

IN THE SUPREME COURT OF THE STATE OF NEVADA

UNIVERSITY MEDICAL CENTER AND
CRAIG IWAMOTO, M.D.,

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

CAROL TORGERSON,
Real Party in Interest.

No. 54534

FILED

DEC 04 2009

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

ORDER GRANTING PETITION FOR WRIT OF MANDAMUS

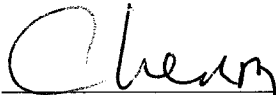
This original petition for a writ of mandamus challenges a district court order denying a motion to dismiss a medical malpractice action.


In this petition for a writ of mandamus, petitioner argues that, under NRS 41A.071, the district court was required to dismiss the medical malpractice complaint for failure to attach the required medical expert affidavit at the time of filing. Real party in interest asserts that dismissal is improper in this case because she obtained the medical affidavit prior to filing the complaint, the failure to attach it to the complaint at the time of filing was inadvertent, and she corrected this mistake by filing an errata to the complaint that contained the affidavit.


Having reviewed the petition, answer, and the supporting documents, we conclude that writ relief is appropriate and grant the petition. The district court was required to dismiss the complaint without prejudice, as it was filed without the necessary medical affidavit

and therefore void ab initio. NRS 41A.071; Washoe Med. Ctr. v. Dist. Ct., 122 Nev. 1298, 1302, 148 P.3d 790, 794 (2006). Accordingly, we direct the clerk of this court to issue a writ of mandamus directing the district court to enter an order dismissing the complaint.

It is so ORDERED.¹


_____, J.
Cherry


_____, J.
Saitta


_____, J.
Gibbons

cc: Hon. James M. Bixler, District Judge
Alverson Taylor Mortensen & Sanders
Mandelbaum, Schwarz, Ellerton & McBride
Ben J. Bingham
Eighth District Court Clerk

¹We deny as moot petitioners' motion to rehear our order denying petitioners' motion for a stay.