

IN THE SUPREME COURT OF THE STATE OF NEVADA

COLLEGE PARK REHABILITATION
CENTER,
Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK; AND THE HONORABLE
JESSIE ELIZABETH WALSH,
DISTRICT JUDGE,

Respondents,

and

TINA MONREAL, AS SPECIAL
ADMINISTRATOR OF THE ESTATE
OF CUC TRINH AND INDIVIDUALLY;
NGHIA LABRADOR, INDIVIDUALLY
AND AS HEIR; TRI LE,
INDIVIDUALLY AND AS HEIR; AND
KIET TRINH, INDIVIDUALLY AND AS
HEIR,

Real Parties in Interest.

No. 58809

FILED

DEC 09 2011

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *A. Ingersoll*
DEPUTY CLERK

ORDER DENYING PETITION
FOR WRIT OF MANDAMUS OR PROHIBITION


This original petition for a writ of mandamus, or alternatively, prohibition, challenges a district court order denying a motion to dismiss in a medical malpractice action. As directed, real parties in interest have filed an answer.

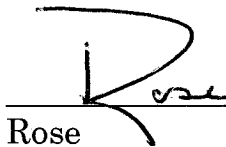
Writ relief is generally available when there is no plain, speedy, and adequate remedy in the ordinary course of law. NRS 34.170; NRS 34.330. A writ of mandamus is available to compel the performance of an act that the law requires or to control an arbitrary or capricious exercise of discretion. NRS 34.160; International Game Tech. v. Dist. Ct.,

124 Nev. 193, 197, 179 P.3d 556, 558 (2008). A writ of prohibition may be warranted when the district court exceeds its jurisdiction. NRS 34.320. Either writ is an extraordinary remedy, and whether such a writ will be considered is within our sole discretion. Smith v. District Court, 107 Nev. 674, 677, 818 P.2d 849, 851 (1991). It is the petitioner's burden to demonstrate that our extraordinary intervention is warranted. Pan v. Dist. Ct., 120 Nev. 222, 228, 88 P.3d 840, 844 (2004).

Having considered the petition, we conclude that our intervention by way of extraordinary relief is not warranted. Id. Accordingly, we

ORDER the petition DENIED.¹

 _____, J.
Pickering

 _____, Sr. J.
Rose

 _____, Sr. J.
Shearing

cc: Hon. Jessie Elizabeth Walsh, District Judge
Marquis Aurbach Coffing
Rourke Law Firm
Bernstein & Poisson
Eighth District Court Clerk

¹The Honorable Robert Rose and Honorable Miriam Shearing, Senior Justices, participated in the decision of this matter under general orders of assignment.