riddle & Associates  
Emerson & Manke, LLP  
Wright & Weiner  
Eighth District Court Clerk

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<sup>3</sup>Pan v. Dist. Ct., 120 Nev. 222, 228, 88 P.3d 840, 844 (2004).

<sup>4</sup>We note that the fact that no formal written order has been entered in the underlying case constitutes an independent basis for the denial of this petition. See State, Div. Child & Fam. Servs. v. Dist. Ct., 120 Nev. 445, 454, 92 P.3d 1239, 1245 (2004) (stating that an order dealing with the procedural posture or merits of a case must be written, signed, and filed before it becomes effective).