IN THE COURT OF APPEALS OF THE STATE OF NEVADA

STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY,
Petitioner,
vs.
THE EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA, IN AND FOR THE COUNTY OF CLARK; AND THE HONORABLE RONALD J. ISRAEL, DISTRICT JUDGE,
Respondents,
and
MARIA MALDONADO, AN INDIVIDUAL; RIGOBERTO HERMINIO BUGARIN-DOMINGUEZ, AN INDIVIDUAL; AND ALVARO VALDEZ, AN INDIVIDUAL,
Real Parties in Interest.[1]

No. 72023

FILED

FEB 10 2017

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

ORDER DENYING PETITION FOR WRIT OF PROHIBITION

This is an original petition for a writ of prohibition challenging a district court order granting a motion to compel discovery.

This court may issue a writ of prohibition to arrest the proceedings of a district court exercising its judicial functions when such

[1]When this writ petition was docketed, Rigoberto Herminio Bugarin-Dominguez was listed as a petitioner, but the petition identifies him as a real party in interest. Therefore, the clerk of the court shall conform the caption on this case to the caption on this order.

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).

The district court's order at issue here required real parties in interest Rigoberto Herminio Bugarin-Dominguez and Alvaro Valdez, defendants below, to disclose how many times their expert witness had been retained by petitioner State Farm Mutual Automobile Insurance Company and how much money State Farm had paid the expert witness since July 1, 2011. In the petition, State Farm argues that a writ of prohibition should issue to prohibit enforcement of the district court's order because the order was a blanket discovery order, was procedurally improper, required discovery of irrelevant evidence, was likely to cause State Farm substantial irreparable harm, and potentially violated the attorney-client privilege and the work-product doctrine. For the reasons set forth below, we disagree.

With regard to State Farm's arguments that this was a blanket discovery order and that it required disclosure of irrelevant evidence, the Nevada Supreme Court has held that a blanket discovery order, issued with no regard to relevance, may warrant the issuance of a writ of prohibition. *See Valley Health Sys., LLC v. Eighth Judicial Dist.*

Court, 127 Nev. 167, 171, 252 P.3d 676, 679 (2011). Here, however, the order was not a blanket order requiring disclosure of various documents unrelated to the underlying action. Instead, it required the disclosure of two specific pieces of information, which were directly related to the potential bias of the expert witness in this case. And while the cases cited by State Farm demonstrate that an issue could arise with regard to whether the evidence revealed as a result of this discovery will ultimately be admissible at trial, *see; e.g.*, *Garcia v. Mekonnen*, 156 P.3d 1171, 1174-75 (Colo. App. 2006) (discussing whether the evidence relating to the relationship between an expert witness and a party's insurer would be admissible at trial), they do not show that real party in interest Maria Maldonado, plaintiff below, should be foreclosed from pursuing this line of discovery, which is aimed at determining whether there is a substantial connection between the expert and State Farm.[2]

In arguing that the order was a blanket discovery order and that it would cause State Farm irreparable harm, State Farm also asserts that the order is unduly burdensome because it contains no geographical limitations. Although the order does not contain geographical limitations, it does contain time and subject matter limitations insofar as it only seeks information relating to one expert over a period of several years. *See State*

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[2]State Farm's contention that *Robinson v. G.G.C., Inc.*, 107 Nev. 135, 143-44, 808 P.2d 522, 527-28 (1991), precludes inquiry into an expert's relationship with a party's insurer lacks merit, as that case did not address such a relationship.

ex rel. Am. Standard Ins. Co. of Wis., 243 S.W.3d 526, 531 (Mo. Ct. App. 2008) (explaining that a discovery request constitutes an abuse of process when it does "not have reasonable temporal, geographic, or subject matter limitations").

Moreover, while State Farm argues that the order would require it to manually search all of its files to determine how many cases the expert was retained for and how much he was paid, State Farm does not point to any evidence submitted to demonstrate what steps would actually be necessary for it to obtain the information sought by Maldonado. As a result, we cannot conclude based on any of the above arguments that State Farm has established that the district court clearly abused its discretion in granting the motion to compel the requested discovery. *See Club Vista Fin. Servs., L.L.C. v. Eighth Judicial Dist. Court*, 128 Nev. 224, 228, 276 P.3d 246, 249 (2012) ("Discovery matters are within the district court's sound discretion, and we will not disturb a district court's ruling regarding discovery unless the court has clearly abused its discretion.").

As to State Farm's arguments that the district court lacked authority to compel discovery because Maldonado requested the information in an interrogatory directed at Bugarin-Dominguez and Valdez, rather than by subpoenaing State Farm directly, neither NRCP 45 nor NRCP 33 expressly prohibits the procedure used in this case, and State Farm does not cite any caselaw to demonstrate that the procedure was improper. *See Pan*, 120 Nev. at 228, 88 P.3d at 844 (placing the

burden of demonstrating that writ relief is warranted on a petitioner). Furthermore, to the extent State Farm argues that the procedure used prevented it from presenting its objections, State Farm was permitted to intervene in the underlying action and present its objections to the district court. Indeed, the record demonstrates that the district court considered those objections in connection with State Farm's motion for reconsideration of the discovery order.[3]

Finally, State Farm has not demonstrated that compliance with the district court's order would violate either the attorney-client privilege or the work-product doctrine, as the order does not require disclosure of any attorney-client communications, *see Coyote Springs Inv., LLC v. Eighth Judicial Dist. Court*, 131 Nev. ___, ___, 347 P.3d 267, 270 (2015) (explaining that the attorney-client privilege "protects communications between clients or client representatives and lawyers"), or any materials relating to the preparation of cases or "an attorney's mental impressions, conclusions, or legal theories concerning the litigation." *See Wardleigh v. Second Judicial Dist. Court*, 111 Nev. 345, 357, 891 P.2d 1180, 1188 (1995) (citing NRCP 26(b)(3) and discussing the work-product

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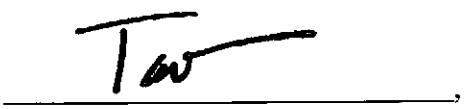
[3]In this regard, State Farm's due process objection is also unavailing because, even if State Farm had been deprived of notice and an opportunity to be heard, it has not identified a liberty or property interest that was implicated by the district court's order. *See Pressler v. City of Reno*, 118 Nev. 506, 510, 50 P.3d 1096, 1098 (2002) ("The protections of due process only attach when there is a deprivation of a protected property or liberty interest.").

doctrine). In light of the above, we conclude that State Farm has not demonstrated that writ relief is warranted with regard to the order compelling discovery. Accordingly, we

ORDER the petition DENIED.[4]


, C.J.
Silver


, J.
Tao


, J.
Gibbons

cc: Hon. Ronald J. Israel, District Judge
Ranalli Zaniel Fowler & Moran, LLC/Henderson
Hall Jaffe & Clayton, LLP
Ralph Porter & Associates, P.C.
Eighth District Court Clerk

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[4]In light of this order, we deny as moot State Farm's February 1, 2017, "emergency" motion for a stay of the district court's order. While we deny the motion on mootness grounds, we also note that the motion failed to comply with, among other things, NRAP 27(e)(2)'s requirement that the motion identify "the date or event by which action is necessary."