

IN THE SUPREME COURT OF THE STATE OF NEVADA

ONE LAS VEGAS HOMEOWNERS'  
ASSOCIATION, INC.; AND  
FIRSTSERVICE RESIDENTIAL  
NEVADA, LLC,  
Petitioners,

vs.

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

Respondents,

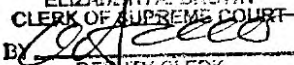
and

MONDIER KHAIRA,  
Real Party in Interest.

No. 86629

**FILED**

MAR 27 2024

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY   
DEPUTY CLERK

*ORDER DENYING PETITION FOR A WRIT OF MANDAMUS*

This petition for a writ of mandamus challenges a district court order denying a motion for partial summary judgment in a negligence and premises liability action for injuries real party in interest allegedly sustained in the common-area parking garage maintained by petitioners. In suits involving a common interest community, NRS 38.310 requires parties to mediate any claim relating to “[t]he interpretation, application, or enforcement of any [CC&Rs] applicable to residential property” before commencing a civil action, and NRS 116.4117(5) provides that “[p]unitive damages may not be awarded against” a homeowners’ association. Petitioners contend that any duty giving rise to the claims here was founded in the CC&Rs and therefore NRS 38.310(1) requires pre-suit mediation. Petitioners further argue that NRS 116.4117(5) bars punitive damages.

The decision to entertain a petition for a writ of mandamus lies within our sole discretion. *Smith v. Eighth Jud. Dist. Ct.*, 107 Nev. 674, 677, 818 P.2d 849, 851 (1991). Writ relief is an extraordinary remedy, available to compel a lower court to act in accordance with the law, or to correct a “clear and indisputable’ legal error.” *Archon Corp. v. Eighth Jud. Dist. Ct. (Archon)*, 133 Nev. 816, 819-20, 407 P.3d 702, 706 (2017) (quoting *Bankers Life & Cas. Co. v. Holland*, 346 U.S. 379, 384 (1953)). It is the petitioner’s burden to show a clear legal right to the requested course of action, and where the district court has discretion on the issue the petitioner must show a manifest abuse of discretion. *Walker v. Second Jud. Dist. Ct.*, 136 Nev. 678, 680, 476 P.3d 1194, 1196 (2020). Mandamus relief is ordinarily available only where there is no “plain, speedy and adequate remedy in the ordinary course of law,” NRS 34.170, and subject to very few exceptions we will not consider writ petitions challenging a district court order denying summary judgment. *Smith v. Eighth Jud. Dist. Ct.*, 113 Nev. 1343, 1344, 950 P.2d 280, 281 (1997). When traditional mandamus is unavailable, advisory mandamus may be available if exceptional circumstances warrant clarifying a “substantial issue of public policy or precedential value.” *Walker v. Second Jud. Dist. Ct.*, 136 Nev. 678, 684, 476 P.3d 1194, 1199 (2020) (quoting *Poulos v. Eighth Jud. Dist. Ct.*, 98 Nev. 453, 455-56, 652 P.2d 1177, 1178 (1982)); *Archon*, 133 Nev. at 825, 407 P.3d at 710.

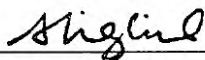
The district court rejected mediation because it determined that the claims did not require the interpretation, application, or enforcement of CC&Rs. It applied applicable law to the issue presented, *see Saticoy Bay, LLC, Series 9720 Hitching Rail v. Peccole Ranch Cmty. Ass’n*, 137 Nev. 516, 495 P.3d 492 (2021), and did not clearly err in doing so. *See Archon Corp.*,

133 Nev. at 819-20, 407 P.3d at 706. This defeats traditional mandamus. Nor does the mediation issue qualify for advisory mandamus. The uncitable decision on which petitioners rely predates *Saticoy Bay*, on which the district court relied and does not establish a division on an issue of statewide importance. See *Walker*, 136 Nev. at 683-84, 476 P.3d at 1199 (advisory mandamus is inappropriate where it will not clarify a substantial issue of precedential value).


We likewise decline to grant writ relief from the district court's order denying partial summary judgment as to the availability of punitive damages under NRS 116.4117(5). The facts underlying the predicate tort claims have not been fully developed, the issue will not arise unless there is an award of punitive damages, and petitioners have not shown that their right of eventual appeal does not provide an adequate remedy at law. See NRS 34.160; *Walker*, 136 Nev. at 684, 476 P.3d at 1199 (explaining advisory mandamus will not issue where the case is factually underdeveloped).

For these reasons, we conclude that writ relief is inappropriate in this case at this time. Accordingly, we

ORDER the petition DENIED.

  
\_\_\_\_\_, J.  
Stiglich

  
\_\_\_\_\_, J.  
Pickering

  
\_\_\_\_\_, J.  
Parraguirre

cc: Hon. Veronica Barisich, District Judge  
Laxalt Law Group, Ltd./Reno  
Fennemore Craig P.C./Reno  
Chesnoff & Schonfeld  
The Law Office of John V. Spilotro, Esq., P.C.  
Eighth District Court Clerk