

IN THE SUPREME COURT OF THE STATE OF NEVADA

RYAN KIRBY HUPPERT, BY AND  
THROUGH KRISTI L. WOTTON AND  
KAY A. HILL, SPECIAL  
ADMINISTRATORS OF THE ESTATE  
OF RYAN KIRBY HUPPERT,  
Petitioner,

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,

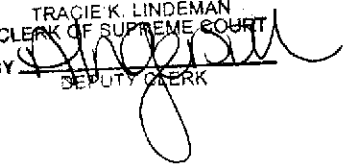
and

HEALTHSOUTH REHABILITATION  
HOSPITAL OF DESERT CANYON,  
LLC, D/B/A HEALTHSOUTH DESERT  
CANYON REHABILITATION  
HOSPITAL; THI OF NEVADA AT LAS  
VEGAS I, LLC, D/B/A HARMON  
MEDICAL AND REHABILITATION  
HOSPITAL; THI OF NEVADA AT  
HENDERSON CONVALESCENT, LLC,  
D/B/A HENDERSON HEALTHCARE  
CENTER; ANDREA ELIZABETH  
PERNELL, M.D.; ALEKSANDR  
KRIVONOVSKIY, M.D.; AND ROLAND  
JAYSON F. PUA, M.D.,  
Real Parties in Interest.

No. 64668

**FILED**

FEB 05 2014

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY   
DEPUTY CLERK


*ORDER DENYING PETITION FOR WRIT OF MANDAMUS*

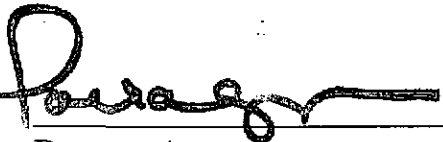
This original petition for a writ of mandamus challenges a district court order granting a partial motion to dismiss in a medical malpractice action.


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). Whether a petition for mandamus 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 petitioner's 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; *Smith*, 107 Nev. at 677, 818 P.2d at 851. Moreover, this court has held that the right to appeal is typically an adequate legal remedy precluding writ relief. *Pan*, 120 Nev. at 224, 88 P.3d at 841.

Having considered the petition, we conclude that petitioner has not shown that our intervention by way of extraordinary relief is 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.  
Pickering

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

  
\_\_\_\_\_, J.  
Saitta

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<sup>1</sup>In light of this order, we deny as moot petitioner's motion for stay.

cc: Hon. Joanna Kishner, District Judge  
Zimmerman Law Firm, P.C.  
Bourassa Law Group, LLC  
Lewis Brisbois Bisgaard & Smith, LLP/Las Vegas  
Cotton, Driggs, Walch, Holley, Woloson & Thompson/Las Vegas  
Jimmerson Hansen  
Alverson Taylor Mortensen & Sanders  
Marquis Aurbach Coffing  
Rourke Law Firm  
Eighth District Court Clerk