

IN THE SUPREME COURT OF THE STATE OF NEVADA

DIPAK K. DESAI, M.D.; KUSUM
DESAI; ELADIO CARRERA, M.D.;
ENDOSCOPY CENTER OF SOUTHERN
NEVADA, LLC; AND
GASTROENTEROLOGY CENTER OF
NEVADA, LLP,
Petitioners,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK, AND THE HONORABLE
ALLAN R. EARL, DISTRICT JUDGE,
Respondents,

and

ROB CHAMBERLAIN; JOE E. MASS;
LISA GARBARINO; DAVID
GARBARINO; AUTUMN MERRILL-
SMITH; DENISE MOSES; DONNA
CULP; HOMER Q. CULP; NIDIA CRUZ;
AND ANNE LOUISE CHAMBERLAIN,
Real Parties in Interest.

No. 52730

FILED

DEC 03 2008

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

ORDER DENYING PETITION
FOR WRIT OF MANDAMUS OR PROHIBITION

This original petition for a writ of mandamus or prohibition challenges a district court order granting a motion for expedited discovery.

Petitioners Dipak K. Desai, M.D. and Kusum Desai filed the instant petition seeking mandamus or prohibition relief to vacate the portion of the district court's order granting expedited discovery. Petitioners Eladio Carrera, M.D., Endoscopy Center of Southern Nevada,

LLC, and Gastroenterology Center of Nevada, LLP, have joined in the Desais' petition.¹ The Desais have also requested a stay of the expedited discovery pending this court's resolution of the petition and the remaining petitioners have joined in that request.

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.² We may issue a writ of prohibition to arrest the proceedings of a district court exercising its judicial functions, when such proceedings are in excess of the district court's jurisdiction.³ Both mandamus and prohibition are extraordinary remedies, and whether a petition for extraordinary relief will be considered is solely within our discretion.⁴ Petitioners bear the burden of demonstrating that extraordinary relief is warranted.⁵

Having considered the petition, we are not satisfied that this court's intervention by way of extraordinary relief is warranted. Accordingly, we

¹The clerk of this court shall modify the caption for this case to conform to the caption on this order.

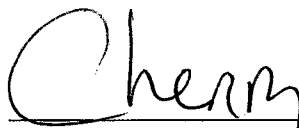
²See NRS 34.160; Round Hill Gen. Imp. Dist. v. Newman, 97 Nev. 601, 603-04, 637 P.2d 534, 536 (1981).

³See NRS 34.320.


⁴See Smith v. District Court, 107 Nev. 674, 677, 818 P.2d 849, 851 (1991).

⁵See Pan v. Dist. Ct., 120 Nev. 222, 228, 88 P.3d 840, 844 (2004).

ORDER the petition DENIED.⁶

 _____, J.

Cherry

 _____, J.

Gibbons

 _____, J.

Saitta

cc: Hon. Allan R. Earl, District Judge
Alverson Taylor Mortensen & Sanders
Bailey Kennedy
Harrison, Kemp, Jones & Coulthard, LLP
Lewis & Roca, LLP/Las Vegas
Mainor Eglet Cottle, LLP
Muije & Varricchio
Eighth District Court Clerk

⁶See NRAP 21(b); Smith, 107 Nev. at 677, 818 P.2d at 851. In light of this order, we deny as moot petitioners request for a stay.