

IN THE SUPREME COURT OF THE STATE OF NEVADA

RENO NEWSPAPERS, INC., A  
NEVADA CORPORATION,  
Appellant,

vs.

MARY ANDERSON, M.D., DISTRICT  
HEALTH OFFICER, WASHOE  
COUNTY; WASHOE COUNTY  
DISTRICT BOARD OF HEALTH;  
WASHOE COUNTY DISTRICT  
HEALTH DEPARTMENT; AND  
COUNTY OF WASHOE, STATE OF  
NEVADA,  
Respondents.

No. 54273

**FILED**

SEP 22 2010

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY S. Young  
DEPUTY CLERK

ORDER VACATING AND REMANDING

This is an appeal from a district court order denying a petition for a writ of mandamus in a public records action. Second Judicial District Court, Washoe County; Steven P. Elliott, Judge.

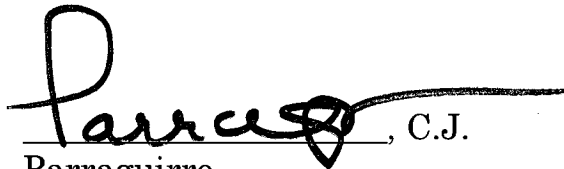
Reno Newspapers, Inc., appeals the district court's denial of its petition for a writ of mandamus to compel respondents Mary Anderson, Washoe County District Board of Health, Washoe County District Health Department, and the County of Washoe to either disclose the name of a daycare center attended by a child diagnosed with the H1N1 virus or to show cause why such information is confidential.


On appeal, Reno Newspapers argues that the district court should have required respondents to answer its petition with supporting evidence establishing that the requested information fell within an exception to Nevada's Public Records Act. We agree.


In a judicial proceeding where the confidentiality of a public record is at issue, "the governmental entity has the burden of proving by a

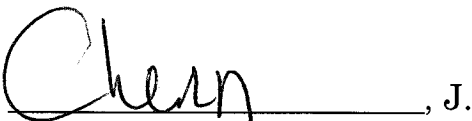
preponderance of the evidence that the public book or record, or a part thereof, is confidential.” NRS 239.0113. In this case, respondents did not submit an answer to Reno Newspapers’ petition and the district court denied the petition without requiring respondents to file an answer or produce evidence demonstrating that the requested information was confidential. Because respondents did not produce any evidence to satisfy their burden, and the district court denied the petition without requiring them to do so, we

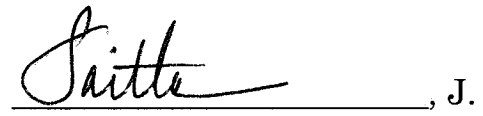
ORDER the district court’s order VACATED and REMAND this matter to the district court for further proceedings consistent with this order.<sup>1</sup>

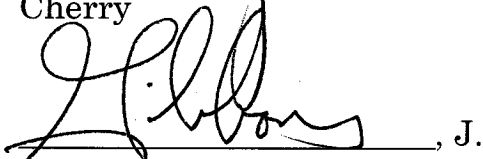
  
Parraguirre, C.J.

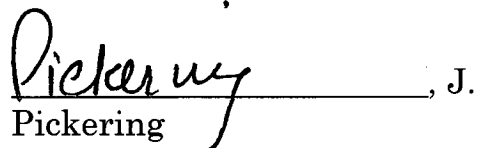
  
Hardesty, J.

  
Douglas, J.

  
Cherry, J.

  
Saitta, J.

  
Gibbons, J.

  
Pickering, J.

<sup>1</sup>Because we hold that the district court failed to develop an adequate record, we do not reach whether the name of the daycare center should be considered confidential under NRS 441A.220.

cc: Hon. Steven P. Elliott, District Judge  
David Wasick, Settlement Judge  
Burton Bartlett & Glogovac, Ltd.  
Washoe County District Attorney/Civil Division  
Washoe District Court Clerk