

IN THE SUPREME COURT OF THE STATE OF IDAHO

Docket No. 54220

Petition for Writ of Prohibition
or Mandamus.

BBC LLC, an Idaho limited liability
company,

Petitioner,

v.

LATAH COUNTY DISTRICT COURT;
HONORABLE MICHELLE M. EVANS,
DISTRICT JUDGE,

Respondents.

Boise, September 2026 Term

Opinion filed: October 5, 2026

Melanie Gagnepain, Clerk

Original proceeding in the Idaho Supreme Court seeking a Writ of Prohibition or Mandamus.

The Petition for Writ of Prohibition or Mandamus is denied in part and granted in part; writ of review issued; district court order vacated.

Givens Pursley LLP, Boise, for Petitioner.

Office of Idaho Attorney General, Boise, for Respondents.

PER CURIAM.

This matter is before this Court on a Petition for Writ of Prohibition or Mandamus (“Petition”) filed by BBC, LLC (“BBC”). The Petition raises the question whether a district court has authority to require a party to post a surety bond as security for a potential money judgment. The district court entered an order requiring BBC to post such a bond, and BBC requests that this Court issue a writ of prohibition and/or mandamus requiring the district court to vacate its order, preventing the enforcement of the order, and preventing the imposition of other injunctive relief for the purpose of securing a potential money judgment. For the reasons discussed below, we deny BBC’s request for a writ of prohibition and/or mandamus, but we issue a writ of review and vacate

the district court's order. We conclude that the district court exceeded its authority by requiring BBC to post a bond to secure a potential money judgment, and BBC has no adequate, speedy remedy in the ordinary course of law.

I. FACTUAL AND PROCEDURAL BACKGROUND

Germer Construction, Inc. ("Germer"), contracted with BBC to provide construction services for a subdivision BBC was developing. The parties disputed the amount BBC owed to Germer, and the dispute was submitted to arbitration as required by their contract. The arbitrator issued a decision finding that Germer was entitled to recover just under \$1,000,000 from BBC, including costs and fees.

BBC then initiated the proceeding below by filing a Petition for Order Vacating Arbitration Award. Germer opposed that petition and filed an Application by Motion for Confirmation of Arbitration Award and Entry of Judgment. Germer also filed a Motion for Temporary Restraining Order and Motion for Preliminary Injunction. It argued that it had reason to believe BBC was dissipating assets by transferring them from BBC to entities owned or controlled by BBC members. It sought both temporary and preliminary injunctive relief prohibiting BBC from selling its property and distributing its assets absent prior court approval. The district court granted an ex parte temporary restraining order imposing those restrictions.

BBC moved to dissolve the temporary restraining order and opposed Germer's request for preliminary injunctive relief. It argued that it was only conducting its business in the ordinary course. It also argued that the district court lacked authority to issue injunctive relief solely to secure a prospective money judgment against it.

At a hearing on Germer's request for a preliminary injunction and BBC's request to dissolve the temporary restraining order, the district court offered its own solution to Germer's concerns: that BBC be required to post a \$1,000,000 surety bond, which the district court characterized as "equivalent" to a supersedeas bond. The district court proposed that Germer also be required to post a surety bond of \$500,000 to secure a potential judgment in favor of BBC, in the event it prevailed and was entitled to costs and fees. At Germer's request, the district court agreed to reduce the amount of its bond to \$250,000. BBC objected, contending that no authority authorized the district court to require BBC to post a supersedeas bond.

The district court then issued an order, dated June 26, 2026. Without citing any rule or statute purportedly authorizing it to do so, the district court required that BBC and Germer post

bonds of \$1,000,000 and \$250,000, respectively, by July 27. The order stated that the surety bonds “shall be equivalent to supersedeas bonds” It dissolved the temporary restraining order and declined to issue preliminary injunctive relief, indicating that the bonds “eliminat[ed] the necessity of continuing the Temporary Restraining Order or issuing a Preliminary Injunction.”

