

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

DANA FORTE, D.O., LTD.; AND
JOSEPH EAFRATE, PA-C,

Petitioners,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK; AND THE HONORABLE
MONICA TRUJILLO, DISTRICT
JUDGE,

Respondents,

and

CESAR HOSTIA,

Real Party in Interest.

No. 84775-COA

FILED

JUL 21 2022

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

*ORDER DENYING PETITION
FOR WRIT OF MANDAMUS*

This original petition for a writ of mandamus challenges the district court's order regarding discovery.¹

Petitioners seek a writ of mandamus directing the district court to vacate its order granting real party in interest's motion to extend the expert disclosure deadline in a medical malpractice case. Petitioners assert that real party in interest's motion was untimely filed, and the district court manifestly abused its discretion in granting the same. Petitioners go on to assert that the district court further abused its discretion by denying their motion for reconsideration as the court improperly construed EDCR 2.35 in concluding that the motion was timely.²

¹The Honorable Bonnie Bulla, Judge, did not participate in the decision of this matter.

²We note that the order granting real party in interest's motion to extend time was signed by the Honorable Charles Thompson, Senior Judge,

A writ of mandamus is available to compel the performance of an act that the law requires as a duty resulting from an office, trust, or station or to control an arbitrary or capricious exercise of discretion. See NRS 34.160; *Int'l Game Tech., Inc. v. Second Judicial Dist. Court*, 124 Nev. 193, 197, 179 P.3d 556, 558 (2008). A writ of mandamus will not issue, however, if the petitioner has a plain, speedy, and adequate remedy at law. See NRS 34.170; *Int'l Game Tech.*, 124 Nev. at 197, 179 P.3d at 558. Further, mandamus is an extraordinary remedy, and it is within the discretion of this court to determine if a petition will be considered. See *Smith v. Eighth Judicial Dist. Court*, 107 Nev. 674, 677, 679, 818 P.2d 849, 851, 853 (1991). Petitioner bears the burden of demonstrating that extraordinary relief is warranted. See *Pan v. Eighth Judicial Dist. Court*, 120 Nev. 222, 228, 88 P.3d 840, 844 (2004).

Discovery matters are within the district court's sound discretion and this court will not disturb a district court's discovery ruling absent a clear abuse of discretion. See *Venetian Casino Resort, LLC v. Eighth Judicial Dist. Court*, 136 Nev. 221, 224, 467 P.3d 1, 4 (Ct. App. 2020). Thus, although "a writ of mandamus may be issued to compel the district court to vacate or modify a discovery order, extraordinary writs are generally not available to review discovery orders." *Valley Health Sys., LLC v. Eighth Judicial Dist. Court*, 127 Nev. 167, 171, 252 P.3d 676, 678 (2011). Moreover, an appeal from a final judgment generally constitutes a plain, speedy, and adequate remedy that precludes writ relief with respect to challenges to the district court's pretrial decisions. See *Williams v. Eighth Judicial Dist. Court*, 127 Nev. 518, 524, 262 P.3d 360, 364 (2011) (applying this rule in the context of a pre-trial evidentiary decision). Accordingly, the

while the order denying petitioners' motion for reconsideration was signed by the Honorable Monica Trujillo, District Judge.

appellate courts have typically only issued writs to prevent discovery orders that are likely to cause irreparable harm, such as improper, blanket discovery orders that fail to consider relevancy; discovery orders improperly compelling the disclosure of privileged information; or, sometimes, if an important issue of law needs clarification and public policy would be served by the issuance of a writ. *Okada v. Eighth Judicial Dist. Court*, 131 Nev. 834, 839-40, 359 P.3d 1106, 1110 (2015).

Having considered the petition and supporting documents, we conclude that petitioners have failed to meet their burden of demonstrating that extraordinary writ relief is warranted. *See Pan*, 120 Nev. at 228, 88 P.3d at 844. In particular, petitioners have a plain, speedy, and adequate remedy in the form of an appeal should they be aggrieved following trial. *See Williams*, 127 Nev. at 524, 262 P.3d at 364. Accordingly, we deny the petition. *See Williams*, 127 Nev. at 524, 262 P.3d at 364; *Smith*, 107 Nev. at 677, 679, 818 P.2d at 851, 853.

It is so ORDERED.³


_____, C.J.
Gibbons


_____, J.
Tao

cc: Chief Judge, Eighth Judicial District Court
Hon. Charles Thompson, Senior Judge
Hon. Monica Trujillo, District Judge
Lewis Brisbois Bisgaard & Smith, LLP/Las Vegas
Cesar Hostia
Eighth District Court Clerk

³In light of our resolution, we deny as moot petitioners' motion for stay filed July 14, 2022.