

IN THE SUPREME COURT OF THE STATE OF NEVADA

ELIZABETH CONCEPCION, AN
INDIVIDUAL, AND AS OWNER OF THE
OAK LEAF, A NEVADA BUSINESS,
Appellant,

vs.

DIANNE E. BAKER, AN INDIVIDUAL
BY AND THROUGH HER LEGAL
GUARDIAN, NORMAN BAKER,
Respondent.

No. 51935

FILED

JUL 07 2009

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

ORDER OF AFFIRMANCE

This is an appeal from a district court final judgment in a personal injury case. Eighth Judicial District Court, Clark County; Michael Villani, Judge.

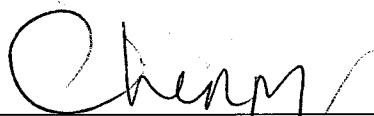
Respondent Dianne E. Baker, brought a personal injury action against appellant Elizabeth Concepcion, individually and as owner of The Oak Leaf, a nursing facility, for injuries Baker allegedly suffered during her stay at The Oak Leaf. Baker eventually filed a motion to strike Concepcion's answer based on Concepcion's alleged failure to cooperate during discovery. Concepcion did not oppose the motion to strike, and the district court subsequently granted the motion. Baker then filed a motion for summary judgment/prove-up hearing on her damages. Meanwhile, Concepcion filed a motion for reconsideration of the district court's order granting Baker's motion to strike. The district court denied Concepcion's motion for reconsideration and granted Baker's motion for summary judgment. After conducting a prove-up hearing, the district court awarded Baker \$479,000 in damages. Concepcion now appeals from that judgment.


On appeal, Concepcion concedes that she did not file an opposition to Baker's motion to strike, despite receiving a copy of that motion. Nonetheless, Concepcion argues that the district court abused its

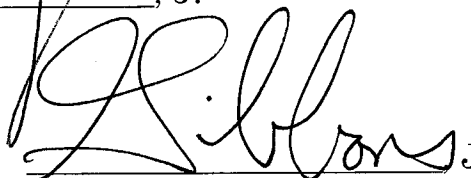
discretion in denying her motion for reconsideration of the court's order striking her answer. Specifically, Concepcion maintains that no opposition to the motion to strike was required as the motion was defective because it did not include a hearing date. Concepcion also maintains that her motion for reconsideration should have been granted because the court struck her answer without giving thoughtful consideration to the pertinent factors set forth in Young v. Johnny Ribeiro Building, 106 Nev. 88, 92-93, 787 P.2d 777, 779-80 (1990). Concepcion further asserts that the district court failed to consider her opposition to Baker's summary judgment motion.

This court will not reverse discovery sanctions absent a showing of abuse of discretion. See GNLV Corp. v. Service Control Corp., 111 Nev. 866, 869, 900 P.2d 323, 325 (1995). Having reviewed the record and the parties' briefs on appeal, we conclude that the district court did not abuse its discretion in striking Concepcion's answer and denying her motion for reconsideration of the order striking her answer. Id. Additionally, we conclude the district court's entry of judgment in favor of Baker was proper. Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Cherry


_____, J.
Saitta


_____, J.
Gibbons

cc: Hon. Michael Villani, District Judge
Carolyn Worrell, Settlement Judge
Cortese Law Firm
G. Dallas Horton & Associates
Eighth District Court Clerk