BBC then filed its Petition with this Court requesting a writ of mandamus and/or prohibition to require the district court to vacate its order, to prohibit the district court from imposing a bond requirement, and to prohibit the district court from issuing injunctive relief restraining BBC’s use of its property while the litigation is pending. It argued that the district court lacked authority to require it to post a surety bond or to issue injunctive relief restraining the use of its assets. BBC also requested this Court enter a stay of the district court’s order pending resolution of the Petition.

This Court entered a stay and requested briefing from Germer. After receiving that briefing, this Court issued an order to show cause allowing the district court to address why this Court should not issue an extraordinary writ. The Idaho Attorney General’s Office submitted a brief on behalf of the district court.

II. ANALYSIS

The district court exceeded its authority by requiring BBC to post a supersedeas bond, or the “equivalent” of one, to secure a potential money judgment against BBC. The order itself does not indicate any authority under which it was issued, and neither the district court nor Germer has identified any in their briefing to this Court. Because the district court exceeded its authority, and because we conclude that BBC has no adequate, speedy remedy in the ordinary course of law, writ relief is warranted. In this case, the most appropriate form of that relief is a writ of review or certiorari vacating the district court’s order, which we issue here. We begin by addressing the district court’s authority to require BBC to post a surety bond before turning to the propriety of writ relief and the appropriate form of that relief.

A. The district court exceeded its authority when it required BBC to post a bond.

The district court ordered BBC to post what it characterized as the “equivalent” of a supersedeas bond, which it indicated was necessary to ensure that BBC could satisfy a potential judgment against it. It did not identify any rule or statute authorizing that relief at the hearing in which the district court first broached the idea, in its order, or in its brief submitted in response to this Court’s show cause order. Though the brief submitted on behalf of the district court suggests

in passing that the district court had authority to require the bond, it does not identify any source for that purported authority. For its part, Germer argues that the district court had inherent equitable authority to require BBC to post the bond. We disagree.

Though the district court characterized the bond as a supersedeas bond or the equivalent of one, it is neither. A supersedeas bond provides security for a judgment and “suspends a judgment creditor’s power to levy execution,” usually “pending appeal.” *See Supersedeas*, Black’s Law Dictionary (12th ed. 2024); *see also KeyBank Nat’l Ass’n v. PAL I, LLC*, 155 Idaho 287, 296, 311 P.3d 299, 308 (2013) (holding that supersedeas bond is necessary to stay execution of judgment pending appeal, including judgment for attorney fees). The proceedings below involved cross-motions to confirm and vacate an arbitration award. That action is not an appeal, and an arbitrator’s award is not a judgment or order the execution or enforcement of which could be stayed. *See Stiffler v. Hydroblend, Inc.*, 172 Idaho 630, 644, 535 P.3d 606, 620 (2023) (holding that an “arbitrator’s award is not enforceable until a court enters judgment on it”), *abrogated on other grounds by, Litster v. Litster Frost Inj. Laws. PLLC*, 174 Idaho 860, 560 P.3d 1007 (2024); *Bingham Cnty. Comm’n v. Interstate Elec. Co.*, 108 Idaho 181, 183, 697 P.2d 1195, 1197 (Ct. App. 1985) (holding that an “arbitrator’s award is not a judgment”). Because the bond required by the district court was not a supersedeas bond, no rule or statute addressing supersedeas bonds authorized the district court’s order.

Motions to confirm or vacate an arbitration award are, in some ways, like appeals in that both involve a court reviewing a prior legal determination. Despite that similarity, no rule or statute addressing the consideration of arbitration awards authorizes a court to require a party to post anything like a supersedeas bond pending confirmation of the arbitration award. Neither the Uniform Arbitration Act, chapter 9, title 7, Idaho Code, nor the Federal Arbitration Act, chapter 1, title 9, United States Code, authorize courts to require a bond to secure an arbitration award pending resolution of a motion to vacate or confirm the award. *See PFS Invs., Inc. v. Poole*, No. Civ. 3:05CV446-C, 2006 WL 13025, at *2 (W.D.N.C. Jan. 3, 2006) (holding that the district court lacked authority to require a surety bond in an action to vacate or modify an arbitration award).

