

IN THE SUPREME COURT OF THE STATE OF NEVADA

WILLDEN'S PRIDE DODGE, INC.,
Appellant,
vs.
CHRYSLER CORPORATION,
Respondent.

No. 45414

FILED

JUL 19 2007

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

ORDER OF AFFIRMANCE

This is an appeal from a district court order granting NRCP 60(b) relief from an accepted offer of judgment in a tort action. Eighth Judicial District Court, Clark County; Mark R. Denton, Judge.

Appellant Willden's Pride Dodge, Inc. raises two contentions on appeal: (1) the district court abused its discretion by reconsidering and granting Chrysler Corporation's NRCP 60(b) motion because there was no competent evidence to support an excusable mistake finding, and (2) the district court lacked jurisdiction to reconsider its order denying Chrysler's NRCP 60(b) motion. We disagree.

STANDARD OF REVIEW

Under NRCP 60(b)(1) a district court may relive a party from a final judgment order or proceeding upon a showing of "mistake, inadvertence, surprise, or excusable neglect." This court has held that a district court "... has wide discretion in deciding whether to grant or deny a motion to set aside a judgment under NRCP 60(b). Its determination will not be disturbed on appeal absent an abuse of discretion."¹

¹Stoecklein v. Johnson Electric, Inc., 109 Nev. 268, 271, 849 P.2d 305, 307 (1993).

As to Willden's contention that the district court abused its discretion by reconsidering and granting Chrysler's motion for relief under NRCP 60(b), we conclude that the district court provided clear insight into its finding of an excusable mistake in understanding the terms of the offer of judgment. The district court on reconsideration found that NRCP 60(b) relief was warranted because Chrysler's counsel lacked authority to enter into the offer of judgment and the parties disputed as to the terms of the offer of judgment. We conclude that the district court acted within its discretion by determining that Chrysler's acceptance of the offer of judgment resulted from excusable mistake.

Although Willden contends that the district court lacked jurisdiction to reconsider its order denying Chrysler's NRCP 60(b) motion, we previously granted Chrysler's motion for remand based on the district court's certification, under Huneycutt v. Huneycutt, that it was inclined to grant reconsideration.² Thus, in light of our order, the district court, on remand, had jurisdiction to reconsider its earlier order denying Chrysler's NRCP 60(b) motion.³

Evidence of (1) Chrysler's misunderstanding regarding the terms of the offer of judgment, (2) Chrysler's counsel's lack of authority to agree to the offer of judgment, and (3) that there was no meeting of the minds, provided a sound basis for consideration.


²See Daimler-Chrysler Corporation v. Willden's Pride Dodge, Inc., Docket No. 41818 (order granting motion for remand and dismissing appeal, March 21, 2005).

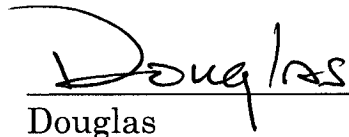
³See Masonry and Tile v. Jolley, Urga & Wirth, 113 Nev. 737, 741, 941 P.2d 486, 489 (1997).


CONCLUSION

Having reviewed the record and considered the parties' arguments, we conclude that the district court did not abuse its discretion and that the actions of the district court were within its jurisdiction. Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Gibbons


_____, J.
Douglas


_____, J.
Cherry

cc: Hon. Mark R. Denton, District Judge
Israel Kunin, Settlement Judge
Beckley Singleton, Chtd./Las Vegas
Mario D. Valencia
Snell & Wilmer, LLP/Las Vegas
Eighth District Court Clerk