

IN THE SUPREME COURT OF THE STATE OF NEVADA

DIGNITY HEALTH D/B/A ST. ROSE
DOMINICAN HOSPITALS,

Petitioner,

vs.

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

CLARK; THE HONORABLE ELISSA F.
CADISH, DISTRICT JUDGE; AND

BONNIE BULLA,

Respondents,

and

CHRISTINA MARIE FELIX,
INDIVIDUALLY AND AS GUARDIAN
AD LITEM OF CRUZ DOEL ROJAS,

Real Parties in Interest.

No. 67001

FILED

JUL 01 2015

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK


ORDER DENYING PETITION

This case comes before the court on a petition for a writ of mandamus or prohibition challenging the district court's refusal to dismiss a medical malpractice action pursuant to NRCP 16.1(e). Petitioner's motion to dismiss argued that dismissal was mandatory because the plaintiffs (real parties in interest) missed the 180-day early case conference deadline in NRCP 16.1(b)(1) by 18 days. But in authorizing dismissal as a sanction for missing NRCP 16.1(b)(1)'s 180-day deadline, NRCP 16.1(e) speaks in the permissive "may" not the mandatory "shall," and we have therefore held that dismissal under these provisions of NRCP 16.1 is entrusted to the sound discretion of the district court. *Dornbach v. Tenth Judicial Dist. Court*, 130 Nev., Adv. Op. 33, 324 P.3d 369, 373


(2014); see *Arnold v. Kip*, 123 Nev. 410, 414, 168 P.3d 1050, 1052 (2007). “Writ relief is not proper to control the judicial discretion of the district court, ‘unless discretion is manifestly abused or is exercised arbitrarily or capriciously,’” *State v. Eighth Judicial Dist. Court*, 118 Nev. 140, 147, 42 P.3d 233, 237-38 (2002) (quoting *Round Hill Gen. Imp. Dist. v. Newman*, 97 Nev. 601, 604, 637 P.2d 534, 536 (1981)), and is rarely available to review a district court order denying a motion to dismiss or for summary judgment. *Id.* at 147, 42 P.3d at 238. For these reasons, we decline to exercise our discretion in favor of entertaining this petition for extraordinary writ relief. See *Smith v. Eighth Judicial Dist. Court*, 107 Nev. 674, 677, 818 P.2d 849, 851 (1991) (the decision to issue writ relief lies within the discretion of this court).

Accordingly, we

ORDER the petition DENIED.



Saitta J.



Gibbons J.



Pickering J.

cc: Hon. Elissa F. Cadish, District Judge
Lewis Brisbois Bisgaard & Smith, LLP/Las Vegas
Arin & Associates, PC
Parker, Nelson & Associates
Eighth District Court Clerk