

IN THE SUPREME COURT OF THE STATE OF NEVADA

JAMES D. BALODIMAS, M.D.; AND
JAMES D. BALODIMAS, M.D., P.C.,
LAS VEGAS RADIOLOGY, LLC, A
NEVADA LIMITED LIABILITY
COMPANY; BRUCE A. KATUNA, M.D.;
AND ROCKY MOUNTAIN
NEURODIAGNOSTICS, LLC, A
FOREIGN LIMITED LIABILITY
COMPANY; ANDREW M. CASH, M.D.;
ANDREW M. CASH, M.D., P.C., A/K/A
ANDREW MILLER CASH, M.D., P.C.;
DESERT INSTITUTE OF SPINE CARE,
LLC, A NEVADA LIMITED LIABILITY
COMPANY,

Petitioners,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK; AND THE HONORABLE
JERRY A. WIESE, DISTRICT JUDGE,

Respondents,

and

REPUBLIC SILVER STATE DISPOSAL,
INC.; DANIELLE MILLER, A/K/A
DANIELLE SHOPSHIRE; AND
NEUROMONITORING ASSOCIATES,
Real Parties in Interest.

No. 72123

FILED

DEC 22 2017

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER DENYING PETITION AND DISSOLVING STAY

This is an original petition for a writ of mandamus challenging a district court order denying a motion for summary judgment on the pleadings in a personal injury action involving a claim for contribution.

17-44274


“A writ of mandamus is available to compel the performance of an act that the law requires . . . or to control an arbitrary or capricious exercise of discretion.” *Int’l Game Tech., Inc. v. Second Judicial Dist. Court*, 124 Nev. 193, 197, 179 P.3d 556, 558 (2008). “[T]he decision to entertain such a petition is addressed to our sole discretion,” *Moseley v. Eighth Judicial District Court*, 124 Nev. 654, 658, 188 P.3d 1136, 1140 (2008), and the petitioner bears the burden of demonstrating that extraordinary relief is warranted, *see Manuela H. v. Eighth Judicial District Court*, 132 Nev., Adv. Op. 1, 365 P.3d 497, 501 (2016). Writ relief is not available when there is an adequate and speedy remedy in the ordinary course of the law, and “an appeal from the final judgment typically constitutes an adequate and speedy legal remedy.” *Int’l Game Tech.*, 124 Nev. at 197, 179 P.3d at 558; *see also* NRS 34.170.

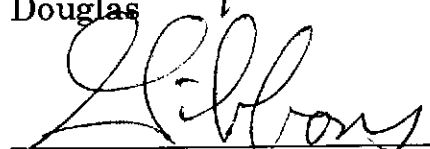
Petitioners fail to demonstrate that an appeal from the final judgment would not be an adequate remedy.¹ Even if writ relief were available, petitioners do not meet their burden of demonstrating that extraordinary relief is warranted. Petitioners aver that the district court clearly erred by failing to dismiss Republic Silver State Disposal’s contribution claim pursuant to NRS 41A.097 and NRS 17.225(3), arguing that any underlying medical malpractice claims against them expired before Republic entered into a settlement agreement extinguishing their liability. However, NRS 17.285(4)(a) provides a one-year statute of limitations for contribution after settlement with a claimant, and this court has held that a contribution claim under NRS 17.285 can be brought

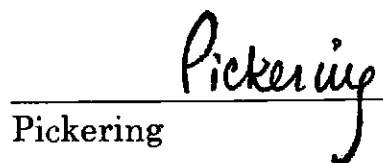
¹We have also considered Dr. Bruce A. Katuna and Rocky Mountain Neurodiagnostics, LLC’s argument regarding joint and successive tortfeasors, and we conclude that extraordinary relief is unwarranted.

notwithstanding the expiration of an underlying medical malpractice claim against the nonsettling tortfeasor under NRS 41A.097. *See Saylor v. Arcotta*, 126 Nev. 92, 96, 225 P.3d 1276, 1279 (2010). Further, while NRS 17.225(3) provides that a settling tortfeasor may not recover contribution if the nonsettling tortfeasor's "liability for the injury . . . is not extinguished by the settlement," this language could be read to only bar contribution recovery if the nonsettling tortfeasor remains liable after the settlement. Because Republic's contribution claim was brought within one year of the settlement agreement, we are not convinced that the district clearly erred by refusing to dismiss Republic's claim. Therefore, we

ORDER the petition DENIED and dissolve the May 31, 2017 stay order.


_____, J.
Douglas


_____, J.
Gibbons


_____, J.
Pickering

cc: Hon. Jerry A. Wiese, District Judge
Olson, Cannon, Gormley, Angulo & Stoberski
John H. Cotton & Associates, Ltd.
Carroll, Kelly, Trotter, Franzen, McKenna & Peabody
Mandelbaum, Ellerton & Associates
Lauria Tokunaga Gates & Linn, LLP/Las Vegas
Barron & Pruitt, LLP
Laxalt & Nomura, Ltd./Las Vegas
Eighth District Court Clerk