

IN THE SUPREME COURT OF THE STATE OF NEVADA

SCOTT T. GABRIEL, M.D.,
INDIVIDUALLY,
Petitioner,
vs.
THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK; AND MARY KAY HOLTHUS,
Respondents,
and
EVA MISLE; SAJU JOSEPH, M.D.;
VALLEY HEALTH SYSTEMS, LLC, A
FOREIGN LIMITED LIABILITY
COMANY D/B/A SPRING VALLEY
HOSPITAL,
Real Parties in Interest.

No. 86318

FILED

APR 17 2023

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER DENYING PETITION FOR WRIT OF MANDAMUS

This original petition for a writ of mandamus challenges a district court order granting a motion for leave to file an amended complaint in a medical malpractice action.

This court has original jurisdiction to issue writs of mandamus, and the issuance of such extraordinary relief is solely within this court's discretion. *See Nev. Const. art. 6, § 4; D.R. Horton, Inc. v. Eighth Judicial Dist. Court*, 123 Nev. 468, 474-75, 168 P.3d 731, 736-37 (2007). Petitioner bears the burden to show that extraordinary relief is warranted, and such relief is proper only when there is no plain, speedy, and adequate remedy at law. *See Pan v. Eighth Judicial Dist. Court*, 120 Nev. 222, 224, 228, 88 P.3d 840, 841, 844 (2004). An appeal is generally an adequate remedy precluding writ relief. *Id.* at 224, 88 P.3d at 841. Even when an appeal is not immediately available because the challenged order is interlocutory in

nature, the fact that the order may ultimately be challenged on appeal from a final judgment generally precludes writ relief. *Id.* at 225, 88 P.3d at 841.

Having considered the petition, we are not persuaded that our extraordinary intervention is warranted for several reasons. To begin, petitioner has not demonstrated that an appeal from a final judgment would not be a plain, speedy, and adequate remedy. Further, this court typically will not entertain a writ petition challenging matters entrusted to the district court's sound discretion, especially where, as here, it does not appear that issuance of the requested writ relief would dispose of the entire action. *See Archon Corp. v. Eighth Judicial Dist. Court*, 133 Nev. 816, 824-25, 407 P.3d 702, 709-10 (2017) (explaining that entertaining a writ petition that "will not dispose of the entire controversy . . . would extend our discretion beyond the salutary escape hatch it provides to the final judgment rule and present the very inefficiencies in judicial economy that the final judgment rule seeks to prevent") (citation omitted); *see also Walker v. Second Judicial Dist. Court*, 136 Nev. 678, 680, 476 P.3d 1194, 1196 (2020) ("Where a district court is entrusted with discretion on an issue, the petitioner's burden to demonstrate a clear legal right to a particular course of action by that court is substantial; we can issue traditional mandamus only where the lower court has manifestly abused that discretion or acted arbitrarily or capriciously."); *MEI-GSR Holdings, LLC v. Peppermill Casinos, Inc.*, 134 Nev. 235, 239, 416 P.3d 249, 254 (2018) (explaining that the decision to grant or deny a motion for leave to amend is committed to the sound discretion of the district court).

Finally, the late stage of the proceedings below militates against entertaining the petition. *See Archon Corp.*, 133 Nev. at 824, 407 P.3d at 709 (noting that mandamus relief is issued sparingly due to its

disruptive nature); cf. *Teva Parenteral Medicines, Inc. v. Eighth Judicial Dist. Court*, 137 Nev. 51, 60, 481 P.3d 1232, 1239 (2021) (entertaining a writ petition given “the early stage of [the] litigation” and other factors). Accordingly, we

ORDER the petition DENIED.

Stiglich, C.J.
Stiglich

Cadish, J.
Cadish

Herndon, J.
Herndon

cc: Hon. Mary Kay Holthus, District Judge
McBride Hall
John H. Cotton & Associates, Ltd.
Gerald I. Gillock & Associates
Hall Prangle & Schoonveld, LLC/Las Vegas
Tania Dawood
Eighth District Court Clerk