



SUPREME COURT OF NEVADA
OFFICE OF THE CLERK
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January 28, 2022

Wilson, Elser, Moskowitz, Edelman & Dicker, LLP/Las Vegas
Michael P. Lowry
6689 Las Vegas Blvd., S. Ste. 200
Las Vegas, NV 89119

Re: Yusi vs. District Court (Felsner), No. 82625
District Court Case No. A-18-781000-C

Dear Mr. Lowry:

Enclosed please find the original and one copy of the Writ of Mandamus and one copy of the Order for service upon Judge Nancy L. Allf. Please **return** the **original writ** with proof of service attached thereto.

Copies of the writ and order are enclosed for your files.

Sincerely,

Amanda Ingersoll
Deputy Clerk

cc w/enclosures (writ & order):

Hon. Nancy M. Allf, District Judge
Hon. Linda M. Bell, Chief Judge
Shook & Stone, Chtd.
The Powell Law Group
Schwab Law Firm PLLC

IN THE SUPREME COURT OF THE STATE OF NEVADA

EDGARDO P. YUSI; AND KEOLIS
TRANSIT SERVICES, LLC,
Petitioners,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA, IN
AND FOR THE COUNTY OF CLARK; AND
THE HONORABLE NANCY L. ALLF,
DISTRICT JUDGE,

Respondents,

and

HEATHER FELSNER,
Real Party in Interest.

No. 82625

WRIT OF MANDAMUS

TO: The Honorable Nancy L. Allf, Judge of the Eighth Judicial District
Court:

WHEREAS, this Court having made and filed its written decision that a
writ of mandamus issue,

NOW, THEREFORE, you are directed to vacate the order adopting the
discovery commissioner's report and to analyze the parties' positions consistent
with NRCP 35, in the case entitled Heather Felsner and Roger Felsner vs. Keolis
Transit Services, LLC, et al, case no. A-18-781000-C.

WITNESS The Honorables Ron Parraguirre, Chief Justice, James
Hardesty, Lidia Stiglich, Elissa Cadish, Abbi Silver, Kristina Pickering, and
Douglas Herndon, Associate Justices of the Supreme Court of the State of Nevada,
and attested by my hand and seal this 28th day of January, 2022.




Chief Assistant Clerk

IN THE SUPREME COURT OF THE STATE OF NEVADA

EDGARDO P. YUSI; AND KEOLIS
TRANSIT SERVICES, LLC,
Petitioners,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK; AND THE HONORABLE
NANCY L. ALLF, DISTRICT JUDGE,
Respondents,
and
HEATHER FELSNER,
Real Party in Interest.

No. 82625

FILED

JAN 28 2022

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER GRANTING PETITION FOR WRIT OF MANDAMUS

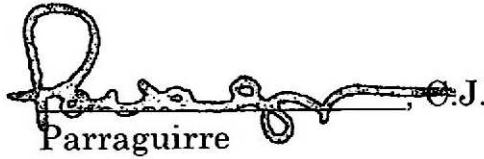
This is an original petition for a writ of mandamus challenging a district court order adopting a discovery commissioner's recommendation that examination of the real party in interest's medical and physical condition proceed under NRS 52.380.


Petitioner, Edgardo Yusi, alleges the district court manifestly abused its discretion by adopting a discovery commissioner's recommendation that NRS 52.380 supersedes NRCP 35. We elect to entertain this petition because "judicial economy and sound judicial administration militate in favor of writ review." *Scarbo v. Eighth Judicial Dist. Court*, 125 Nev. 118, 121, 206 P.3d 975, 977 (2009).

In *Lyft, Inc. v. Eighth Judicial District Court*, we held NRS 52.380 unconstitutional because it violated the separation of powers doctrine. 137 Nev., Adv. Op. 86, __ P.3d __ (2021). Specifically, NRS 52.380 violated separation of powers because it is a procedural statute that conflicts with NRCP 35—a preexisting court rule. See *State v. Connery*, 99 Nev. 342, 345, 661 P.2d 1298, 1300 (1983) (“[T]he [L]egislature may not enact a procedural statute that conflicts with a pre-existing procedural rule, without violating the doctrine of separation of powers, and . . . such a statute is of no effect.”). Given our holding in *Lyft*, writ relief is appropriate in this case because the district court’s adoption of the discovery commissioner’s recommendation that NRS 52.380 supersedes NRCP 35 and, its resulting denial of Yusi’s motion, constituted a manifest abuse of discretion. Cf. *Round Hill Gen. Improvement Dist. v. Newman*, 97 Nev. 601, 603-04, 637 P.2d 534, 536 (1981). Further, issuance of the writ is appropriate because the parties are still in the early stages of litigation and issuing the writ serves the interests of judicial administration. *Int’l Game Tech., Inc. v. Second Judicial Dist. Court*, 124 Nev. 193, 198, 179 P.3d 556, 559 (2008). Accordingly, we vacate our January 20, 2022, temporary stay and

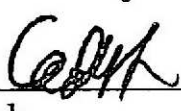
ORDER the petition GRANTED AND DIRECT THE CLERK OF THIS COURT TO ISSUE A WRIT OF MANDAMUS instructing the district court to vacate its order adopting the discovery commissioner’s

report and instruct the district court to analyze the parties' positions consistent with NRCP 35.¹

 J.
Parraguirre

 J.
Hardesty

 J.
Stiglich

 J.
Cadish

 J.
Silver

 J.
Pickering

 J.
Herndon

cc: Hon. Nancy L. Allf, District Judge
Hon. Linda M. Bell, Chief Judge
Wilson, Elser, Moskowitz, Edelman & Dicker, LLP/Las Vegas
Shook & Stone, Chtd.
The Powell Law Firm
Schwab Law Firm PLLC
Eighth District Court Clerk

¹In light of our decision, we do not address the parties' remaining arguments.