

IN THE SUPREME COURT OF THE STATE OF NEVADA

SEAN PHONG-QUOC SU, M.D.; AND  
SEAN P.Q. SU, M.D., LTD,

Petitioners,

vs.

THE EIGHTH JUDICIAL DISTRICT  
COURT OF THE STATE OF NEVADA,  
IN AND FOR THE COUNTY OF CLARK;

AND THE HONORABLE JOANNA  
KISHNER, DISTRICT JUDGE,

Respondents,

and

VANESSA HERNANDEZ,

Real Party in Interest.

No. 61327

**FILED**

JUL 26 2012

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY A. Malone  
DEPUTY CLERK

ORDER DENYING PETITION FOR WRIT OF MANDAMUS

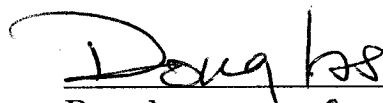
This original petition for a writ of mandamus challenges a district court order granting a motion to strike petitioners' answer and liability and causation affirmative defenses in a medical malpractice action.


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). Whether a writ of mandamus will be considered is purely discretionary with this court. Smith v. District Court, 107 Nev. 674, 677, 818 P.2d 849, 851 (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). Writ relief is generally available only where there is no plain, speedy, and adequate remedy in the ordinary course of law. NRS 34.170; Smith, 107 Nev. at 677, 818 P.2d at 851. Moreover, this court has held that the right to

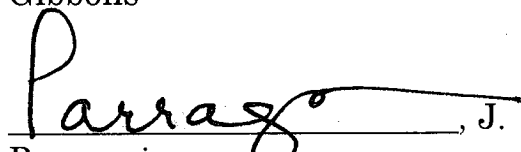
appeal is generally an adequate legal remedy precluding writ relief. Pan, 120 Nev. at 224, 88 P.3d at 841.

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>

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

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

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

cc: Hon. Joanna Kishner, District Judge  
Schuering Zimmerman & Doyle LLP  
Mandelbaum, Ellerton & McBride  
Bernstein & Poisson  
Eighth District Court Clerk

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<sup>1</sup>In light of this order, petitioners' request for a stay of the trial date in the district court is denied.