

IN THE SUPREME COURT OF THE STATE OF NEVADA

EARTH GUARD ENVIRONMENTAL,  
INC., A NEVADA CORPORATION,  
Appellant,

vs.

CLARK COUNTY SANITATION  
DISTRICT, A POLITICAL  
SUBDIVISION OF THE STATE OF  
NEVADA, N/K/ACLARK COUNTY  
WATER RECLAMATION DISTRICT, A  
POLITICAL SUBDIVISION OF THE  
STATE OF NEVADA,  
Respondent.

No. 44013

**FILED**

**JAN 12 2007**

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY *J. Richard*  
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal of a district court order granting declaratory and summary judgments in a tort case. Eighth Judicial District Court, Clark County; Kathy A. Hardcastle, Judge. The district court granted summary judgment to respondent Clark County Sanitation District (CCSD) and concluded that no genuine issues of material fact remained as to whether (1) CCSD was entitled to immunity from damages; (2) appellant Earth Guard Environmental, Inc.'s damages were purely economic in nature; (3) CCSD intentionally interfered with Earth Guard's contractual relationships with its clients; and (4) the CCSD regulation permitting the issuance of citations based purely on visual inspections of grease traps was valid in light of another regulation permitting the issuance of citations based on an objective measurement of grease concentrations in a commercial kitchen's wastewater.

The district court properly granted summary judgment

No genuine issue of material fact exists as to whether CCSD, a political subdivision of the State, is immune from damages.<sup>1</sup> NRS 41.032 immunizes political subdivisions of the state from claims arising from discretionary acts. No genuine issue of material fact exists as to whether CCSD personnel, in inspecting grease interceptors owned by Earth Guard's clients pursuant to Resolution 92-12, "exercise[d] personal deliberation, decision and judgment."<sup>2</sup> The record indicates that CCSD inspectors relied on their expertise, experience, observations, and understanding of the Uniform Plumbing Code in deciding whether to issue a citation under Resolution 92-12. CCSD's apparent policy decision to

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<sup>1</sup>We review orders granting summary judgment de novo. GES, Inc. v. Corbitt, 117 Nev. 265, 268, 21 P.3d 11, 13 (2001). Summary judgment is proper only if no genuine issue of material fact exists and the moving party is entitled to judgment as a matter of law. NRC 56(c); see Wood v. Safeway, Inc., 121 Nev. 724, 729, 121 P.3d 1026, 1029 (2005). "[W]hen reviewing a motion for summary judgment, the evidence, and any reasonable inferences drawn from it, must be viewed in a light most favorable to the nonmoving party." Id. "The substantive law controls which factual disputes are material and will preclude summary judgment; other factual disputes are irrelevant." Id. at 731, 121 P.3d at 1031.

<sup>2</sup>Travelers Hotel v. City of Reno, 103 Nev. 343, 345-46, 741 P.2d 1353, 1354 (1987); see Arnesano v. State, Dep't Transp., 113 Nev. 815, 823, 942 P.2d 139, 144 (1997) ("Discretionary immunity is limited to conduct involving policy decisions."); Ortega v. Reyna, 114 Nev. 55, 62, 953 P.2d 18, 23 (1998) (officer's exercise of judgment in stopping motorist for illegal left hand turn and arresting her for refusal to sign citation was a discretionary act); Hagblom v. State Dir. of Motor Vehicles, 93 Nev. 599, 603-04, 571 P.2d 1172, 1175 (1977) (no waiver of immunity when highway patrol officer exercised due care in citing a speeding motorist).

increase enforcement of Resolution 92 still permitted individual inspectors to exercise personal judgment in a discretionary manner.<sup>3</sup> In addition, no genuine issue of material fact exists as to whether the economic loss doctrine bars recovery on its negligence claim in the absence of physical injury or actual property damage.<sup>4</sup> Finally, Earth Guard did not raise a genuine issue of material fact to show that CCSD changed its internal procedures or issued citations with the intent of disrupting those contracts.<sup>5</sup>

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<sup>3</sup>We also reject Earth Guard's contention that the public duty doctrine does not afford CCSD immunity. Moreover, to the extent that the district court incorrectly concluded that NRS 41.033 provides an alternative basis for immunity, NRS 41.032 provides the proper basis for immunity under the facts of this case.

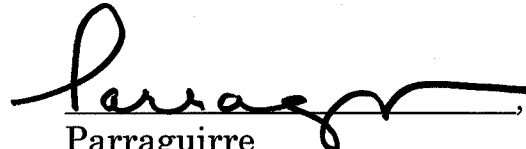
<sup>4</sup>Calloway v. City of Reno, 116 Nev. 250, 258, 993 P.2d 1259, 1264 (2000) ("The [economic loss] doctrine serves to distinguish between tort, or duty-based recovery, and contract, or promise-based recovery, and clarifies that economic losses cannot be recovered under a tort theory."); accord Jordan v. State, Dep't of Motor Vehicles, 121 Nev. 44, 74, 110 P.3d 30, 51 (2005).

<sup>5</sup>Sutherland v. Gross, 105 Nev. 192, 196, 772 P.2d 1287, 1290 (1989) (to establish interference with a contractual relationship, the claimant must prove "(1) a valid and existing contract; (2) the defendant's knowledge of the contract; (3) intentional acts intended or designed to disrupt the contractual relationship; (4) actual disruption of the contract; and (5) resulting damage)."

We further conclude that the other issues raised by Earth Guard are without merit. Therefore, we

ORDER the judgment of the district court AFFIRMED.

  
\_\_\_\_\_, J.  
Gibbons

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

  
\_\_\_\_\_, S. J.  
Shearing

cc: Hon. Kathy A. Hardcastle, District Judge  
Callister & Reynolds  
Pyatt Silvestri & Hanlon  
Clark County Clerk