

IN THE SUPREME COURT OF THE STATE OF NEVADA

WILLIAM STEINKOHL, M.D., AN  
INDIVIDUAL,

Appellant,

vs.

SHELDON J. FREEDMAN, M.D., LTD., A  
NEVADA PROFESSIONAL CORPORATION,

Respondent.

No. 37322

**FILED**

MAR 27 2001

JANETE M. BLOOM  
CLERK OF SUPREME COURT  
BY *J. Richard*  
CHIEF DEPUTY CLERK

WILLIAM STEINKOHL, M.D.,

Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT COURT  
OF THE STATE OF NEVADA, IN AND FOR  
THE COUNTY OF CLARK, AND THE  
HONORABLE NANCY M. SAITTA,  
DISTRICT JUDGE, AND THE HONORABLE  
MARK W. GIBBONS, DISTRICT JUDGE,

Respondents,

and

SHELDON J. FREEDMAN, M.D., LTD.,

Real Party in Interest.

No. 37325

ORDER DENYING PETITION FOR WRIT OF PROHIBITION,  
GRANTING REQUEST TO TREAT PETITION AS MOTION FOR STAY,  
GRANTING TEMPORARY STAY, AND DIRECTING A RESPONSE

This is a petition for a writ of prohibition challenging a preliminary injunction enforcing a non-competition clause in a contract (Docket No. 37325). Petitioner has also filed a timely appeal challenging the preliminary injunction (Docket No. 37322).

We have considered the petition, and we are not satisfied that our intervention by way of extraordinary relief

is warranted. A writ of prohibition will not issue if petitioner has a plain, speedy and adequate remedy in the ordinary course of the law.<sup>1</sup> We conclude that petitioner has an adequate and speedy legal remedy in the form of the appeal that was filed in this matter on January 17, 2001, that precludes our consideration of this petition for a writ of prohibition.<sup>2</sup> Accordingly, we deny the petition.<sup>3</sup>

In the alternative, petitioner requests that this court treat the petition as a motion for a stay in conjunction with his pending appeal. We grant petitioner's request. Accordingly, we direct the clerk of this court to transfer the petition/motion in Docket No. 37325 to the appeal in Docket No. 37322.

In treating the petition as a motion for a stay filed in conjunction with the appeal, we conclude that a response would assist this court. Accordingly, respondent in Docket No. 37322 shall have fifteen (15) days from the date of this order within which to file any response to the motion for a stay.<sup>4</sup> Pending receipt and consideration of the response,

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<sup>1</sup>See NRS 34.330.

<sup>2</sup>See NRAP 3A(b)(2) (providing that an appeal may be taken from an order granting an injunction); see also Heilig v. Christensen, 91 Nev. 120, 532 P.2d 267 (1975) (noting that the right of appeal precludes extraordinary relief).

<sup>3</sup>See NRAP 21(b); Smith v. District Court, 107 Nev. 674, 818 P.2d 849 (1991).

<sup>4</sup>On February 6, 2001, respondent/real party in interest filed a motion to dismiss the petition and the appeal. In light of our order, the request to dismiss the petition is moot. As for the appeal, we deny the motion to dismiss because it is without merit. See NRAP 3A(b)(2). Further, we deny as moot appellant/petitioner's motion to extend the time to oppose the motion to dismiss.

we temporarily stay the district court's December 18, 2000 order granting a preliminary injunction and all further proceedings in District Court Case No. A419762.

It is so ORDERED.

<u>Young</u> Young	J.
<u>Leavitt</u> Leavitt	J.
<u>Becker</u> Becker	J.

cc: Hon. Nancy M. Saitta, District Judge  
Law Office of Daniel Marks  
Cook & Kelesis  
Clark County Clerk