

IN THE SUPREME COURT OF THE STATE OF NEVADA

FRANK P. SILVER, M.D.; AND FRANK P.  
SILVER, M.D., A PROFESSIONAL  
CORPORATION,

Petitioners,

vs.

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

HARDCASTLE, DISTRICT JUDGE,

Respondents,

and

CECELIA DIAZ, AS SPECIAL  
ADMINISTRATRIX OF THE ESTATE OF  
STEPHANIE T. BROCK, DECEASED;  
KERRY D. BROCK, SR., INDIVIDUALLY  
AND AS HEIR OF THE ESTATE OF  
STEPHANIE T. BROCK, DECEASED;  
KERRY D. BROCK, SR., AS PARENT AND  
NATURAL GUARDIAN OF KERRY  
DEWAYNE BROCK, JR., A MINOR,  
INDIVIDUALLY AND AS HEIR TO THE  
ESTATE OF STEPHANIE T. BROCK,  
DECEASED; AND KERRY D. BROCK, SR.,  
AS PARENT AND NATURAL GUARDIAN  
OF MAHOGANY THERESE CHALIZE  
BIAS, A MINOR, INDIVIDUALLY AND AS  
HEIR TO THE ESTATE OF STEPHANIE  
T. BROCK, DECEASED,

Real Parties in Interest.

No. 59987

**FILED**

JAN 23 2012

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

ORDER DENYING PETITION FOR WRIT OF MANDAMUS

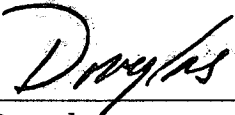
This original petition for a writ of mandamus challenges a district court order denying a motion for summary judgment in a medical malpractice action.


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). Mandamus is an extraordinary remedy, and whether a petition will be considered is within our sole discretion. Smith v. District Court, 107 Nev. 674, 677, 679, 818 P.2d 849, 851, 853 (1991). Further, mandamus will not issue when the petitioner has a plain, speedy, and adequate remedy at law, NRS 34.170, and we have consistently held that an appeal is generally an adequate legal remedy precluding writ relief. Pan v. Dist. Ct., 120 Nev. 222, 224, 88 P.3d 840, 841 (2004).

Having reviewed the petition and its supporting documents, we are not persuaded that writ relief is warranted. In particular, it does not appear from the documents provided with the writ petition that a written order has been entered. Until a written order has been entered, a petition challenging a district court's decision is improper, as an oral order is ineffective because the district court remains free to reconsider the issue until a written order is filed. State, Div. Child & Fam. Servs. v. Dist. Ct., 120 Nev. 445, 451, 92 P.3d 1239, 1243 (2004). Accordingly, we

ORDER the petition DENIED.

  
\_\_\_\_\_, J.  
Douglas

  
\_\_\_\_\_, J.  
Gibbons

  
\_\_\_\_\_, J.  
Parraguirre

cc: Hon. Kathy A. Hardcastle, District Judge  
John H. Cotton & Associates, Ltd.  
Ralph A. Schwartz  
Eighth District Court Clerk