

IN THE SUPREME COURT OF THE STATE OF NEVADA

ROLLOFF BOX RENTAL, INC., A
NEVADA CORPORATION; SHEAR
FORCE DEMOLITION, INC., A
NEVADA CORPORATION; AND LENA
LEASE CORP., A NEVADA
CORPORATION,

Appellants,

vs.

C & W ENTERPRISES, INC., A
NEVADA CORPORATION; AND
DODD'S DIESEL, INC., A FOREIGN
CORPORATION,

Respondents.

No. 44517

FILED

JUL 12 2006

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

ORDER OF AFFIRMANCE

This is an appeal from a district court order granting a motion for a directed verdict pursuant to NRCP 41(b) and 50(a).¹ Eighth Judicial District Court, Clark County; Jessie Elizabeth Walsh, Judge.

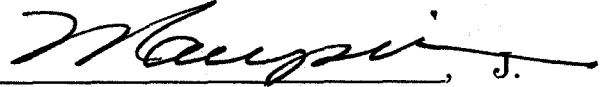
In order to invoke the doctrine of res ipsa loquitur, appellants were required to show that respondents were in exclusive control of the instrumentality which caused the fire.² After construing all of the


¹This court has previously recognized that NRCP 41(b) and 50(a) are "functionally indistinguishable" for purposes of a directed verdict. Lehtola v. Brown Nevada Corp., 82 Nev. 132, 135, 412 P.2d 972, 974 (1966).

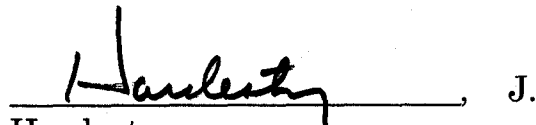
²Woosley v. State Farm Ins. Co., 117 Nev. 182, 188-89, 18 P.3d 317, 321 (2001) (stating that a party seeking to invoke the doctrine of res ipsa loquitur must show that the event was caused "by an agency or instrumentality within the exclusive control of the defendant").

evidence and inferences in the appellants' favor,³ it does not surmount the appellants' inability to prove that the grinder was the instrument which caused the fire. Accordingly, we

ORDER the judgment of the district court AFFIRMED.

 J.

Maupin
 J.
Gibbons

 J.
Hardesty

cc: Hon. Jessie Elizabeth Walsh, District Judge
Jerry J. Kaufman, Settlement Judge
Bogges & Harker
Hall Jaffe & Clayton, LLP
Pico, Escobar & Rosenberger, Ltd.
Clark County Clerk

³This court reviews a directed verdict by the same standard a district court does; the evidence and all inferences must be viewed in the non-moving parties' favor. Bliss v. DePrang, 81 Nev. 599, 601, 407 P.2d 726, 727 (1965).