FILED
Sep 18 2026
ELIZABETH A. BROWN
CLERK OF SUPREME COURT

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

STEVEN CANDELARIA AND MAURISSA GRAHAM, Petitioners, vs. THE EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA, IN AND FOR THE COUNTY OF CLARK; AND THE HONORABLE JACOB A. REYNOLDS, DISTRICT JUDGE, Respondents, and LTF CLUB OPERATIONS COMPANY, INC. D/B/A LIFE TIME FITNESS, Real Party in Interest.	No. 92276-COA

ORDER DENYING PETITION FOR WRIT OF MANDAMUS

Maurissa Graham and Steven Candelaria petition for a writ of mandamus challenging a district court order reopening discovery to allow for an NRCP 35 mental examination.

This matter arises from a tort action in which Graham and Candelaria (collectively petitioners) were using a pool on premises owned by real party in interest Life Time Fitness Company Club Operations, Inc. (Life Time). Unusually strong winds caused an open umbrella to fly toward petitioners, which both impaled Candelaria in the leg and struck Graham in

the head. Petitioners subsequently filed suit against Life Time, alleging negligence, gross negligence, and negligent hiring, training, and supervision.

During discovery, Graham's damages focused on the traumatic brain injury and related neurological symptoms she allegedly sustained from this incident. After the expert disclosure deadlines had passed, petitioners supplemented the record to include new medical records regarding Graham's recent psychiatric treatment from Patel Psychiatry. Life Time filed a motion to reopen discovery to conduct a mental examination of Graham under NRCP 35 and petitioners opposed. The district court granted Life Time's motion and this petition for mandamus relief followed. Life Time filed an answer as directed, petitioners filed a reply, and the Las Vegas Defense Lawyers filed an amicus curiae brief to which petitioners filed a response.

A writ of mandamus is available to compel the performance of an act that the law requires or to control a manifest abuse or an arbitrary or capricious exercise of discretion. *See* NRS 34.160; *Int'l Game Tech., Inc. v. Second Jud. Dist. Ct.*, 124 Nev. 193, 197, 179 P.3d 556, 558 (2008). Mandamus is an extraordinary remedy, and it is within the discretion of this court to determine if a petition will be considered. *Smith v. Eighth Jud. Dist. Ct.*, 107 Nev. 674, 677, 818 P.2d 849, 851 (1991). Petitioners bear the burden to show that extraordinary relief is warranted. *Pan v. Eighth Jud. Dist. Ct.*, 120 Nev. 222, 228, 88 P.3d 840, 844 (2004). We recognize that mandamus relief may be available where the parameters of an NRCP 35 examination are at issue. This court has previously granted mandamus relief in a case involving similar arguments under NRCP 35. *See Shahrokhi v. Eighth Jud. Dist. Ct.*, No. 79336-COA, 2019 WL 5823131 at *6 (Nev. Ct. App. Nov. 6, 2019) (Order Granting Petition for Writ of Mandamus in Part and Denying Petition in Part).

However, unlike in *Shahrokhi*, we conclude our extraordinary intervention is not warranted in this case. Here, a stipulation and order was filed setting forth sufficient information to satisfy the time, place, manner, and conditions requirements for the examination under NRCP 35. With regard to the scope of the examination, the district court's order specifically limited the mental examination to be "solely in response to the treatment, diagnoses, and findings in the medical records of Patel Psychiatry and any disclosed opinions of Dr. Patel," and the parties stipulated that the examiner's findings and conclusions would be limited to rebutting Dr. Patel's findings. Further, we are not persuaded that, based on the record before us, an NRCP 35 examiner is required to disclose the specific tests or assessments that will be given in advance of the examination in order to satisfy the scope requirement. *See Hertenstein v. Kimberly Home Health Care, Inc.*, 189 F.R.D. 620, 623 (D. Kan. 1999) (rejecting a request for disclosure of specific tests to be used in an FRCP 35 examination); *Sauer v. Burlington N. R.R.*, 169 F.R.D. 120, 124 n.4 (D. Minn. 1996) (same).[1]

Having considered the petition, answer, and reply, as well as petitioners' appendices and the amicus briefing, we conclude that petitioners have not met their burden of demonstrating that our extraordinary

[1]As we have previously recognized, "[w]here the Nevada Rules of Civil Procedure parallel the Federal Rules of Civil Procedure, rulings of federal courts interpreting and applying the federal rules are persuasive authority for this court in applying the Nevada Rules." *Nutton v. Sunset Station, Inc.*, 131 Nev. 279, 285 n.2, 357 P.3d 966, 970 n.2 (Ct. App. 2015). In contrast, petitioners' reliance on the California Court of Appeal's decision to require disclosure of the tests to be used for an examination in *Carpenter v. Superior Ct.*, 45 Cal. Rptr. 3d 821, 827-29 (Ct. App. 2006), is misplaced because—unlike NRCP 35(a)(2) and FRCP 35(a)(2)—California's mental examination statute expressly requires identification of the "diagnostic tests and procedures" to be used in the examination. Cal. Civ. Proc. Code § 2032.320(d) (West 2026).

intervention is warranted. *Pan*, 120 Nev. at 228, 88 P.3d at 844. Accordingly, we decline to exercise our discretion to grant extraordinary writ relief in this matter, *Smith*, 107 Nev. at 677, 818 P.2d at 851, and we therefore

ORDER the petition DENIED.[2]

Bulla, C.J.

Gibbons, J.

Westbrook, J.

cc: Litchfield Cavo LLP
Mitchell Rogers Injury Law
The Schnitzer Law Firm
Wilson, Elser, Moskowitz, Edelman & Dicker, LLP/Las Vegas
Hon. Jacob A. Reynolds, District Judge
The Eighth Judicial District Court of the State of Nevada, in and for the County of Clark, District Court Clerk

[2]In light of this order, we lift the temporary stay entered March 18, 2026.