

IN THE SUPREME COURT OF THE STATE OF NEVADA

ANTHONY FRISCO; AND CUTHBERT  
E.A. MACK,  
Petitioners,  
vs.

THE EIGHTH JUDICIAL DISTRICT  
COURT OF THE STATE OF NEVADA,  
IN AND FOR THE COUNTY OF CLARK;  
AND THE HONORABLE RONALD J.  
ISRAEL, DISTRICT JUDGE,

Respondents,  
and

RUSSELL JACOBY; CAMELIA JACOBY;  
AND DESERT LAND INVESTMENT  
COMPANY, LLC,  
Real Parties in Interest.

No. 69144

**FILED**

MAR 18 2016

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY S. Young  
DEPUTY CLERK

*ORDER GRANTING PETITION FOR WRIT OF MANDAMUS*

This is an original petition for a writ of mandamus challenging a district court order imposing sanctions on petitioners Anthony Frisco and Cuthbert E.A. Mack.<sup>1</sup> Real parties in interest have filed an answer, and petitioners have filed a reply.

In the underlying case, real parties in interest sought sanctions against petitioners for prematurely serving a subpoena, improperly obtaining real parties in interest's bank account numbers, and using those account numbers in a subsequent subpoena. The district court granted the motion and imposed monetary sanctions on petitioners.

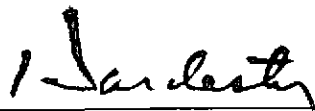
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<sup>1</sup>We deny petitioners' alternative request for a writ of prohibition because the district court did not act in excess of its jurisdiction. NRS 34.320.

NRCP 11 requires parties seeking sanctions to follow very specific procedures. In particular, NRCP 11(c)(1)(A) requires the movant to allow the opposing party 21 days to withdraw or correct the violation before filing a motion for sanctions. There is no evidence here that real parties in interest afforded petitioners 21 days to correct the specified errors. Thus, the sanctions were not properly granted under NRCP 11.

Regardless, the specific conduct sanctioned does not appear to warrant sanctions. In particular, monetary sanctions do not appear to be warranted against a party who, while pro se, failed to comply with NRCP 62(a) by not serving a notice of entry of judgment and waiting the required ten days before serving a subpoena to execute on the judgment, especially where the subject bank did not respond to the subpoena. And real parties in interest did not present any evidence that Mack knew or should have known that bank account numbers were improperly obtained before his serving the subpoena. Accordingly, 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 July 16, 2015, "Order Regarding Rule 11 Violation."

 J.

Hardesty

 J.

Saitta

 J.

Pickering

cc: Hon. Ronald J. Israel, District Judge  
Cuthbert E.A. Mack  
Benjamin B. Childs  
Eighth District Court Clerk