

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

VALLEY HOSPITAL MEDICAL
CENTER, INC., A DOMESTIC
CORPORATION; DOE NURSE 1; DOE
NURSE 2; DOE NURSE 3; AND DOE
NURSE 4, IN THEIR CAPACITY AS
NURSES,

Petitioners,

vs.

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

Respondents,

and

HECTOR BENJAMIN MORALES,
Real Party in Interest.

No. 72040

FILED

JAN 31 2017

ELIZABETH A. BROWN
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 a district court order denying a motion to dismiss a negligence action under NRS 41A.071 for failure to attach an expert affidavit.

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). Petitioner bears the burden of demonstrating that extraordinary relief is warranted. See *Pan v. Eighth Judicial Dist. Court*, 120 Nev. 222, 228, 88 P.3d 840, 844 (2004).

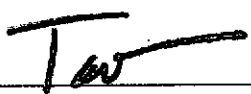
Having considered the petition and appendix, we conclude that petitioner has not met its burden of demonstrating that our

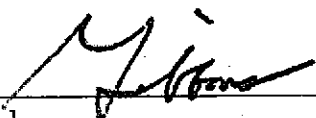
intervention is warranted. *See id.* (providing that petitioner bears the burden of demonstrating that extraordinary relief is warranted); *see also Int'l Game Tech.*, 124 Nev. at 197-98, 179 P.3d at 559 (explaining that a writ petition challenging a district court order denying a motion to dismiss is generally only appropriate if no factual dispute exists and the district court is obligated to dismiss pursuant to clear authority or "an important issue of law needs clarification and considerations of sound judicial economy and administration militate in favor of granting the petition").

Accordingly, we

ORDER the petition DENIED.


_____, C.J.
Silver


_____, J.
Tao


_____, J.
Gibbons

cc: Hon. Rob Bare, District Judge
John H. Cotton & Associates, Ltd.
Nettles Law Firm
Eighth District Court Clerk