Idaho law provides a mechanism whereby a plaintiff can seek, and the trial court can provide, security for an alleged monetary debt before judgment. Title 8 of the Idaho Code addresses provisional remedies in civil actions, and chapter 5 of that title permits a plaintiff to apply for a writ of attachment against the alleged debtor’s property as security for a potential judgment. The

alleged debtor can avoid attachment by providing sufficient surety for the alleged debt. I.C. § 8-506C. But that mechanism incorporates detailed procedural requirements. Those requirements address the content of the application, notice, service, hearings, findings by the district court, and the form of the writ. *See* I.C. §§ 8-502 to -540; *Heinrich v. Barlow*, 87 Idaho 72, 80, 390 P.2d 831, 836 (1964) (“The remedy by attachment is purely statutory and summary and a party must, in order to have the benefit of this statutory process[,], do everything required by the authorizing statutes.”). Germer did not attempt to avail itself of this provisional remedy, and the district court did not purport to issue a writ of attachment.

Finally, although the motion that prompted the district court’s order here was one for injunctive relief pursuant to Idaho Rule of Civil Procedure 65, we do not address whether the bond could have been required under that rule because the district court did not rely upon it in its order. Nor does the brief submitted on behalf of the district court contend that the bond was required as a form of preliminary injunctive relief under that rule. More importantly, the district court’s order states that the bond “eliminat[ed] the necessity” for a preliminary injunction, and it denied Germer’s request for preliminary injunctive relief. The district court’s order provides that the bond was an alternative to a preliminary injunction, not a form of preliminary injunction.

Germer contends that the district court had the “inherent equitable power” to require BBC to issue the bond. Equity looks to principles of “fairness as contrasted with the strictly formulated rules of common law,” and the scope of equitable authority “is based on a system of rules and principles which originated in England as an alternative to the harsh rules of common law and which were based on what was fair in a particular situation.” *Hagler v. Micron Tech., Inc.*, 118 Idaho 596, 599 n.2, 798 P.2d 55, 58 n.2 (1990) (quoting *Equitable*, Black’s Law Dictionary (5th ed. 1979)). “When one party is seeking recovery in equity, the trial court is vested with discretion in determining the equities between the parties.” *Lunneborg v. My Fun Life*, 163 Idaho 856, 867, 421 P.3d 187, 198 (2018) (citation modified) (quoting *Schmidt v. Huston*, 167 Idaho 320, 324, 470 P.3d 1129, 1133 (2016)). “As a general principle, the trial court is granted broad discretion in fashioning equitable relief.” *Id.* But the scope of equitable authority is bounded by traditional equitable rules and principles, except where a rule or statute expands it. The traditional scope of equitable authority does not permit a trial court to require an alleged debtor to secure a potential money judgment in an action at law.

In England at the time of the founding and in many states thereafter, the distinction between legal and equitable remedies was reflected in a distinction between courts and actions of different types: actions at law were brought in courts of law, and equitable actions were brought in chancery courts empowered to provide a fair or equitable remedy when the remedy at law was deemed inadequate. *See Crosby v. Bowater Inc. Ret. Plan for Salaried Emps. of Great N. Paper Inc.*, 382 F.3d 587, 593–94 (6th Cir. 2004); *M.K.F. v. Miramontes*, 287 P.3d 1045, 1052 (Or. 2012) (en banc). The Idaho Constitution prohibits any such distinction between actions of different types:

The distinctions between actions at law and suits in equity, and the forms of all such actions and suits, are hereby prohibited; and there shall be in this state but one form of action for the enforcement or protection of private rights or the redress of private wrongs, which shall be denominated a civil action . . . [.]

Idaho Const. art. V, § 1. But while there is no formal distinction between actions of different types, there is a distinction between legal relief and equitable relief, and the “rules of equity” continue to apply to the provision of equitable relief. *See Dewey v. Schreiber Implement Co.*, 12 Idaho 280, 287, 85 P. 921, 923 (1906) (holding that abolishing the distinction between different types of actions “does not abolish the rules of law or rules of equity”).

The question here is whether the “rules of equity” permit a trial court to require a defendant to provide pre-judgment security for a potential money judgment. We hold that they do not.

