

IN THE SUPREME COURT OF THE STATE OF NEVADA

EUGENE PORRECA, M.D.,
Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK; AND THE HONORABLE
JERRY A. WIESE, DISTRICT JUDGE,
Respondents,
and
ROBERT THOMPSON,
Real Party in Interest.

No. 61873

FILED

NOV 16 2012

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY R. Malone
DEPUTY CLERK

ORDER DENYING PETITION
FOR WRIT OF MANDAMUS OR PROHIBITION

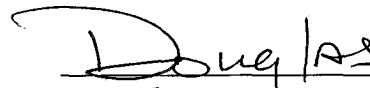
This original petition for a writ of mandamus, or alternatively, prohibition, challenges a district court order granting a motion in limine in a medical malpractice action.

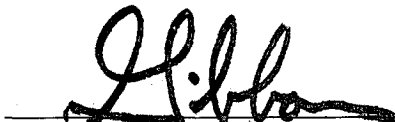
A writ of mandamus is available to compel the performance of an act that the law requires or to control an arbitrary or capricious exercise of discretion. NRS 34.160; International Game Tech. v. Dist. Ct., 124 Nev. 193, 197, 179 P.3d 556, 558 (2008). A writ of prohibition may be warranted when the district court exceeds its jurisdiction. NRS 34.320. Whether a petition for mandamus or prohibition relief will be considered is purely discretionary with this court. Smith v. District Court, 107 Nev. 674, 677, 818 P.2d 849, 851 (1991). It is petitioner's burden to demonstrate that our extraordinary intervention is warranted. Pan v. Dist. Ct., 120 Nev. 222, 228, 88 P.3d 840, 844 (2004). Writ relief is generally available only where there is no plain, speedy, and adequate remedy in the ordinary course of law. NRS 34.170; NRS 34.330; Smith,

107 Nev. at 677, 818 P.2d at 851. Moreover, this court has held that the right to appeal is generally an adequate legal remedy precluding writ relief. Pan, 120 Nev. at 224, 88 P.3d at 841.

Having considered the petition, we conclude that our intervention by way of extraordinary relief is not warranted. Smith, 107 Nev. at 677, 818 P.2d at 851; NRAP 21(b)(1). Accordingly, we

ORDER the petition DENIED.¹

_____, J.
Douglas

_____, J.
Gibbons

_____, J.
Parraguirre

cc: Hon. Jerry A. Wiese, District Judge
Bonne, Bridges, Mueller, O'Keefe & Nichols
Prince & Keating, LLP
Hall Prangle & Schoonveld, LLC/Las Vegas
Eighth District Court Clerk

¹In light of this order, the October 17, 2012, motion for leave to file an amici curiae brief filed by Flamingo Surgery Center, Las Vegas Surgery Center, Mountain View Hospital, Sahara Surgery Center, Southern Hills Hospital & Medical Center, Specialty Surgery Center, and Sunrise Hospital & Medical Center is denied as moot. The clerk of the court is directed to return, unfiled the proposed amici brief, provisionally received in this court on October 17, 2012.