

IN THE SUPREME COURT OF THE STATE OF NEVADA

NICHOLAS J. MILITELLO,
Appellant,
vs.
LUIS A. BAIREs,
Respondent.

No. 51989

FILED

DEC 04 2009

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

ORDER OF AFFIRMANCE

This is an appeal from a district court judgment entered on a jury verdict in a tort action conducted under the short trial program. Eighth Judicial District Court, Clark County; Susan Johnson, Judge.

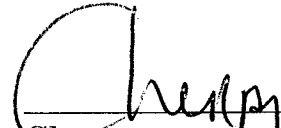
On appeal, appellant Nicholas J. Militello argues that NRS 38.259(2)'s requirement that, when a party requests a trial de novo at the conclusion of mandatory nonbinding arbitration proceedings, the arbitrator's findings must be admitted during the new trial, violates his constitutional right to a jury trial. Militello also argues that NRS 38.259(2) violates his right to equal protection under the law because the statute only applies to cases with an amount in controversy below a particular threshold and only applies in counties with population sizes above a particular threshold. See NRS 38.250; NRS 38.255.

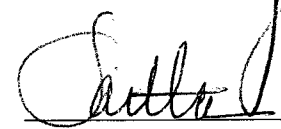
Having reviewed the parties' briefs and the record on appeal, we conclude that the issues Militello raises, with the exception of the county population size argument, were recently rejected by this court in Zamora v. Price, 125 Nev. ___, 213 P.3d 490 (2009). And with regard to the county population size argument, we conclude that the use of the population criterion here is rationally related to a legitimate purpose and

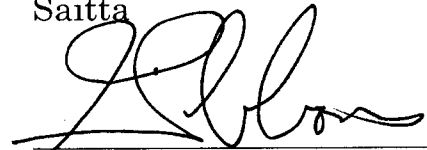
does not create an odious or absurd distinction. County of Clark v. City of Las Vegas, 97 Nev. 260, 263-64, 628 P.2d 1120, 1122 (1981).

Accordingly, finding Militello's arguments to be without merit, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Cherry


_____, J.
Saitta


_____, J.
Gibbons

cc: Hon. Susan Johnson, District Judge
William F. Buchanan, Settlement Judge
Keith B. Gibson
Law Offices of Romeo R. Perez, P.C.
Eighth District Court Clerk