The United States Supreme Court addressed a similar question in *Grupo Mexicano de Desarrollo S.A. v. Alliance Bond Fund, Inc.*, 527 U.S. 308 (1999). The plaintiff in *Grupo* sought money damages for breach of contract. *Id.* at 312. Concerned that the defendant was dissipating assets and would be insolvent when a judgment issued, the plaintiff sought and was granted a preliminary injunction under Federal Rule of Civil Procedure 65 restricting the defendant’s use of its assets. *Id.* at 312–13. The Supreme Court held that preliminary equitable relief, in the form of an injunction under Rule 65, was unavailable in an action seeking only an unsecured money judgment when the injunction’s purpose was to secure that judgment. *Id.* at 333.

The Supreme Court’s decision rested on two premises. First, a federal court’s equitable authority under Rule 65 is limited to the equitable authority exercised by courts under English law at the time of the founding. *Id.* at 318–19. Second, that traditional equitable authority did not encompass the relief granted by the district court. *Id.* Instead, “the well-established general rule” was that, in an action at law to recover a money judgment on an unsecured debt in which the plaintiff had no equitable interest, “a judgment establishing the debt was necessary before a court

of equity would interfere with the debtor's use of his property." *Id.* at 321. That rule was justified by the "requirement that remedies at law had to be exhausted before equitable remedies could be pursued," and the prospective judgment was itself a remedy at law that had not been exhausted. *Id.* at 319–20. It was also justified by "the substantive rule that a general creditor (one without a judgment) had no cognizable interest, either at law or in equity, in the property of his debtor, and therefore could not interfere with the debtor's use of that property." *Id.*

Grupo is not controlling here, but it is instructive. *Grupo* concerned only the scope of equitable authority under Federal Rule of Civil Procedure 65. To answer the question before it, though, the Supreme Court analyzed the scope of the traditional rules of equity. Courts in other jurisdictions have relied on *Grupo*'s analysis to address the scope of the equitable authority possessed by state courts. *See, e.g., Norman v. Occupational Safety Ass'n of Ala. Workmen's Comp. Fund*, 811 So. 2d 492, 499–501 (Ala. 2001); *Credit Agricole Indosuez v. Rossiyskiy Kredit Bank*, 729 N.E.2d 683, 685–89 (N.Y. 2000).

Although *Grupo* and the order at issue in this case involve different forms of preliminary equitable relief, both burden a defendant's assets solely to secure a potential money judgment for a disputed and unsecured debt, where the plaintiff has no present equitable interest in the defendant's property or assets and has not exhausted remedies at law. Other courts faced with situations like the one here have relied on *Grupo* to conclude that the court did not have the equitable authority to require the posting of a bond to secure a potential money judgment. *See United States ex rel. Bibby v. Mortg. Invs. Corp.*, No. 1:12-CV-4020-AT, 2017 WL 8218294, at *14–16 (N.D. Ga. Sept. 8, 2017) (relying on *Grupo* to deny a request for a bond to secure a potential money judgment); *Coley v. Vannguard Urb. Improvement Ass'n, Inc.*, No. 12-CV-5565, 2016 WL 7217641, at *5 & n.7 (E.D.N.Y. Dec. 13, 2016) (same).

We hold that a trial court lacks inherent equitable authority to require an alleged debtor to post a surety bond to secure a potential money judgment for an unsecured debt in which the plaintiff has no present equitable interest. It is important to note that this holding is narrow. It concerns only the scope of inherent equitable authority and does not undermine any authority courts may have to order the same or similar relief under a rule or statute. That includes Idaho Rule of Civil Procedure 65. *Grupo* concluded that the boundaries of equitable authority under Federal Rule of Civil Procedure 65 are the boundaries of traditional equitable authority. We do not address the corresponding question regarding the boundaries of equitable authority under Idaho Rule of

Civil Procedure 65 because the district court did not purport to grant a preliminary injunction under that rule.

