

IN THE SUPREME COURT OF THE STATE OF NEVADA

R.J. REYNOLDS TOBACCO COMPANY,
A FOREIGN CORPORATION,
INDIVIDUALLY AND AS SUCCESSOR-
BY-MERGER TO LORILLARD
TOBACCO COMPANY, AND AS
SUCCESSOR-IN-INTEREST TO THE
UNITED STATES TOBACCO
BUSINESS OF BROWN &
WILLIAMSON TOBACCO
CORPORATION, WHICH IS THE
SUCCESSOR-BY-MERGER TO THE
AMERICAN TOBACCO COMPANY,
Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK; AND THE HONORABLE
MARIA GALL, DISTRICT JUDGE,
Respondents,


and

TIMOTHY A. GEIST, INDIVIDUALLY
AND AS ADMINISTRATOR AND
PERSONAL REPRESENTATIVE OF
THE ESTATE OF VERNA LEE GEIST,
Real Party in Interest.

No. 89680

FILED

DEC 22 2025

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER GRANTING PETITION FOR A WRIT OF MANDAMUS

This petition for a writ of mandamus challenges a district court order awarding attorney fees and costs as sanctions for a mistrial. For the

reasons discussed in this order, we grant the petition for a writ of mandamus.¹

Real party in interest Timothy Geist, individually and as administrator and personal representative of the estate of his late wife, Verna Lee Geist, sued petitioner R.J. Reynolds Tobacco Company. The matter moved to a trial and during one of Reynolds' expert's testimony, Timothy moved for a mistrial, which the district court granted and a new trial date was set. The district court also awarded Timothy attorney fees and costs as a sanction on Reynolds but deferred calculating the amount due until after the new trial. The presiding judge then retired, and Timothy moved to determine costs and fees before the scheduled new trial. The successor judge granted Timothy's request, ordering Reynolds pay \$862,656.32 in attorney fees and costs within two weeks. This petition followed.

We have discretion in deciding whether to entertain a writ petition seeking extraordinary relief. *Smith v. Eighth Jud. Dist. Ct.*, 107 Nev. 674, 677, 679, 818 P.2d 849, 851, 853 (1991). "A writ of mandamus is available to compel the performance of an act that the law requires as a duty resulting from an office, trust, or station or to control an arbitrary or capricious exercise of discretion." *Int'l Game Tech., Inc. v. Second Jud. Dist. Ct.*, 124 Nev. 193, 197, 179 P.3d 556, 558 (2008) (footnote omitted) (citing

¹The petition also seeks a writ of prohibition but does not establish that the district court lacked jurisdiction. Accordingly, we decline to entertain the petition to the extent it seeks a writ of prohibition. See *Goicoechea v. Fourth Jud. Dist. Ct.*, 96 Nev. 287, 289, 607 P.2d 1140, 1141 (1980) (holding that a writ of prohibition "will not issue if the court sought to be restrained had jurisdiction to hear and determine the matter under consideration"); see also NRS 34.320.

NRS 34.160). Additionally, an available plain, speedy, and adequate remedy at law will generally preclude writ relief. NRS 34.170; *Walker*, 136 Nev. at 683, 476 P.3d at 1198. Reynolds lacks an adequate remedy at law because the interlocutory sanctions order is not appealable. *R.J. Reynolds Tobacco Co. v. Geist*, 141 Nev., Adv. Op. 14, 565 P.3d 327, 328 (2025).

Reynolds argues the successor judge violated the law-of-the-case doctrine by overturning the predecessor judge's order that the attorney fees and cost calculation and payment would be done after the new trial. Reynolds argues that in doing so, the district court manifestly abused its discretion, warranting writ relief. We agree with Reynolds.


This court has clarified that a successor judge should not revisit an issue previously decided by a different judge in the same proceeding unless "(1) subsequent proceedings produce substantially new or different evidence, (2) there has been an intervening change in controlling law, or (3) the prior decision was clearly erroneous and would result in manifest injustice if enforced." *Litchfield v. Tucson Ridge Homeowners Ass'n*, 140 Nev., Adv. Op. 57, 555 P.3d at 270-71 (2024) (quoting *Hsu v. Cnty. of Clark*, 123 Nev. 625, 630, 173 P.3d 724, 729 (2007)). Here, none of the three exceptions to the law-of-the-case doctrine applies. Thus, the district court arbitrarily and capriciously abused its discretion by ordering the sanction be paid before the new trial, when the predecessor judge had ruled the opposite.

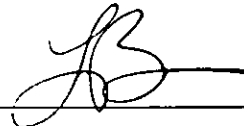
In reaching this conclusion, we reject Timothy's arguments that Reynolds waived this argument or that *Litchfield* cannot apply retroactively. Reynolds argued in its opposition to Timothy's motion to determine the amount of fees and costs that the earlier order was the relevant order and that Timothy had failed to demonstrate why a departure

from the earlier order was warranted. And because *Litchfield* merely clarified existing law, it does not constitute a new rule that would preclude retroactive application. See *Buffington v. State*, 110 Nev. 124, 127, 868 P.2d 643, 645 (1994) (“When a decision merely interprets and clarifies an existing rule . . . and does not announce an altogether new rule of law, the court’s interpretation is merely a restatement of existing law.”).

Having considered the parties’ arguments and concluded that writ relief is warranted, 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 23, 2024, order awarding attorney fees and costs as sanctions for a mistrial.


_____, C.J.
Herndon


_____, J.
Bell


_____, J.
Stiglich

cc: Hon. Maria A. Gall, District Judge
Bailey Kennedy
King & Spalding LLP/Atlanta
King & Spalding LLP/Miami
The Alvarez Law Firm
Claggett & Sykes Law Firm
Eighth District Court Clerk