

IN THE SUPREME COURT OF THE STATE OF NEVADA

THI OF NEVADA II AT DESERT LANE,
LLC D/B/A HORIZON SPECIALTY
HOSPITAL OF LAS VEGAS,
Petitioner,
vs.
THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK; AND THE HONORABLE
LINDA MARIE BELL, DISTRICT
JUDGE,
Respondents,
and
VINCENT ERWIN; AND VALLEY
HOSPITAL MEDICAL CENTER,
Real Parties in Interest.

No. 59493

FILED

DEC 09 2011

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *Algeria*
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.


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.¹ Id. Accordingly, we

ORDER the petition DENIED.²

 _____, J.
Pickering

 _____, Sr. J.
Rose

 _____, Sr. J.
Shearing

cc: Hon. Linda Marie Bell, District Judge
Marquis Aurbach Coffing
Rourke Law Firm
Bernstein & Poisson
Hall Prangle & Schoonveld, LLC/Las Vegas
Eighth District Court Clerk

¹In light of this order, petitioner's motion for stay and real party in interest Vincent Erwin's motion to extend the time to file an opposition to the stay motion are denied as moot. Accordingly, the clerk of this court shall return unfiled Erwin's proposed opposition, which was provisionally received in this court on November 14, 2011.

²The Honorable Robert E. Rose and the Honorable Miriam Shearing, Senior Justices, participated in the decision of this matter under general orders of assignment.