

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

TORREY PINES REHABILITATION
HOSPITAL, LLC; AND LAS VEGAS
POST ACUTE & REHABILITATION,
LLC,

Petitioners,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK; AND THE HONORABLE
KATHLEEN E. DELANEY, DISTRICT
JUDGE,

Respondents,

and

EDNA SAMUEL, INDIVIDUALLY; AND
EDNA ROBERTS, AS GUARDIAN FOR
EDNA SAMUEL,

Real Parties in Interest.

No. 69526

FILED

JAN 20 2016

TRACIE T. HENDERSON
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

ORDER DENYING PETITION FOR WRIT OF MANDAMUS

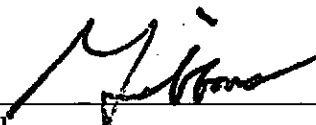
This original petition for a writ of mandamus challenges a district court oral ruling granting a motion in limine to preclude petitioners' expert from testifying at trial.

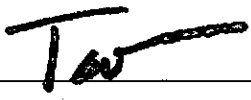
A writ of mandamus is available to compel the performance of an act the law requires as a duty resulting from an office, trust, or station, or to control an arbitrary or capricious exercise of discretion. *See* NRS 34.160; *Int'l Game Tech., Inc. v. Eighth Judicial Dist. Court*, 124 Nev. 193, 197, 179 P.3d 556, 558 (2008). Whether such a petition will be considered rests within our sound discretion. *Smith v. Eighth Judicial Dist. Court*, 107 Nev. 674, 677, 818 P.2d 849, 851 (1991). And it is the petitioners'

burden to demonstrate that our extraordinary intervention is warranted. *Pan v. Eighth Judicial Dist. Court*, 120 Nev. 222, 228, 88 P.3d 840, 844 (2004).

Having considered the petition and supporting documents, we conclude that our extraordinary intervention is not warranted. *See id.* Accordingly, we decline to exercise our discretion to consider this matter, *see Smith*, 107 Nev. at 677, 818 P.2d at 851, and we therefore deny the petition.¹ *See* NRAP 21(b)(1).

It is so ORDERED.²


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Silver

¹Our denial of this petition is without prejudice to petitioners' right to challenge the district court's resolution of the underlying motion in limine on appeal from the final judgment if petitioners are ultimately aggrieved by that judgment.

²In light of this order, we deny as moot petitioners' January 7, 2016, emergency motion to stay the underlying case.

cc: Hon. Kathleen E. Delaney, District Judge
Lewis Brisbois Bisgaard & Smith, LLP/Las Vegas
Law Offices of Michael A. Hagemeyer
Eighth District Court Clerk