

IN THE SUPREME COURT OF THE STATE OF NEVADA

HAZEM AFIFI, M.D.; AND DESERT
CARDIOVASCULAR SURGERY, P.C.,
Petitioners,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK; AND THE HONORABLE
GLORIA STURMAN, DISTRICT
JUDGE,

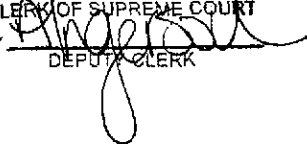
Respondents,
and

JULIA NEAL, INDIVIDUALLY AND AS
CO-SPECIAL ADMINISTRATOR OF
THE ESTATE OF WILLIS NEAL;
LEONARD NEAL; RAYNARD NEAL;
LARRY NEAL; DARRYL NEAL;
KEISHA NEAL; IRFAN MIRZA, M.D.;
AND CHANNA B. PRASAD, M.D.,
Real Parties in Interest.

No. 63948

FILED

FEB 13 2014

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY 
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 for summary judgment in a medical malpractice action.

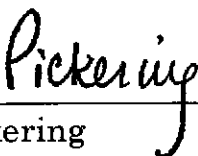
A writ of mandamus is available to compel the performance of an act that the law requires or to control an arbitrary or capricious exercise of discretion. NRS 34.160; *Int'l Game Tech., Inc. v. Second Judicial Dist. Court*, 124 Nev. 193, 197, 179 P.3d 556, 558 (2008). A writ of prohibition may be warranted when the district court exceeds its jurisdiction. NRS 34.320. Whether a petition for mandamus or

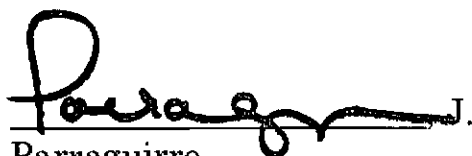
prohibition relief will be considered is purely discretionary with this court. *Smith v. Eighth Judicial Dist. Court*, 107 Nev. 674, 677, 818 P.2d 849, 851 (1991). It is petitioners' burden to demonstrate that our extraordinary intervention is warranted. *Pan v. Eighth Judicial Dist. Court*, 120 Nev. 222, 228, 88 P.3d 840, 844 (2004).


Writ relief is generally available only when there is no plain, speedy, and adequate remedy in the ordinary course of law. NRS 34.170; NRS 34.330; *Smith*, 107 Nev. at 677, 818 P.2d at 851. This court typically declines to exercise its discretion to consider writ petitions challenging district court orders denying summary judgment motions, unless "no disputed factual issues exist and, pursuant to clear authority under a statute or rule, the district court is obligated to dismiss an action." *Smith v. Eighth Judicial Dist. Court*, 113 Nev. 1343, 1345, 950 P.2d 280, 281 (1997). 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 petitioners have not shown that our intervention by way of extraordinary relief is warranted. *Pan*, 120 Nev. at 228, 88 P.3d at 844; *Smith*, 113 Nev. at 1345, 950 P.2d at 281; *Smith*, 107 Nev. at 677, 818 P.2d at 851. Accordingly, we

ORDER the petition DENIED.


_____, J.
Pickering


_____, J.
Parraguirre


_____, J.
Saitta

cc: Hon. Gloria Sturman, District Judge
Kent Law Group PLLC
Cotton, Driggs, Walch, Holley, Woloson & Thompson/Las Vegas
Wetherall Group, Ltd/Las Vegas
Eighth District Court Clerk