

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

TRACEE K. LINDEMAN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

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

different position than the appellants in Fierle. See Fierle, 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.
Cherry

Saitta, J.
Saitta

Gibbons, J.
Gibbons

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