

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

PATTY ASPINWALL AND WAVE  
ASPINWALL, HUSBAND AND WIFE;  
CAROL KECK, INDIVIDUALLY; AND  
MEGAN T. GASPER AND THOMAS J.  
GASPER, II, HUSBAND AND WIFE,  
Real Parties in Interest.

No. 59347

**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

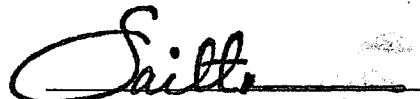
This original petition for a writ of mandamus, or alternatively, prohibition, challenges district court orders granting partial summary judgment and denying a motion for reconsideration.

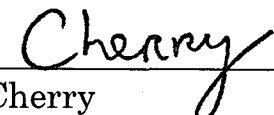
Where there is no plain, speedy, and adequate remedy in the ordinary course of law, NRS 34.170; NRS 34.330, extraordinary relief may be available. Smith v. District Court, 107 Nev. 674, 677, 679, 818 P.2d 849, 851, 853 (1991). It is petitioners' burden to demonstrate that our extraordinary intervention is warranted. Pan v. Dist. Ct., 120 Nev. 222, 228, 88 P.3d 840, 844 (2004). A writ of mandamus is available to compel

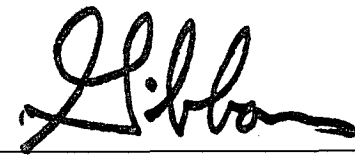
the performance of an act that the law requires or to control an arbitrary or capricious exercise of discretion. NRS 34.160; International Game Tech. v. Dist. Ct., 124 Nev. 193, 197, 179 P.3d 556, 558 (2008). A writ of prohibition may be warranted when the district court exceeds its jurisdiction. NRS 34.320. Either writ is an extraordinary remedy, and whether such a writ will be considered is within our sole discretion. Smith, 107 Nev. 677, 818 P.2d 849, 851, 853.

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.<sup>1</sup>

  
Saitta, J.

  
Cherry, J.

  
Gibbons, J.

cc: Hon. Jerry A. Wiese, District Judge  
Lewis & Roca, LLP/Las Vegas  
Greenberg Traurig, LLP/Las Vegas  
Olson, Cannon, Gormley & Desruisseaux  
Mainor Eglet  
Craig P. Kenny & Associates  
Kemp, Jones & Coulthard, LLP  
Eighth District Court Clerk

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