

IN THE SUPREME COURT OF THE STATE OF NEVADA

SICOR, INC.; TEVA PARENTERAL
MEDICINES, INC. F/K/A SICOR
PHARMACEUTICALS, INC.; BAXTER
HEALTHCARE CORPORATION; AND
MCKESSON MEDICAL-SURGICAL, INC.,
Petitioners,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA, IN
AND FOR THE COUNTY OF CLARK; AND
THE HONORABLE JERRY A. WIESE,
DISTRICT JUDGE,

Respondents,

and

STACY HUTCHISON, INDIVIDUALLY;
JAMES WILLIAMS AND HEIDI
HAMILTON, HUSBAND AND WIFE;
JOANNE AND KENNETH ALLEN,
HUSBAND AND WIFE; MARIA V. PAGAN,
INDIVIDUALLY; AND WILLIAM AND
MARILYN BILGER, HUSBAND AND
WIFE,

Real Parties in Interest.

No. 59341

FILED

OCT 21 2011

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
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 for summary judgment.

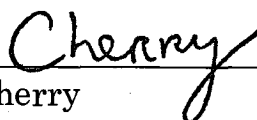
Where there is no plain, speedy, and adequate remedy in the ordinary course of law, NRS 34.170; NRS 34.330, extraordinary relief may be available. Smith v. District Court, 107 Nev. 674, 677, 679, 818 P.2d 849, 851, 853 (1991). It is petitioners' burden to demonstrate that our extraordinary intervention is warranted. Pan v. Dist. Ct., 120 Nev. 222, 228, 88 P.3d 840, 844 (2004). 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, 107 Nev. at 677, 818 P.2d at 851, 853. This court typically declines to exercise its discretion to consider writ petitions challenging district court orders denying summary judgment motions, unless “no disputed factual issues exist, pursuant to clear authority under a statute or rule, the district court is obligated to dismiss an action.” Smith v. District Court, 113 Nev. 1343, 1345, 950 P.2d 280, 281 (1997).

Having considered the petition, we conclude that our intervention by way of extraordinary relief is not warranted. NRAP 21(b)(1); Smith, 107 Nev. at 677, 818 P.2d at 851. Accordingly, we

ORDER the petition DENIED.¹

 _____, C.J.
Saitta

 _____, J.
Cherry

 _____, J.
Gibbons

¹In light of our order, petitioners’ request to expedite this matter and for a stay of the district court proceedings is denied as moot.

cc: Hon. Jerry A. Wiese, District Judge
Lewis & Roca, LLP/Las Vegas
Greenberg Traurig, LLP/Las Vegas
Olson, Cannon, Gormley & Desruisseaux
Mainor Eglet
Kemp, Jones & Coulthard, LLP
Gerald I. Gillock & Associates
Edward M. Bernstein & Associates/Las Vegas
Friedman, Rubin & White
Eighth District Court Clerk