The only case cited by Germer for the proposition that the district court had inherent authority to enter its order—*State ex rel. Evans v. Click*, 102 Idaho 443, 450, 631 P.2d 614, 621 (1981)—does not support it. *Click* involved a partnership mining without a permit in violation of the Idaho Dredge and Placer Mining Protection Act. 102 Idaho at 445, 631 P.2d at 616. The State sought injunctive relief to prevent further mining and to require restoration of the affected area. *Id.* The district court granted a permanent injunction preventing any further mining without a permit and ordered the partnership to restore the affected area. *Id.* at 446, 631 P.2d at 617. It also ordered that, if the defendant failed to complete the restoration, requiring the State to step in to do so, expenses incurred by the State would be a “lien” against the partnership’s mining claims and equipment. *Id.* On appeal, the partnership argued that the district court exceeded its authority by imposing the lien. *Id.* at 449–50, 631 P.2d at 620–21. This Court rejected that argument relying, in part, on the proposition that the district court had the “inherent power” to impose the lien. *Id.* (citing I.C. § 1-1603).

Click is consistent with our holding here. First, *Click* involved a claim for equitable relief, not an action for a money judgment to recover an unsecured debt. Our holding here does not address the scope of preliminary equitable relief in an action seeking equitable relief. Second, this Court in *Click* relied on the district court’s equitable authority to enforce its own orders. *Id.* at 450, 631 P.2d at 621. It cited Idaho Code section 1-1603, *see id.*, which provides that every court has the power to “compel obedience to its judgments, orders and process,” I.C. § 1-1603(4). The district court ordered the defendant in *Click* to remediate damage to the site of the unpermitted mine, and the lien was a means of enforcing that order. *See* 102 Idaho at 446, 631 P.2d at 617. Nothing similar is true here. The bond requirement was not an attempt to enforce any prior district court order.

We conclude that the district court exceeded its authority when it ordered BBC to post a surety bond as security for a potential money judgment for an unsecured debt.

B. Writ relief is warranted, and a writ of review is the most appropriate form of relief.

BBC requests that this Court issue a writ of mandamus and/or a writ of prohibition. Though we agree that writ relief is warranted, we decline to issue either. The more appropriate form of relief in this case is a writ of review or certiorari.

This Court’s jurisdiction to issue extraordinary writs stems from Article V, section 9 of the Idaho Constitution. It provides that “[t]he Supreme Court shall . . . have original jurisdiction to issue writs of mandamus, certiorari, prohibition, and habeas corpus, and all writs necessary or proper to the complete exercise of its appellate jurisdiction.” Idaho Const. art. V, § 9. “Any person may apply to the Supreme Court for the issuance of any extraordinary writ or other proceeding over which the Supreme Court has original jurisdiction.” I.A.R. 5(a). “However, before this Court will exercise its original jurisdiction, the party seeking an extraordinary writ must overcome a number of hurdles. Fundamental among them is a demonstration by the petitioning party that the case . . . satisfies the legal criteria for the relief sought[.]” *Labrador v. Idahoans for Open Primaries*, 174 Idaho 1034, 1039, 554 P.3d 85, 90 (2024).

Three forms of extraordinary writ relief are relevant here: writs of (1) mandamus and (2) prohibition, requested by BBC, and (3) a writ of certiorari or review, the propriety of which this Court raises sua sponte. A writ of mandamus may issue “to compel the performance of an act which the law especially enjoins as a duty resulting from an office, trust or station[.]” I.C. § 7-302. A writ of prohibition, the counterpart of mandamus, “arrests the proceedings of any tribunal, corporation, board or person” acting “without or in excess of” its jurisdiction. I.C. § 7-401. A writ of review, also referred to as a writ of certiorari, may be granted only where an inferior tribunal, board, or officer exercising a judicial function exceeds its jurisdiction. I.C. § 7-202. None of these writs, often referred to as extraordinary writs, issues as a matter of right, and none is available when the petitioner has a plain, speedy, and adequate remedy in the ordinary course of law. *See* I.C. §§ 7-202, 7-303, 7-402.

1. *BBC has no adequate remedy at law.*

We begin with the threshold question of whether BBC has a plain, speedy, and adequate remedy in the ordinary course of law. The absence of such a remedy is a prerequisite to writ relief. Both Germer and the Attorney General, on behalf of the district court, argue that BBC has an adequate remedy through appeal. “Where the right to an appeal is readily available, such remedy is regarded as an adequate remedy at law and will bar the issuance of a writ.” *Rim View Trout Co. v. Idaho Dep’t of Water Res.*, 119 Idaho 676, 677, 809 P.2d 1155, 1156 (1991).

