

IN THE SUPREME COURT OF THE STATE OF NEVADA

HEALTH PLAN OF NEVADA, INC.;
SIERRA HEALTH SERVICES, INC.;
SIERRA HEALTH AND LIFE
INSURANCE COMPANY, INC.; SIERRA
HEALTH-CARE OPTIONS, INC.;
UNITED HEALTHCARE INSURANCE
COMPANY; AND UNITED
HEALTHCARE SERVICES, INC.,
Petitioners,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK; AND THE HONORABLE
DOUGLAS SMITH, DISTRICT JUDGE,
Respondents,

and

DONALD LYNAM; AND DAVID
MAGANA,
Real Parties in Interest.

No. 64356

FILED

NOV 08 2013

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

*ORDER DENYING PETITION
FOR WRIT OF MANDAMUS OR PROHIBITION*

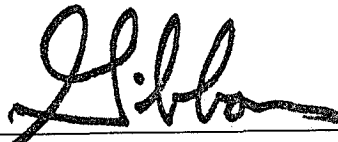
This is an original petition for a writ of mandamus or prohibition challenging the voluntary recusal of a district court judge.

A writ of mandamus is available to compel the performance of an act that the law requires as a duty resulting from an office, trust, or station, or to control an arbitrary or capricious exercise of discretion. *See* NRS 34.160; *Int'l Game Tech., Inc. v. Second Judicial Dist. Court*, 124 Nev. 193, 197, 179 P.3d 556, 558 (2008). This court may issue a writ of prohibition to arrest the proceedings of a district court exercising its judicial functions when such proceedings are in excess of the district


court's jurisdiction. See NRS 34.320; *Smith v. Eighth Judicial Dist. Court*, 107 Nev. 674, 677, 818 P.2d 849, 851 (1991). It is within this court's sole discretion to determine if a writ petition will be considered. *Smith*, 107 Nev. at 677, 818 P.2d at 851. Petitioner bears the burden of demonstrating that extraordinary relief is warranted. *Pan v. Eighth Judicial Dist. Court*, 120 Nev. 222, 228, 88 P.3d 840, 844 (2004).

Having considered the petition and supporting documents, we decline to exercise our discretion to consider this matter at this time. See *Smith*, 107 Nev. at 677, 818 P.2d at 851; see also NRAP 21(b)(1). Accordingly, we

ORDER the petition DENIED.¹


_____, J.
Gibbons


_____, J.
Douglas


_____, J.
Saitta

¹In light of this order, we deny petitioners' emergency motion for stay as moot.

cc: Hon. Douglas Smith, District Judge
Holland & Hart LLP/Las Vegas
Weinberg, Wheeler, Hudgins, Gunn & Dial, LLC
Lewis Roca Rothgerber LLP/Las Vegas
Gerald I. Gillock & Associates
Friedman/Rubin-Bremerton
Matthew L. Sharp
Friedman/Rubin-Anchorage
Eighth District Court Clerk