

IN THE SUPREME COURT OF THE STATE OF NEVADA

FLORIDA TRAIVAI, DMD,
Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA, IN
AND FOR THE COUNTY OF CLARK; AND
THE HONORABLE JERRY A. WIESE,
DISTRICT JUDGE,

Respondents,

and

TON VINH LEE, DDS, INDIVIDUALLY;
JAI PARK, DDS, INDIVIDUALLY; TON V.
LEE, DDS, PROF. CORP., A NEVADA
PROFESSIONAL CORPORATION D/B/A
SUMMERLIN SMILES; SVETLANA
SINGLETARY, INDIVIDUALLY AND AS
THE REPRESENTATIVE OF THE ESTATE
OF REGINALD SINGLETARY, AND AS
THE PARENT AND LEGAL GUARDIAN OF
GABRIEL L. SINGELTARY, A MINOR,
Real Parties in Interest.

No. 64734

FILED

JAN 08 2014

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

ORDER DENYING PETITION FOR WRIT OF MANDAMUS

This original petition for a writ of mandamus challenges a district court order denying a motion to continue trial to add a necessary party in a dental malpractice action.¹

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

¹The clerk of this court is directed to modify the caption on this court's docket to conform to the caption on this order.

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 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. *Smith*, 107 Nev. at 677, 818 P.2d at 851; NRAP 21(b)(1). Specifically, petitioner has an adequate legal remedy in the form of an appeal. *Pan*, 120 Nev. at 224, 88 P.3d at 841. Accordingly, we

ORDER the petition DENIED.²

J. Hardesty, J.
Hardesty

Douglas, J.
Douglas

Cherry, J.
Cherry

cc: Hon. Jerry A. Wiese, District Judge
Lewis Brisbois Bisgaard & Smith, LLP/Las Vegas
Baker Law Office
Lemons, Grundy & Eisenberg
Stark Friedman & Chapman
Eighth District Court Clerk

²In light of this order, we deny as moot petitioner's emergency motion for a stay of the underlying district court proceedings.