Here, however, an appeal is neither readily available nor an adequate remedy. The district court’s order is interlocutory and is not directly appealable under Idaho Appellate Rule 11(a) or any statute. BBC therefore could obtain review of the order only through an appeal from the final

judgment. *See* I.A.R. 17(e)(1)(A) (providing that an appeal from a final judgment is “deemed to include, and present on appeal” any appeal as to “interlocutory judgments and orders entered prior to the judgment, order or decree appealed from”). By then, however, BBC will have been required to post the bond and bear the expense and burden on its assets associated with doing so. The detailed procedural requirements and limitations on pre-judgment security in chapter 5, title 8, Idaho Code, are a legislative recognition that compelling a defendant to secure an alleged debt before judgment burdens and harms the defendant both by imposing expenses and tying up resources. An appeal following final judgment could provide no effective relief from the requirement that BBC post the bond, rendering the issue moot. *See Bickerstaff v. Bickerstaff*, 177 Idaho 343, ___, 589 P.3d 551, 581 (2026) (holding that an appeal is moot when “this Court cannot grant effective relief even if error were shown”); *Schuster v. Milbrath*, No. 52545, slip. op. at 17 (Idaho Sept. 24, 2026) (remittitur pending) (holding that alleged error regarding calculation of amount of supersedeas bond was moot on appeal).

The Attorney General, on behalf of the district court, also suggests that, if BBC prevails below, it may be able to recover the expense of the bond premium under Idaho Rule of Civil Procedure 54(d)(1)(C)(viii) as a cost to which the prevailing party is entitled as a matter of right. Even assuming that is right, it provides an inadequate remedy as to the burden on BBC’s business and property associated with the improper requirement to post the bond. We conclude that BBC has no plain, adequate, and speedy remedy in the ordinary course of law.

2. A writ of review will issue.

Which form of writ relief is appropriate, if any, turns on the nature of the alleged error and the purpose of each form of relief.

A writ of prohibition asks this Court to “intervene[] in judicial or quasi-judicial proceedings to prevent acts or proceedings without or in excess of authority.” *Clark v. Ada Cnty. Bd. of Comm’rs*, 98 Idaho 749, 752, 572 P.2d 501, 504 (1977). A writ of prohibition is prospective or “preventive in nature.” *Id.* This Court will not issue a writ of prohibition “where no act in excess of jurisdiction can be prevented,” and “[i]t follows that a past act will not be subject to a writ [of prohibition].” *Id.*

A writ of mandamus is also prospective but compels rather than prevents certain acts or conduct. “A writ of mandamus will lie if the officer against whom the writ is brought has a clear legal duty to perform the desired act, and if the act sought to be compelled is ministerial or

executive in nature.” *Idahoans for Open Primaries v. Labrador*, 172 Idaho 466, 490, 533 P.3d 1262, 1286 (2023) (citation modified). “If the act sought to be compelled of the public officer is ministerial, the Court must find the party seeking the writ has a clear legal right to have the act performed.” *Id.* at 490–91, 533 P.3d at 1286–87 (quoting *Coeur d’Alene Tribe v. Denney*, 161 Idaho 508, 512, 387 P.3d 761, 765 (2015)).

Both writs of prohibition and review address action in excess of jurisdiction or authority, but they operate at different stages: a writ of prohibition is prospective, while a writ of review is retrospective. A writ of review is concerned with a past judicial act or order and asks only whether it was within the court’s jurisdiction or authority. The “writ of review may be granted by any court except the magistrate division of the district court, when an inferior tribunal, board or officer exercising judicial functions, has exceeded the jurisdiction of such tribunal . . . and there is no appeal [or] . . . plain, speedy and adequate remedy.” I.C. § 7-202. This Court has interpreted the provision that there be “no appeal” to mean no direct appeal from the challenged order. *See Hay v. Hay*, 40 Idaho 159, 169, 232 P. 895, 897 (1924) (holding that the “no appeal” requirement “clearly refers to a direct appeal from the particular order in question”).

