

IN THE SUPREME COURT OF THE STATE OF NEVADA

KIM BLANDINO,
Appellant,

vs.

PENELOPE CARR; PHOENIX RISING
APPRAISAL SERVICE; AND JOHN
KELLEHER,
Respondents.

No. 52719

FILED

SEP 09 2009

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT

BY S. Young
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a proper person appeal from a district court summary judgment in consolidated tort and abuse of process matters. Eighth Judicial District Court, Clark County; Susan Johnson, Judge.

This appeal arises from a summary judgment in favor of respondents in two consolidated district court actions. In the first suit, appellant, proceeding in proper person, asserted claims for breach of contract, unlawful possession of property and unjust enrichment, violation of appellant's First Amendment rights of free speech and association, intentional infliction of emotional distress, and harassment. In the second suit, appellant, again in proper person, brought three abuse of process claims against respondents arising primarily from respondents' application for a protective order.

Initially, appellant asserts that the district court improperly entered the summary judgment without providing appellant an adequate opportunity to oppose a motion for summary judgment. This contention lacks merit, as the record demonstrates that appellant had sufficient opportunity to file an opposition, and in fact filed an opposition. As a

result, we now consider whether the district court properly granted summary judgment.

Summary judgment is appropriate when there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law. Wood v. Safeway, Inc., 121 Nev. 724, 729, 121 P.3d 1026, 1029 (2005). Once the movant has properly supported the summary judgment motion, the nonmoving party may not rest upon general allegations and conclusions and must instead set forth, by affidavit or otherwise, specific facts demonstrating the existence of a genuine issue of material fact for trial to avoid summary judgment. Id. at 731, 121 P.3d at 1030-31; NRCP 56(e). This court reviews an order granting summary judgment de novo. Id. at 729, 121 P.3d at 1029.

Having reviewed appellant's proper person appeal statement and the record on appeal, we conclude that the district court properly granted summary judgment in favor of respondents. Specifically, appellant failed to provide sufficient evidence to support his claims or the possibility of the recovery of any damages from his claims. As the district court properly noted in its judgment, while there are disputed issues of fact, none are material to appellant's ability to recover under the causes of action asserted. As no genuine issues of material fact existed and respondents were entitled to judgment as a matter of law, the district court properly granted summary judgment. Accordingly, we

ORDER the judgment of the district court AFFIRMED.¹

Parraguirre, J.
Parraguirre

Douglas, J.
Douglas

Pickering, J.
Pickering

cc: Hon. Susan Johnson, District Judge
Kim Blandino
Kelleher & Kelleher, LLC
Eighth District Court Clerk

¹In light of this order, we deny appellant's November 12, 2008, motion to disqualify Justices Maupin (retired) and Saitta from participating in the decision of this matter.