

IN THE SUPREME COURT OF THE STATE OF NEVADA

TIMOTHY B. SODER, INDIVIDUALLY,
AND TIMOTHY B. SODER PHYSICAL
THERAPY & SPORTS REHAB,
Petitioners,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK, AND THE HONORABLE
JAMES M. BIXLER, DISTRICT JUDGE,
Respondents,
and
DEBRA OBERGH,
Real Party in Interest.

No. 52010

FILED

SEP 05 2008

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

ORDER DENYING PETITION FOR WRIT OF MANDAMUS

This original petition for a writ of mandamus challenges a district court order partially granting real party in interest's motion in limine and prohibiting one of petitioners' expert witnesses from testifying at trial.

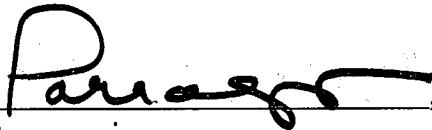
In this petition, petitioners seek to compel the district court to permit petitioners' expert witness to testify at trial. In the challenged order, the district court barred petitioners' expert from testifying based on petitioners' failure to fully comply with NRCP 16.1(2)(B) by providing a complete listing of all other cases in which the witness testified as an expert at trial or by deposition in the last four years. 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, or to control a manifest

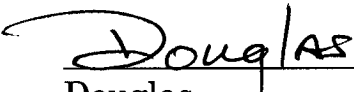
abuse of discretion.¹ Mandamus is an extraordinary remedy and whether a petition for extraordinary relief will be considered is solely within our discretion.² Petitioners bear the burden of demonstrating that our intervention by way of extraordinary relief is warranted.³

Having considered the petition, we conclude that petitioners have not demonstrated that the district court manifestly abused its discretion in barring their expert witness from testifying as a sanction for petitioners' failure to fully comply with NRCP 16.1(2)(B). Accordingly, we conclude that our intervention by way of extraordinary relief is not warranted, and we⁴

ORDER the petition DENIED.


_____, J.
Hardesty


_____, J.
Parraguirre


_____, J.
Douglas

¹See NRS 34.160; Round Hill Gen. Imp. Dist. v. Newman, 97 Nev. 601, 603-04, 637 P.2d 534, 536 (1981).

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

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

⁴See NRAP 21(b); Smith, 107 Nev. 674, 818 P.2d 849.

cc: Hon. James M. Bixler, District Judge
Hall, Prangle & Schoonveld, LLC/Las Vegas
Mainor Eglet Cottle, LLP
Eighth District Court Clerk