

IN THE SUPREME COURT OF THE STATE OF NEVADA

WESTBROOK KAPLAN, M.D.; AND
CHRISTOPHER MILFORD, M.D.,
Petitioners,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK; AND THE HONORABLE
NANCY L. ALLF, DISTRICT JUDGE,
Respondents,

and

PHYLLIS JONES; EVERETT JONES;
SOUTHERN HILLS MEDICAL
CENTER, LLC D/B/A SOUTHERN
HILLS HOSPITAL AND MEDICAL
CENTER; BRIAN HAGER, D.O.;
DOUGLAS SEIP, M.D.; CAREY SEIP,
P.A.; JEANNE JAVIER, R.N.; AND MRI
TECHNICIAN SYLVIA DOE,
Real Parties in Interest.

No. 59259

FILED

MAR 08 2012

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *Angela*
DEPUTY CLERK

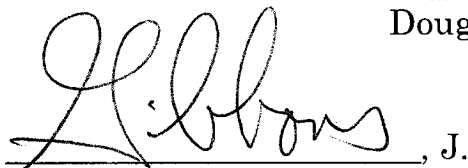
ORDER DENYING PETITION FOR WRIT OF MANDAMUS

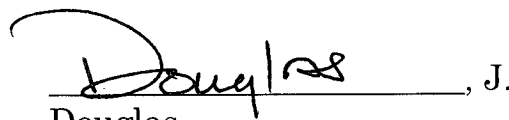
This original petition for a writ of mandamus challenges a district court order denying motions to dismiss in a medical malpractice action.

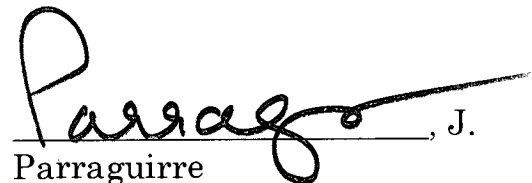
A writ of mandamus is available to compel the performance of an act that the law requires or to control an arbitrary or capricious exercise of discretion. NRS 34.160; International Game Tech. v. Dist. Ct., 124 Nev. 193, 197, 179 P.3d 556, 558 (2008). Where there is no plain, speedy, and adequate remedy in the ordinary course of law, NRS 34.170, extraordinary relief may be available. Smith v. District Court, 107 Nev. 674, 677, 679, 818 P.2d 849, 851, 853 (1991). A writ of mandamus is an

extraordinary remedy, and whether such a writ will be considered is within our sole discretion. Id. at 677, 818 P.2d at 851. It is petitioners' 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, the answer, and petitioners' reply, we conclude that our intervention by way of extraordinary relief is not warranted. Smith, 107 Nev. at 677, 818 P.2d at 851. Accordingly, we

ORDER the petition DENIED.¹


_____, J.
Gibbons


_____, J.
Douglas


_____, J.
Parraguirre

cc: Hon. Nancy L. Alf, District Judge
Law Office of Arthur W. Tuverson
Mandelbaum, Ellerton & McBride
Hall Prangle & Schoonveld, LLC/Las Vegas
John H. Cotton & Associates, Ltd.
Ramzy P. Ladah
Lewis Brisbois Bisgaard & Smith, LLP/Las Vegas
Patrick K. McKnight
Eighth District Court Clerk

¹In light of this order, petitioners' motion for stay of district court proceedings is denied.