## IN THE SUPREME COURT OF THE STATE OF NEVADA

ROBERT ASHLOCK, D.C., INDIVIDUALLY; AND ROBERT ASHLOCK, D.C. D/B/A ROBERT ASHLOCK, D.C., Petitioners,

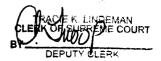
VS.

THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA, IN AND FOR THE COUNTY OF WASHOE, AND THE HONORABLE ROBERT H. PERRY, DISTRICT JUDGE, Respondents,

and MEAGAN WILLIAMS, Real Party in Interest. No. 55811

FILED

JUN 10 2010



## ORDER GRANTING PETITION FOR WRIT OF MANDAMUS

This original petition for a writ of mandamus challenges a district court order denying a motion to dismiss a tort action.

Having reviewed the pleadings and documents submitted to this court, we grant the petition. The district court erred in not granting petitioners' motion to dismiss real party in interest's chiropractor malpractice complaint, as it constituted a professional negligence claim, and thus, real party in interest was required to attach a medical affidavit to support the complaint at the time of filing. Fierle v. Perez, 125 Nev. \_\_\_\_, \_\_\_, 219 P.3d 906, 912 (2009). The district court was required to dismiss the professional negligence complaint without prejudice, as the complaint was filed without the necessary medical affidavit. Id.; NRS 41A.071. Real party in interest's argument that the holding in Fierle should not apply to her is without merit; real party in interest is in no

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different position than the appellants in <u>Fierle</u>. <u>See Fierle</u>, 125 Nev. at \_\_\_\_\_, 219 P.3d at 912 (upholding dismissal of appellants' non-res ipsa loquitur professional negligence claims). Accordingly, we direct the clerk of this court to issue a writ of mandamus directing the district court to enter an order dismissing the real party in interest's complaint without prejudice.

It is so ORDERED.

Cherry, J.

Saitta Honor, J.

cc: Hon. Robert H. Perry, District Judge Erickson Thorpe & Swainston, Ltd. Law Offices of Terry A. Friedman, Ltd. Washoe District Court Clerk

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