The question whether a court exceeded its jurisdiction or authority for purposes of a writ of review is not limited to assessing subject matter and personal jurisdiction. Whether a tribunal exceeded its jurisdiction for purposes of a writ of prohibition “is not merely a question of whether the tribunal had subject matter and personal jurisdiction, but also whether the tribunal had the lawful authority to take the action that it did.” *Re Petition for Writ of Prohibition*, 168 Idaho 909, 919, 489 P.3d 820, 830 (2021). The same is true for writs of review. *See* I.C. § 7-208 (“The review upon this writ [of review] cannot be extended further than to determine whether the inferior tribunal, board or officer has regularly pursued the authority of such tribunal, board or officer.”); *Levan v. Third Dist. Ct.*, 4 Idaho 667, 672–73, 43 P. 574, 575 (1896) (granting writ of review to set aside portion of judgment in contempt proceeding improperly awarding damages where no statute authorized an award of damages). This Court will not, however, issue a writ of review to address whether a lower court properly exercised an authority it has. *See Utah Ass’n of Credit Men v. Budge*, 16 Idaho 751, 756–58, 102 P. 390, 392 (1909) (holding that where a statute provided the district court with the “jurisdiction, power, and authority” to appoint a receiver, this Court would not grant a writ of review to address whether the district court erred in exercising that authority).

The question is whether the tribunal has authority of the relevant sort, not whether it erred in exercising that authority on a given occasion.

A writ of review is the most appropriate avenue for relief in this case. The order is not merely an improper exercise of authority; it is not an exercise of authority possessed by the district court. Even if similar relief might have been granted under Idaho Rule of Civil Procedure 65, the order states that it was not granting relief under that rule. Where the district court's order was not an exercise of any lawful authority, it did not "regularly pursue" its authority. *See* I.C. § 7-208 (providing that a writ of review is appropriate to review whether the tribunal "regularly pursued [its] authority").

BBC asks this Court to issue a writ of prohibition preventing the district court from enforcing the order, a writ of mandate requiring the district court to vacate the order, and a writ of prohibition preventing the district court from imposing any pre-judgment restrictions on the use of its property. We decline to do so. The essence of BBC's complaint is that the district court lacked authority to enter the order. Where a writ of review provides a mechanism to review the order directly, doing so indirectly by preventing its enforcement is unnecessary. *See Dey v. Cunningham*, 93 Idaho 684, 686, 471 P.2d 71, 73 (1970) (where petitioner sought writ of prohibition preventing imposition of penalty for contempt, holding that "review of an already issued contempt order must be by writ of review or by appeal"). Likewise, if this Court can review the order directly, there is no reason to mandate that the district court vacate the order. Finally, this Court will not issue a writ of prohibition to prevent the district court from imposing hypothetical restrictions on the use of BBC's assets.

For similar reasons, we reject the Attorney General's argument that the question of writ relief is moot. While the Petition was pending, the judge who issued the order voluntarily recused herself, and the underlying matter was transferred to another judge. That rendered the question of writ relief moot, according to the Attorney General, because a writ of mandamus or prohibition would be directed to the judge who issued the order, either requiring her to vacate the order or prohibiting her from enforcing it, and she is no longer able to do either. The order is not affected by the transfer of the underlying matter from one judge to another, though. By issuing a writ of review, this Court can directly review it and either affirm or vacate. *See La Salle Extension Univ. v. Dist. Ct. of First Jud. Dist. for Shoshone Cnty.*, 52 Idaho 559, 16 P.2d 1064, 1064 (1932) (directly reviewing and vacating district court order on petition for review). Just like the order

itself, this Court's ability to provide that relief is unaffected by the transfer of the underlying matter from one judge to another.

We grant a writ of review and vacate the district court's order. This remedy nullifies all bond requirements imposed by the district court's order, issued on June 26, 2026, including the \$1,000,000 bond required by BBC and the \$250,000 bond required by Germer.

III. CONCLUSION

The Petition is granted in part and denied in part. We issue a writ of review and vacate the district court's order of June 26, 2026. The stay previously entered will remain in effect until the remittitur is issued. The matter is remanded for further proceedings consistent with this opinion.