

IN THE SUPREME COURT OF THE STATE OF NEVADA

PATRICK FLORES, D.O.; AND
FREMONT EMERGENCY SERVICES
(SCHEER), LTD.,
Petitioners,

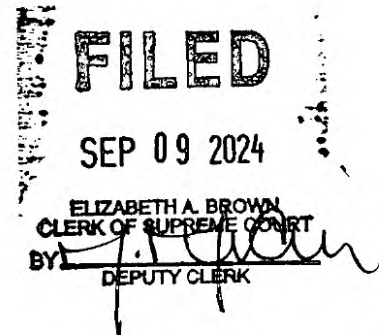
vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK; AND THE HONORABLE
MARIA A. GALL, DISTRICT JUDGE,
Respondents,

and

VETZALI TAVIZON, AS THE PARENT
AND NATURAL GUARDIAN OF E. L., A
MINOR CHILD AND E. L., A MINOR
CHILD, AND AS ADMINISTRATOR OF
THE ESTATE OF ERNESTO LUNA,
Real Parties in Interest.

No. 89158



ORDER DENYING PETITION

This is an original petition for a writ of mandamus seeking to compel the district court to dismiss or strike real parties in interests' request for punitive damages.


The decision to entertain a petition for extraordinary writ relief lies within the discretion of this court. *Smith v. Eighth Jud. Dist. Ct.*, 107 Nev. 674, 677, 679, 818 P.2d 849, 851, 853 (1991). A writ of mandamus is available only to compel the performance of a legally required act or to cure an arbitrary and capricious exercise of discretion. *Round Hill Gen. Improvement Dist. v. Newman*, 97 Nev. 601, 603-04, 637 P.2d 534, 536 (1981). Petitioners bear the burden to show that extraordinary relief is warranted, and such relief is proper only when there is no plain, speedy,

and adequate remedy at law. *See Pan v. Eighth Jud. Dist. Ct.*, 120 Nev. 222, 224, 228, 88 P.3d 840, 841, 844 (2004). An appeal is generally an adequate remedy precluding writ relief; even when an appeal is not immediately available because the challenged order is interlocutory in nature, the fact that the order may ultimately be challenged on appeal from a final judgment generally precludes writ relief. *Id.* at 224-25, 88 P.3d at 841. Generally, this court will not entertain writ petitions challenging the denial of a motion to dismiss. *See Archon Corp. v. Eighth Jud. Dist. Ct.*, 133 Nev. 816, 824-25, 407 P.3d 702, 709-10 (2017).

Having considered the petition and supporting documents we are not persuaded that our extraordinary intervention is warranted. To begin, petitioner has not demonstrated a persuasive basis for deviating from the general rule that this court will not entertain writ petitions challenging the denial of a motion to dismiss. Nor has petitioner demonstrated that an appeal from a final judgment would not be a plain, speedy, and adequate remedy. Accordingly, we

ORDER the petition DENIED.¹


_____, C.J.
Cadish


_____, J.
Stiglich


_____, J.
Herndon

¹Given our disposition of this matter, the motion for leave to file an amicus brief filed on August 20, 2024, is denied as moot.

cc: Hon. Maria A. Gall, District Judge
Lewis Brisbois Bisgaard & Smith, LLP/Las Vegas
Clear Counsel Law Group
Wilson, Elser, Moskowitz, Edelman & Dicker, LLP/Las Vegas
Eighth District Court Clerk