

IN THE SUPREME COURT OF THE STATE OF NEVADA

JOHN A. ELLERTON, M.D., INDIVIDUALLY;
AND JOHN ELLERTON, M.D., LTD. D/B/A
CANCER CONSULTANTS,
Petitioners,

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

NANCY CARDELLA,
Real Party in Interest.

No. 54301

FILED

SEP 09 2009

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

ORDER DENYING PETITION FOR A WRIT OF MANDAMUS

This original petition for a writ of mandamus challenges a district court order denying petitioners' motion for summary judgment in a medical malpractice action.

A writ of mandamus is available to compel the performance of an act that the law requires or to control a manifest abuse of discretion. NRS 34.160; Round Hill Gen. Imp. Dist. v. Newman, 97 Nev. 601, 603-04, 637 P.2d 534, 536 (1981). Mandamus is an extraordinary remedy, and whether a petition will be considered is within our sole discretion. Smith v. District Court, 107 Nev. 674, 677, 818 P.2d 849, 851 (1991). Mandamus will not issue when petitioners have a plain, speedy, and adequate remedy at law, NRS 34.170, and we have consistently held that an appeal is generally an adequate legal remedy precluding writ relief. Pan v. Dist. Ct., 120 Nev. 222, 224, 88 P.3d 840, 841 (2004).

Having reviewed the petition and its supporting documents, we are not persuaded that writ relief is warranted. In particular, petitioners have an adequate remedy in the form of an appeal from any adverse final judgment. Accordingly, we

ORDER the petition DENIED.¹

Parraguirre, J.
Parraguirre

Douglas, J.
Douglas

Pickering, J.
Pickering

cc: Hon. Jessie Elizabeth Walsh, District Judge
John H. Cotton & Associates, Ltd.
Mandelbaum, Schwarz, Ellerton & McBride
Gerald I. Gillock & Associates
Eighth District Court Clerk

¹We deny as moot petitioners' request to stay the district court proceedings.