

IN THE SUPREME COURT OF THE STATE OF NEVADA

CATHERINE SEIFF,
Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK, AND THE HONORABLE BILL
HENDERSON, DISTRICT JUDGE,
FAMILY COURT DIVISION,

Respondents,

and

THE WILLICK LAW GROUP AND
MARSHAL S. WILLICK,
Real Parties in Interest.

No. 55332

FILED

FEB 03 2011

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

ORDER DENYING PETITION FOR
WRIT OF PROHIBITION OR MANDAMUS

This original petition for a writ of prohibition or mandamus challenges a district court order adjudicating an attorney's lien. Having reviewed the petition, answer, and supplements filed by the parties, we are not persuaded that this court's intervention by way of extraordinary relief is warranted, and we thus deny the petition. Smith v. District Court, 107 Nev. 674, 818 P.2d 849 (1991).

Petitioner argued that this court should adhere to our recent opinion in Argentena Consolidated Mining Co. v. Jolley Urga, 125 Nev. ___, 216 P.3d 779 (2009), and issue writ relief to vacate a void judgment. The real parties in interest's answer primarily argued that Argentena should not be applied retroactively. This court directed petitioner to supplement the petition with documentation of what had occurred in the underlying action between September 3, 2008, when petitioner filed her opposition, and September 9, 2009, when the district court adjudicated the lien in real parties in interest's favor.

Specifically, petitioner's opposition asserted arguments virtually identical to those later adopted by this court in Argentina: that under NRS 18.015, a charging lien was proper only if there was a judgment in the client's favor to which the lien could attach, and that since no such judgment had been entered in petitioner's favor, a charging lien was not available. This court in Argentina simply applied the statute's plain language and clarified or overruled our prior cases that did not satisfy that language. Id. Under such circumstances, retroactivity is not a concern. See Clem v. State, 119 Nev. 615, 81 P.3d 521 (2003) (noting that a retroactivity analysis is appropriate only if a new rule of law has been announced, not when a case simply clarifies existing law).

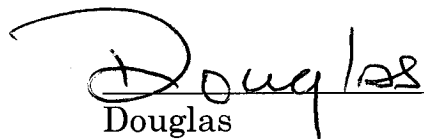
But real parties in interest asserted that, after petitioner's initial objection to the district court's adjudication in her opposition, she implicitly consented to the court's jurisdiction by insisting on an evidentiary hearing and then nonbinding arbitration. Notably, while adjudication of a charging lien would be improper if no judgment in the client's favor had been obtained, the client could still consent to adjudication of a retaining lien. Argentina, 125 Nev. ___, 216 P.3d 779.


This court therefore directed petitioner to supplement the petition with documentation concerning the evidentiary hearing and arbitration, noting particularly that it was not clear whether petitioner had waived any objections by seeking an evidentiary hearing or arbitration. The supplement filed by petitioner states summarily that petitioner's objections "were never abandoned," but petitioner provided no minutes, transcripts, or other documentation to support that contention. Real parties in interest's response to the supplement particularly points to

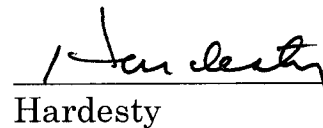
hearings on September 8, 2008, and July 7, 2009, at which the evidentiary hearing and arbitration, respectively, were requested by petitioner.¹ Without transcripts or even minutes of these hearings, this court is unable to evaluate whether petitioner properly preserved her objections in the district court.

Petitioner bears the burden to demonstrate that writ relief is warranted. Pan v. Dist. Ct., 120 Nev. 222, 88 P.3d 840 (2004). We conclude that she has not met that burden in this case. Accordingly, we

ORDER the petition DENIED.

 _____, C.J.
Douglas

 _____, J.
Pickering

 _____, J.
Hardesty

cc: Hon. William G. Henderson, District Judge, Family Court Division
Gary Logan
Patricia J. Coyne, LLC
Willick Law Group
Eighth District Court Clerk

¹The response does not include supporting documentation; according to real parties in interest, its absence is due to the fact that the underlying divorce action is sealed, and as real parties in interest are no longer counsel of record, the district court clerk refused to provide copies. Real parties in interest were under no duty under NRAP 21 or our October 15, 2010, order to provide any documentation. Accordingly, we deny their motion to compel.