

IN THE SUPREME COURT OF THE STATE OF NEVADA

SILVER STATE FORD, D/B/A GAUDIN
FORD, A NEVADA CORPORATION,
Appellant,
vs.
NEPTUNE MOBILE CAR WASH, INC.,
A NEVADA CORPORATION,
Respondent.

No. 45801

FILED

AUG 18 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 judgment in a tort action. Eighth Judicial District Court, Clark County; Jessie Elizabeth Walsh, Judge.

In the underlying case, Gerald Kreske filed a personal injury action against appellant and respondent after he slipped and fell on appellant's premises, sustaining injuries. Kreske alleged that he fell on wet pavement on September 12, 2001. Appellant, however, took issue with this date, as it had prepared a written report, dated September 11, 2001, documenting Kreske's fall. Respondent performed pressure washing on appellant's premises and was present on September 11, but not September 12.

Respondent filed a motion for a good faith settlement determination, advising the district court that it had settled with Kreske for \$1,000. Respondent asserted that, because Kreske's accident occurred on September 12, when it was not on the premises, the \$1,000 settlement was made in good faith, and it agreed to settle in order to avoid the costs associated with discovery and filing a summary judgment motion. Kreske joined in the motion. Appellant opposed the motion, arguing that the date of the incident was in dispute and that a \$1,000 settlement would be

inadequate if respondent's conduct led to the accident. After the court approved the settlement and dismissed the action against respondent, appellant settled with Kreske.

On appeal, appellant argues that the district court abused its discretion by granting respondent's good faith settlement motion and, in particular, asserts that the court failed to consider the nominal nature of the settlement and failed to assess the liability permutations of its decision. Appellant maintains that the court had nothing other than respondent's unsupported claim that the fall took place on September 12.

Respondent answers that the facts before the district court were that (1) respondent was not present at appellant's premises on September 12, (2) Kreske's complaint indicated that he fell on September 12, (3) Kreske joined in the settlement motion, (4) appellant did not file a cross-claim against respondent, and (5) Kreske was willing to release his claims against respondent for \$1,000. Respondent also points out that, given September 11, 2001's historical significance, it is unlikely that Kreske would fail to remember whether he was injured on that date.

The district court's determination whether a settlement was entered in good faith is afforded considerable discretion, and the court's decision should not be disturbed unless that discretion was abused.¹ In analyzing whether a settlement was made in good faith, the district court should consider all relevant facts available to it, which may include evaluating the settlement amount, the existence of collusion or fraud aimed at injuring the non-settling defendant's interests, and the "relative

¹Doctors Company v. Vincent, 120 Nev. 644, 652, 98 P.3d 681, 686-87 (2004).


liability permutations of the particular contribution or indemnity action known to it," including the strength and weaknesses of any such action.²

Here, although appellant argues that the date of the injury was in dispute and, therefore, the court failed to adequately consider the strength of any potential contribution or equitable indemnity claim that appellant may have had against respondent, the court provided appellant with the opportunity to demonstrate that the accident occurred on a date contrary to that which Kreske alleged in his complaint and that to which Kreske and respondent agreed in entering a settlement. Nothing in the record supports that the district court did not consider the liability effect that the injury's date may have had on appellant's potential claim against respondent. Thus, we perceive no abuse of discretion and no reason to disturb the district court's decision. Accordingly, we affirm the district court's order.


It is so ORDERED.³

 J.

Maupin

 J.

Gibbons

 J.

Hardesty

²Id. at 651-52, 98 P.3d at 686-87.

³We have determined that oral argument is not warranted in this appeal. NRAP 34(f)(1).

cc: Hon. Jessie Elizabeth Walsh, District Judge
Carolyn Worrell, Settlement Judge
Turner & Riddle/Las Vegas
Pyatt Silvestri & Hanlon
Clark County Clerk