

IN THE SUPREME COURT OF THE STATE OF NEVADA

ROBERT R. BLACK, JR.; AND
BRINGING HOME THE BACON
TRUST,

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

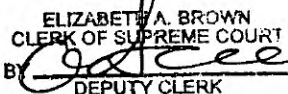
GYST SERVICES, LLC,

Real Party in Interest.

No. 86787

FILED

JUL 13 2023

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER GRANTING PETITION FOR WRIT OF MANDAMUS

This original emergency petition for a writ of mandamus challenges a district court order imposing sanctions in a contract action.¹

This court has original jurisdiction to issue writs of mandamus, and the decision to entertain a petition for such relief is solely within this court's discretion. *See Nev. Const. art. 6, § 4; D.R. Horton, Inc. v. Eighth Judicial Dist. Court*, 123 Nev. 468, 474-75, 168 P.3d 731, 736-37 (2007). 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

¹Because mandamus, rather than prohibition or certiorari, appears to be the appropriate procedural vehicle for challenging the district court's order, we construe the petition as seeking a writ of mandamus. *See City of Sparks v. Second Judicial Dist. Court*, 112 Nev. 952, 953 n.1, 920 P.2d 1014, 1015 n.1 (1996).

remedy at law. *See Pan v. Eighth Judicial Dist. Court*, 120 Nev. 222, 224, 228, 88 P.3d 840, 841, 844 (2004).

We exercise our discretion to entertain this petition because the order is not independently appealable and, absent our intervention, petitioners may be improperly forced to mediate, incurring expenses and attorney fees and costs that may otherwise not be recoverable. *See Aspen Fin. Servs., Inc. v. Eighth Judicial Dist. Court*, 128 Nev. 635, 639-40, 289 P.3d 201, 204 (2012) (explaining that writ relief may be appropriate when a later appeal would be ineffective).

Further, having considered the petition, answer, and appendices, we conclude that writ relief is warranted because the district court manifestly abused its discretion in issuing sanctions without first affording the parties adequate notice and an opportunity to be heard.² Indeed, the district court's sanctions were not preceded by an order to show cause as to why sanctions should not be issued or a separate hearing regarding the issue of sanctions. Instead, during a pretrial hearing, the district court *sua sponte* sanctioned the parties by vacating trial and ordering them to participate in private mediation at their expense. Although "[t]he length and nature of [a] hearing for non-case concluding sanctions" is committed to the sound discretion of the district court, *Bahena v. Goodyear Tire & Rubber Co.*, 126 Nev. 243, 256, 235 P.3d 592, 601 (2010), due process requires particularized notice that the district court is considering sanctions, *see generally Valley Health Sys., LLC v. Estate of Doe*,

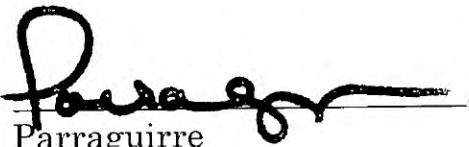
²Given this conclusion, we need not reach petitioners' alternative arguments that the district court's sanctions were impermissible, a barrier to court access, or unwarranted.

134 Nev. 634, 647, 427 P.3d 1021, 1032 (2018). Accordingly, as the imposition of sanctions here failed to satisfy due process, we

ORDER the petition GRANTED and direct the clerk of this court to issue a writ of mandamus instructing the district court to vacate its May 31, 2023, order sanctioning the parties.


_____, J.
Herndon


_____, J.
Lee


_____, J.
Parraguirre

cc: Hon. Maria A. Gall, District Judge
Nevada's Lawyers
Gibbs Giden Locher Turner Senet & Wittbrodt LLP/Las Vegas
Eighth District Court Clerk