

**IN THE SUPREME COURT  
OF THE STATE OF NEVADA**

ALI KIA, M.D.,

Petitioner,

v.

THE EIGHTH JUDICIAL DISTRICT  
COURT OF THE STATE OF  
NEVADA, THE HONORABLE  
CRYSTAL ELLER, PRESIDING,

Respondent,

and

CHLOE GREEN, FRANK J.  
DELEE, M.D., FRANK J. DELEE,  
MD, PC, SUNRISE HOSPITAL AND  
MEDICAL CENTER, LLC, AND  
NEVADA HOSPITALIST GROUP,  
LLP,

The Real Parties in Interest.

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Supreme Court Case No.: 87300

Dist. Court Case No.: A-17-757722-C

**REPLY IN SUPPORT OF PETITIONER'S MOTION**

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## ARGUMENT

The extraneous materials in the Supplemental Appendix do not meet the requirements for consideration under NRAP 21(a)(4). When reviewing a district court's decision in a writ proceeding, the Supreme Court will typically only look to matters that were before the district court. *Las Vegas Metropolitan Police Department v. Eighth Judicial Dist. Court*, 134 Nev. 971, 431 P.3d 37, 2018 WL6264749, n.3 (Nev. S.Ct. Case No. 76023, November 28, 2018) (unpublished disposition), *citing Wynn Resorts, Ltd. v. Eighth Judicial Dist. Court*, 133 Nev. 369, 399 P.3d 334, n.3 (2017). NRAP 27(a)(1) allows consideration of materials not before the district court in writ proceedings but only if they are directly relevant to the issues presented in the petition. *Id.*

The issues in the writ petition concern Dr. Kia's due process rights and whether Ms. Green met the requirements of NRS 41A.097(2). Ms. Green does not attempt to argue that the extraneous materials relate to these issues. Instead, she argues that these materials show Dr. Kia is trying to delay discovery because he is not complying with his NRCP 16.1 obligations, and this somehow impacts the expert disclosure deadline in the case. (Opposition to Motion, p. 3, lines 10 – 15; p. 4, lines 22 – 25). These documents concern a discovery squabble that according to Ms. Green the parties are still trying to work out without the involvement of the District Court. (*Id.* at p. 4, lines 12 – 15). Generally, the Supreme Court will not consider

discovery disputes under these circumstances, particularly when the District Court has not yet even been made aware of them. *See, e.g., Las Vegas Sands Corp. v. Eighth Judicial Dist. Court*, 130 Nev. 643, 649, 331 P.3d 905, 909 (2014) (noting that the Court normally declines to hear discovery disputes in writ proceedings unless the district court has entered certain types of orders which has not occurred in Ms. Green’s case). The brewing discovery dispute to which Ms. Green refers and which may get resolved without the involvement of the District Court is not ripe for judicial review or consideration because the lower court has not acted. *Herbst Gaming, Inc. v. Heller*, 122 Nev. 877, 887, 141 P.3d 1224, 1230 – 1231 (2006) (ripeness focuses on the timing of an action). Here, the District Court has taken no action, and it may never reach the point where the District Court has to do something. In short, this alleged discovery dispute has nothing to do with Dr. Kia’s due process rights or whether Ms. Green met the statute of limitations.

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## CONCLUSION

For the reasons stated above, Dr. Kia requests that the Court grant the motion.

Date: December 14, 2023

NAYLOR & BRASTER

By:           /s/ John M. Naylor          

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## **CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that I am an employee of NAYLOR & BRASTER, that service of the foregoing **REPLY IN SUPPORT OF PETITIONER'S MOTION** was made on December 14, 2023, via mandatory electronic service via the Court's e-filing system to:

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