IN THE COURT OF APPEALS OF THE STATE OF NEVADA

A. JONATHAN SCHWARTZ, EXECUTOR OF THE ESTATE OF MILTON I. SCHWARTZ,
Petitioner,
vs.
THE EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA, IN AND FOR THE COUNTY OF CLARK; AND THE HONORABLE GLORIA STURMAN, DISTRICT JUDGE,
Respondents,
and
THE DR. MIRIAM & SHELDON G. ADELSON EDUCATIONAL INSTITUTE,
Real Party in Interest.

No. 73066

FILED

JUN 26 2017

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER DENYING PETITION FOR WRIT OF MANDAMUS OR PROHIBITION

This original petition for a writ of mandamus or prohibition challenges a district court order granting a protective order precluding petitioner from taking the oral deposition of nonparty Dr. Miriam Adelson, but allowing petitioner to depose Dr. Adelson by written interrogatories.

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). This court may issue a writ of

17-901318

prohibition to arrest the proceedings of a district court exercising its judicial functions when such proceedings are in excess of the district court's jurisdiction. *See* NRS 34.320; *Smith v. Eighth Judicial Dist. Court*, 107 Nev. 674, 677, 818 P.2d 849, 851 (1991). Whether to consider a writ petition is within this court's discretion. *See Smith*, 107 Nev. at 677, 818 P.2d at 851. And 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).

This court generally will not review discovery orders through writ petitions unless the order is likely to cause irreparable harm, such as if it is "a blanket discovery order, issued without regard to the relevance of the information sought," or if it "requires disclosure of privileged information." *Okada v. Eighth Judicial Dist. Court*, 131 Nev. ___, ___, 359 P.3d 1106, 1110 (2015) (internal quotation marks omitted). Writ relief is not appropriate on either of these grounds, as the order at issue does not fall into these categories.

Writ relief also may be appropriate to review a discovery issue "if an important issue of law needs clarification and public policy is served by this court's invocation of its original jurisdiction." *Id.* (internal quotation marks omitted). We conclude, however, that this petition does not present such an issue. In particular, it is within a district court's discretion to limit the methods of discovery if the court concludes that "the discovery sought is unreasonably cumulative or duplicative, or is obtainable from some other source that is more convenient, less burdensome, or less expensive." NRCP 26(b)(2). And the district court

may issue a protective order to prevent or limit discovery to protect a "person from annoyance, embarrassment, oppression, or undue burden or expense." NRCP 26(c).

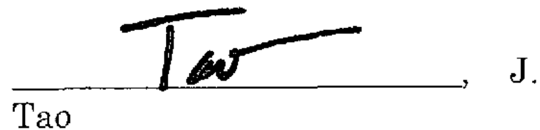
Here, although the district court's written order did not contain specific findings, the transcript of the hearing demonstrates that the court considered whether the proposed deposition would cause an undue burden in light of a lack of any demonstrated need for the deposition, as well as whether the information sought would be cumulative or duplicative. *See Okada*, 131 Nev. at ___, 359 P.3d at 1113 (denying writ relief despite the lack of specific written findings where the record demonstrated that the district court considered the relevant factors). And while petitioner disagrees with the district court's evaluation of the circumstances, we will not grant writ relief interfering with a district court's exercise of discretion in the discovery context absent a clear abuse of that discretion. *See id.* at ___, 359 P.3d at 1110.

Finally, we note that the district court did not entirely preclude petitioner from deposing Dr. Adelson, but instead, limited the deposition to written interrogatories and specifically provided that its decision was without prejudice to petitioner's right to again seek an oral deposition if it could show that there was a particular need for one. *See* NRCP 26(c)(3) (providing the district court with discretion to limit the method of discovery on a proper showing). Under these circumstances, petitioner has not demonstrated that our intervention by way of extraordinary writ relief is warranted, *see Pan*, 120 Nev. at 228, 88 P.3d at

844, and we therefore deny the petition.[1] *See* NRAP 21(b)(1); *Smith*, 107 Nev. at 677, 818 P.2d at 851.

It is so ORDERED.

_______________, C.J.
Silver



_______________, J.
Tao

_______________, J.
Gibbons

cc: Hon. Gloria Sturman, District Judge
Solomon Dwiggins & Freer, Ltd.
Kemp, Jones & Coulthard, LLP
Eighth District Court Clerk

---

[1]Having considered petitioner's June 13, 2017, motion to file certain documents under seal, we conclude that the documents are not necessary to our resolution of this petition, and we therefore deny that motion.