

IN THE SUPREME COURT OF THE STATE OF NEVADA

DANIEL FRANKEL, AN INDIVIDUAL,  
Appellant,  
vs.  
LINDA DOERING, AN INDIVIDUAL,  
Respondent.

No. 44113

**FILED**

DEC 06 2006

ORDER OF AFFIRMANCE

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY J. R. [Signature]  
CHIEF DEPUTY CLERK

This is an appeal of a judgment upon a jury verdict. Eighth Judicial District Court, Clark County; Kenneth C. Cory, Judge.

The parties are familiar with the facts, and we do not recount them except as pertinent to our disposition.

Appellant Daniel Frankel contends that he should not be jointly and severally liable with Jay Little based upon a jury verdict in this action. The jury concluded that respondent Linda Doering was 5 percent negligent, Frankel was 30 percent negligent, and Little was 65 percent negligent. Doering contends that the issue of comparative negligence of Frankel and Little is irrelevant based upon her complaint alleging employer-employee vicarious responsibility of Frankel for the acts of Little. We agree.

The elements of respondeat superior liability are set forth in the case of Rockwell v. Sun Harbor Budget Suites.<sup>1</sup> In that case, we concluded that there was vicarious responsibility based upon respondeat

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<sup>1</sup>112 Nev. 1217, 925 P.2d 1175 (1996).

superior when “(1) the actor at issue was an employee, and (2) the action complained of occurred within the scope of the actor’s employment.”<sup>2</sup>

During the trial, the parties presented evidence that Little was Frankel’s employee and that Little was acting within the scope of his employment when the altercation in question occurred. We conclude that there is substantial evidence to support the jury’s finding in favor of Doering, even though a special interrogatory was not submitted to the jury upon the employment issue.<sup>3</sup>

We have considered Frankel’s other arguments and conclude they lack merit. Accordingly, we

ORDER the judgment of the district court AFFIRMED.<sup>4</sup>

Becker, J.  
Becker

Gibbons, J.  
Gibbons

Douglas, J.  
Douglas

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<sup>2</sup>Id. at 1223, 925 P.2d at 1179.

<sup>3</sup>See Carlson v. Locatelli, 109 Nev. 257, 263, 849 P.2d 313, 316-17 (1993) (permitting imperfect jury verdicts to stand when the court can “salvage” or “save” them).

<sup>4</sup>Despite the jury’s answer to special interrogatory No. 1, we do not address the doctrine of joint and several liability, pursuant to NRS 41.141(5). This issue was not raised by Doering.

cc: Hon. Kenneth C. Cory, District Judge  
Leonard I. Gang, Settlement Judge  
Toschi, Sidran, Collins, and Doyle  
Gage & Gage, LLP  
Gary L. Myers  
Clark County Clerk