

IN THE SUPREME COURT OF THE STATE OF NEVADA

ERRYS DEE DAVIS, A MINOR,  
THROUGH HER PARENTS TRACI  
PARKS AND ERRICK DAVIS; THOMAS  
ZIEGLER; FREDERICK BICKHAM;  
AND JANE NELSON,  
Petitioners,

vs.

THE EIGHTH JUDICIAL DISTRICT  
COURT OF THE STATE OF NEVADA,  
IN AND FOR THE COUNTY OF  
CLARK; THE HONORABLE SUSAN  
JOHNSON, DISTRICT JUDGE; AND  
THE HONORABLE VERONICA  
BARISICH, DISTRICT JUDGE,  
Respondents,

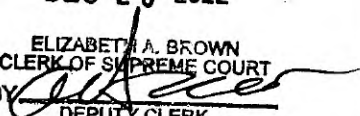
and

STEPHANIE A. JONES, D.O.; DANIEL  
M. KIRGAN, M.D.; IRA MICHAEL  
SCHNEIER, M.D.; MUHAMMAD  
SAEED SABIR, M.D.; AND JAYSON  
AGATON, APRN,  
Real Parties in Interest.

No. 83306

**FILED**

DEC 28 2022

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY   
DEPUTY CLERK

*ORDER DENYING PEITION FOR WRIT OF MANDAMUS OR  
PROHIBITION*

This is an original petition for a writ of mandamus or prohibition challenging district court orders dismissing alternative, nonprofessional negligence claims in four separate medical malpractice actions.

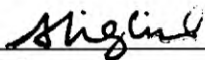
A writ of mandamus is available to compel the performance of an act that the law requires . . . or to control an arbitrary or capricious

exercise of discretion.” *Int’l Game Tech., Inc. v. Second Judicial Dist. Court*, 124 Nev. 193, 197, 179 P.3d 556, 558 (2008); see NRS 34.160.

A writ of prohibition “arrests the proceedings of any tribunal, corporation, board or person exercising judicial functions, when such proceedings are without or in excess of the jurisdiction of such tribunal, corporation, board or person.” NRS 34.320.

We conclude that this court’s intervention by way of extraordinary relief is not warranted. In particular, it appears that petitioners will have an adequate legal remedy in the form of an appeal from the final judgment. *Pan v. Eighth Judicial Dist. Court*, 120 Nev. 222, 228, 88 P.3d 840, 841 (2004) (recognizing that an appeal is an adequate legal remedy); NRS 34.170; NRS 34.330 (stating that extraordinary relief may only issue if there is no other adequate and speedy legal remedy). Accordingly, we deny the petition.

It is so ORDERED.

  
\_\_\_\_\_, J.  
Stiglich

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

HARDESTY, C.J., dissenting:

I respectfully disagree with my colleagues, as I would entertain this writ petition. Although an eventual appeal from the final judgment would allow petitioners to challenge the interlocutory orders of dismissal, petitioners raise an important issue of law—additional causes of action for battery separate from medical professional negligence that are not based on

the breach of the professional standard of care. This issue is likely to reoccur. *Oxbow Constr., LLC v. Eighth Judicial Dist. Court*, 130 Nev. 867, 872, 335 P.3d 1234, 1238 (2014) (noting that this court may exercise its discretion to consider a writ petition when “an important issue of law needs clarification and considerations of sound judicial economy and administration militate in favor of granting the petition.” (internal quotation marks omitted)).

Accordingly, I would grant the petition.

  
\_\_\_\_\_, C.J.  
Hardesty

cc: Hon. Susan Johnson, District Judge  
Hon. Veronica Barisich, District Judge  
Breedon & Associates, PLLC  
Lauria Tokunaga Gates & Linn, LLP/Las Vegas  
Hall Prangle & Schoonveld, LLC/Las Vegas  
Hall Prangle & Schoonveld, LLC/Chicago  
McBride Hall  
Lemons, Grundy & Eisenberg  
Claggett & Sykes Law Firm  
Eighth District Court Clerk