

IN THE SUPREME COURT OF THE STATE OF NEVADA

STEVEN KRUSE,  
Appellant,  
vs.  
GEICO GENERAL INSURANCE  
COMPANY,  
Respondent.

No. 49919

**FILED**

JUL 10 2008

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY S. Young  
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a district court summary judgment in an insurance coverage dispute. Eighth Judicial District Court, Clark County; Valorie Vega, Judge. The district court also denied appellant's countermotion for leave to amend his complaint, a second time, to add additional claims.

Appellant's first amended complaint stated only a claim for benefits under his underinsured motorist coverage issued by respondent. It contained no allegations that respondent had delayed payment or that appellant otherwise sought damages other than benefits under the policy. Therefore, once respondent paid appellant the policy limits, nothing of the contract claim remained to adjudicate and the district court properly granted summary judgment.<sup>1</sup>

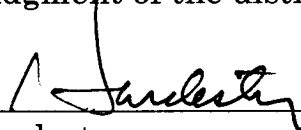
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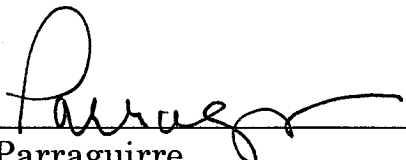
<sup>1</sup>See NRCP 56(c) (stating standard for summary judgment); Wood v. Safeway, Inc., 121 Nev. 724, 729, 121 P.3d 1026, 1029 (2005) (elaborating on summary judgment standard and noting that this court's review of such orders is de novo).

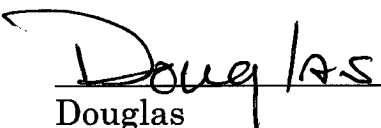
In opposition to respondent's summary judgment motion, appellant included a countermotion for leave to file a second amended complaint to add claims for bad faith, unfair claims settlement practices, breach of fiduciary duty, and intentional infliction of emotional distress. We review the district court's decision to deny leave to amend for an abuse of discretion.<sup>2</sup> Here, appellant's amended complaint had been fully resolved when respondent paid appellant the policy limits, and the proposed second amended complaint, which did not even include the original contract-based claim under appellant's policy, added new causes of action based on new and different facts concerning respondent's handling of appellant's claim, thus requiring additional discovery. Further, nothing in the district court's order prohibited appellant from filing a new complaint asserting the desired claims. Under these circumstances, we perceive no abuse of discretion by the district court.

Accordingly, as the district court did not err in granting summary judgment and did not abuse its discretion in denying leave to amend, we

ORDER the judgment of the district court AFFIRMED.

  
\_\_\_\_\_, J.  
Hardesty

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

  
\_\_\_\_\_, J.  
Douglas

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<sup>2</sup>Allum v. Valley Bank of Nevada, 109 Nev. 280, 287, 849 P.2d 297, 302 (1993).

cc: Hon. Valorie Vega, District Judge  
M. Nelson Segel, Settlement Judge  
Seegmiller & Associates  
Pyatt Silvestri & Hanlon  
Eighth District Court Clerk