

IN THE SUPREME COURT OF THE STATE OF NEVADA

SMART START SUMMER FOOD
SERVICE PROGRAM, A SUBSIDIARY
OF ETHEL WILLIA, INC., D/B/A CHILD
CARE CENTER AND ETHEL WILLIA,
INC., D/B/A SMART START CHILD
CARE CENTER,
Appellants,
vs.
THE STATE OF NEVADA,
DEPARTMENT OF EDUCATION; AND
KEITH RHEAULT,
SUPERINTENDENT OF PUBLIC
INSTRUCTION,
Respondents.

No. 52535

FILED

APR 30 2010

BRUCE R. LINDEMAN
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a district court judgment in a debt collection action. Eighth Judicial District Court, Clark County; Jennifer Togliatti, Judge.

Respondents the State of Nevada, Department of Education, and Keith Rheault, Superintendent of Public Instruction (collectively, the State), filed suit to collect a debt owed by appellants Smart Start Summer Food Service Program and Ethel Willia Inc. Prior to trial, the State moved for summary judgment pursuant to NRS 353C.150.¹ Although the district

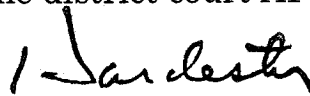
¹In a procedural note, it appears that the State did not file a complaint, but instead initiated this suit by filing a motion for summary judgment. After that motion was set aside, all parties treated the motion as a complaint and proceeded through trial without objection. In light of the parties' acquiescence on this issue, and in light of our liberal pleading requirements, we conclude that the State's motion for summary judgment


continued on next page . . .

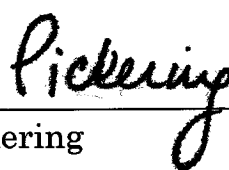
court initially granted summary judgment, it later reconsidered and set aside the summary judgment in order to resolve genuine issues of material fact. Following a bench trial, the district court entered judgment for the State in the amount of the debt. This appeal followed.

On appeal, appellants mischaracterize the district court's final judgment as a summary judgment and argue that the district court erred in granting summary judgment for a variety of reasons. Appellants' arguments are wholly misplaced. The judgment at issue was not summary in nature, and was instead rendered following full discovery and trial. Accordingly, appellants' arguments fail, and therefore, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Hardesty


_____, J.
Douglas


_____, J.
Pickering

... continued

was sufficient to initiate proceedings in this case. See NRCP 15(b) ("When issues not raised by the pleadings are tried by express or implied consent of the parties, they shall be treated in all respects as if they had been raised in the pleadings."); Hay v. Hay, 100 Nev. 196, 198, 678 P.2d 672, 674 (1984) ("Because Nevada is a notice-pleading jurisdiction, our courts liberally construe pleadings to place into issue matters which are fairly noticed to the adverse party.").

cc: Hon. Jennifer Togliatti, District Judge
Carolyn Worrell, Settlement Judge
Agwara & Associates
Attorney General/Carson City
Eighth District Court Clerk