

IN THE SUPREME COURT OF THE STATE OF NEVADA

VALLEY HEALTH SYSTEM, LLC,
Petitioner,
vs.
THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF CLARK;
AND THE HONORABLE KENNETH C.
CORY, DISTRICT JUDGE,
Respondents,
and
JULIAN SAVEL; AND AUDREY SAVEL,
HUSBAND AND WIFE,
Real Parties in Interest.

No. 60377

FILED

MAR 06 2012

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *R. Malone*
DEPUTY CLERK


ORDER DENYING PETITION
FOR WRIT OF MANDAMUS OR PROHIBITION

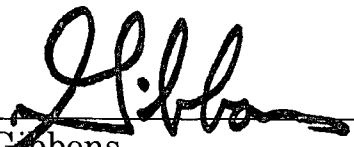
This original petition for a writ of mandamus, or alternatively, prohibition, challenges a district court order denying a motion to dismiss.

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. 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). Either writ 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 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).

The record before us does not support petitioner's argument that writ relief is appropriate as petitioner has not provided this court with briefs filed by real parties in interest in opposition to petitioner's original motion to dismiss or renewed motion to dismiss, or in opposition to petitioner's motions to reconsider the district court's rulings on negligence designation and law of the case. See NRAP 21(a)(4) (requiring petitioner to submit with its petition copies of any order or parts of the record before the respondent judge that may be essential to understand the matters set forth in the petition); Pan, 120 Nev. at 228, 88 P.3d at 844. Having considered the petition, therefore, 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


_____, J.
Douglas


_____, J.
Gibbons


_____, J.
Parraguirre

cc: Hon. Kenneth C. Cory, District Judge
Hall Prangle & Schoonveld, LLC/Las Vegas
Hall Jaffe & Clayton, LLP
Eighth District Court Clerk

¹In light of this order, we deny petitioner's stay motion.