

IN THE SUPREME COURT OF THE STATE OF NEVADA

ROBERT GERSHON,  
Petitioner,

vs.

THE HONORABLE MARY KAY  
HOLTHUS, DISTRICT JUDGE; AND  
THE EIGHTH JUDICIAL DISTRICT  
COURT OF THE STATE OF NEVADA,  
IN AND FOR THE COUNTY OF  
CLARK,

Respondents,

and

LISA VIHHER; AND MICHAEL VIHHER,  
Real Parties in Interest.

No. 86660

**FILED**

MAY 16 2024

ELIZABETH A. SPERRY  
CLERK OF SUPREME COURT  
BY *[Signature]*  
DEPUTY CLERK

TODD HORNSBY,  
Petitioner,

vs.

THE HONORABLE MARY KAY  
HOLTHUS, DISTRICT JUDGE; AND  
THE EIGHTH JUDICIAL DISTRICT  
COURT OF THE STATE OF NEVADA,  
IN AND FOR THE COUNTY OF  
CLARK,

Respondents,

and

LISA VIHHER; AND MICHAEL VIHHER,  
Real Parties in Interest.

No. 86661

MEGAN MESCHER,  
Petitioner,

vs.

THE HONORABLE MARY KAY  
HOLTHUS, DISTRICT JUDGE; AND  
THE EIGHTH JUDICIAL DISTRICT  
COURT OF THE STATE OF NEVADA,  
IN AND FOR THE COUNTY OF  
CLARK,

Respondents,

and

LISA VIHHER; AND MICHAEL VIHHER,

No. 86662

Real Parties in Interest.

JEFF RENCHER,  
Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT  
COURT OF THE STATE OF NEVADA,  
IN AND FOR THE COUNTY OF  
CLARK; AND THE HONORABLE  
MARY KAY HOLTHUS, DISTRICT  
JUDGE,

Respondents,

and

LISA VIHHER; AND MICHAEL VIHHER,  
Real Parties in Interest.

No. 86663

SHAWN ROMAN,  
Petitioner,

vs.

THE HONORABLE MARY KAY  
HOLTHUS, DISTRICT JUDGE; AND  
THE EIGHTH JUDICIAL DISTRICT  
COURT OF THE STATE OF NEVADA,  
IN AND FOR THE COUNTY OF  
CLARK,

Respondents,

and

LISA VIHHER; AND MICHAEL VIHHER,  
Real Parties in Interest.

No. 86664

STEPHANIE VAN SKIKE,  
Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT  
COURT OF THE STATE OF NEVADA,  
IN AND FOR THE COUNTY OF  
CLARK; AND THE HONORABLE  
MARY KAY HOLTHUS, DISTRICT  
JUDGE,

Respondents,

and

LISA VIHHER; AND MICHAEL VIHHER,  
Real Parties in Interest.

No. 86665

## ORDER DENYING PETITION FOR A WRIT OF PROHIBITION

These are original petitions for writs of prohibition challenging a district court order denying motions to dismiss for lack of personal jurisdiction.

Petitioners assert that absent extraordinary relief, they would each be compelled to litigate in a foreign court that could not exercise personal jurisdiction over them. Writs of prohibition are generally the appropriate mechanism to challenge a district court's ruling on personal jurisdiction. See *Fulbright & Jaworski LLP v. Eighth Jud. Dist. Ct.*, 131 Nev. 30, 35, 342 P.3d 997, 1001 (2015). Still, this court retains sole discretion on whether to grant extraordinary writ relief. *Smith v. Eighth Jud. Dist. Ct.*, 107 Nev. 674, 677, 818 P.2d 849, 851 (1991). Petitioners bear the burden of proving such intervention is necessary. *Pan v. Eighth Jud. Dist. Ct.*, 120 Nev. 222, 228, 88 P.3d 840, 844 (2004).

Having reviewed the underlying petition, we conclude writ relief is not warranted here. Petitioners are not Nevada citizens; however, none dispute their participation in the creation and implementation of a national marketing plan for the medical device, Renuvion. Real Parties in Interest Lisa and Michael Viher's complaint contains specific facts regarding each Petitioner's work related to targeting the national marketing plan at Nevada, and to targeting Renuvion for use by Nevada doctors, on Nevada residents. The complaint also asserts the targeting caused harm. See *Arbella Mut. Ins. Co. v. Eighth Jud. Dist. Ct.*, 122 Nev. 509, 513, 134 P.3d 710, 712-13 (2006) (articulating requirements for the exercise of specific jurisdiction). Petitioners' "status as employees does not somehow insulate them from jurisdiction." *Calder v. Jones*, 465 U.S. 783, 790 (1984). Here, the Vihers have presented undisputed, particularized

facts regarding each of the Petitioners' meaningful contacts with this forum and have supported those allegations with "some evidence," including an affidavit. See *Trump v. Eighth Jud. Dist. Ct.*, 109 Nev. 687, 692, 857 P.2d 740, 744 (1993).

In light of Nevada's notice-pleading standard, and because the district court denied Petitioners' motion to dismiss without prejudice, we decline to grant the petition; extraordinary relief is not warranted. At trial, the Vihers must prove personal jurisdiction by a preponderance of the evidence, without the luxury of having all disputed facts resolved in their favor. *Trump*, 109 Nev. at 693, 857 P.2d at 744. Petitioners are free to re-raise their arguments regarding personal jurisdiction there. Prior to discovery, what the Vihers have presented here is enough to defend a motion to dismiss.

We do note that on further interrogation of personal jurisdiction, the district court should take care to identify and summarize its relevant findings to ensure an adequate record. See NRCP 52 ("The court should [ ] state on the record the reasons for granting or denying a motion."); see also *Rocker v. KPMG LLP*, 122 Nev. 1185, 1196, 148 P.3d 703, 710 (2006) (critiquing the district court for failing to make any findings of fact on personal jurisdiction) (*abrogated on other grounds by Buzz Stew, LLC v. City of N. Las Vegas*, 124 Nev. 224, 228 n.6, 181 P.3d 670, 672 n.6 (2008)).

Nevertheless, based on our review of the record, we conclude the district court did not err by denying Petitioners' motion to dismiss at this point. Accordingly, we

ORDER the petition DENIED.

  
\_\_\_\_\_, J.  
Herndon

  
\_\_\_\_\_, J.  
Lee

  
\_\_\_\_\_, J.  
Bell

cc: Hon. Mary Kay Holthus, District Judge  
Evans Fears & Schuttert LLP  
Bighorn Law/Las Vegas  
Eighth Judicial District Court Clerk