

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

ROLAND SPARLING, M.D.,  
Petitioner,

vs.

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

Respondents,

and

CHERYL PIERCE,  
Real Party in Interest.

No. 68138

**FILED**

AUG 17 2015

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

*ORDER DENYING PETITION FOR WRIT OF MANDAMUS*


This is an original petition for a writ of mandamus challenging district court rulings granting partial summary judgment on the issue of causation and overruling a discovery commissioner's report and recommendation so as to allow real party in interest to conduct a third deposition of petitioner.

A writ of mandamus is available to compel the performance of an act the law requires as a duty resulting from an office, trust, or station, or to control an arbitrary or capricious exercise of discretion. NRS 34.160; *Int'l Game Tech. v. Eighth Judicial Dist. Court*, 124 Nev. 193, 197, 179 P.3d 556, 558 (2008). Whether such a petition will be considered rests within our sound discretion. *Smith v. Eighth Judicial Dist. Court*, 107 Nev. 674, 677, 818 P.2d 849, 851 (1991). And 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).

Having considered the petition and supporting documents, we conclude that petitioner has not demonstrated that our extraordinary

intervention is warranted. *See id.* Accordingly, we decline to exercise our discretion and issue the relief requested in this matter, *Smith*, 107 Nev. at 677, 818 P.2d at 851, and we therefore deny the petition. NRAP 21(b)(1).

It is so ORDERED.<sup>1</sup>

  
\_\_\_\_\_, C.J.  
Gibbons

  
\_\_\_\_\_, J.  
Tao

  
\_\_\_\_\_, J.  
Silver

cc: Hon. Stefany Miley, District Judge  
Lewis Brisbois Bisgaard & Smith, LLP/Las Vegas  
Thomas & Springberg, P.C.  
Murdock & Associates, Chtd.  
Eighth District Court Clerk

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<sup>1</sup>Based on our review of petitioner's appendix, it appears that the appendix may contain documents that were filed under seal in district court. Because petitioner has not provided a copy of any district court order directing the sealing of these documents or requested that these documents be filed under seal in this court, however, we are unable to fully evaluate this issue. Thus, if any of the materials contained in the appendix should have been filed under seal, petitioner shall have ten days from this order's date to file a motion requesting the sealing of any such documents and a copy of a written, file-stamped district court order directing the sealing of these materials. *Cf.* SRCR 7 (providing that court records sealed by a trial court shall be sealed when submitted for review by an appellate court until further order of that court).