

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

VU LUU, M.D.,
Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK; AND THE HONORABLE
RICHARD SCOTTI, DISTRICT JUDGE,
Respondents,

and

LINDA LAIRD, AS ADMINISTRATOR
OF THE ESTATE OF STANLEY LAIRD;
LINDA LAIRD; KEVIN LAIRD; LORA
SNYDER; ALINA MCDEVITT; AND
MARJOLIN LUNA,
Real Parties in Interest.

No. 72223

FILED

MAR 13 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 for summary judgment in a medical malpractice action.

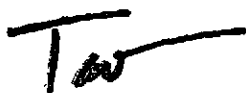
A writ of mandamus is available to compel the performance of an act that the law requires as a duty resulting from an office, trust, or station or to control an arbitrary or capricious exercise of discretion. See NRS 34.160; *Int'l Game Tech., Inc. v. Second Judicial Dist. Court*, 124 Nev. 193, 197, 179 P.3d 556, 558 (2008). Writ relief is typically not available, however, when the petitioner has a plain, speedy, and adequate remedy at law. See NRS 34.170; *Int'l Game Tech.*, 124 Nev. at 197, 179 P.3d at 558. Generally, an appeal is an adequate legal remedy precluding writ relief. See *Pan v. Eighth Judicial Dist. Court*, 120 Nev. 222, 224, 88

P.3d 840, 841 (2004). Moreover, whether to entertain a writ petition is within this court's discretion, and "[w]e generally will not exercise our discretion to consider petitions for extraordinary writ relief that challenge district court orders denying motions for summary judgment, unless summary judgment is clearly required by a statute or rule, or an important issue of law requires clarification." *Anse, Inc. v. Eighth Judicial Dist. Court*, 124 Nev. 862, 867, 192 P.3d 738, 742 (2008) (citing *Smith v. Eighth Judicial Dist. Court*, 113 Nev. 1343, 950 P.2d 280 (1997)). And petitioner bears the burden of demonstrating that extraordinary relief is warranted. *Pan*, 120 Nev. at 228, 88 P.3d at 844.

Having considered the petition and supporting documents, we conclude that petitioner has failed to meet his burden of demonstrating that extraordinary writ relief is warranted. *See id.* In particular, petitioner will have a plain, speedy, and adequate remedy in the form of an appeal from any adverse final judgment. *See id.* at 224, 88 P.3d at 841. Accordingly, we deny the petition. *See* NRAP 21(b)(1); *Anse*, 124 Nev. at 867, 192 P.3d at 742.

It is so ORDERED.


_____, C.J.
Silver


_____, J.
Tao


_____, J.
Gibbons

cc: Hon. Richard Scotti, District Judge
Lewis Brisbois Bisgaard & Smith, LLP/Las Vegas
Callister & Associates
Eighth District Court Clerk