IN THE SUPREME COURT OF THE STATE OF NEVADA

MARILYN J. VANDERMEER,
Appellant,
vs.
CITY OF HENDERSON; THEATRE IN THE VALLEY; AND VALLEY VIEW RECREATION CENTER,
Respondents.

No. 53280

FILED

SEP 09 2009

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a proper person appeal from a district court summary judgment in a tort action. Eighth Judicial District Court, Clark County; Abbi Silver, Judge.

This case arises out of a slip and fall accident, in which appellant fell and was injured while attending a play. Appellant asserted three claims against respondents: negligence, negligence per se, and a claim for damages under the Americans with Disabilities Act (ADA). Respondents filed motions for summary judgment, which the district court granted. This appeal followed.

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. Wood, 121 Nev. at 729, 121 P.3d at 1029.

We conclude that the district court properly granted summary judgment in favor of respondents. Specifically, appellant failed to set forth sufficient facts to demonstrate a genuine issue of material fact, and thus respondents were entitled to judgment as a matter of law. In regard to the negligence claim, appellant failed to provide any evidence to support her claim that respondents caused her fall. Eggers v. Harrah's Club, Inc., 86 Nev. 782, 476 P.2d 948 (1970) (stating that the fact that there was an accident is insufficient by itself to establish liability). As to the negligence per se claim, appellant failed to set forth which statutory provision supported a negligence per se claim. Ashwood, 113 Nev. at 86. Finally, in reviewing the claim under the ADA, we affirm the summary judgment, although for a different reason than that relied upon by the district court. See Rosenstein v. Steele, 103 Nev. 571, 575, 747 P.2d 230, 233 (1987) (stating that this court will affirm the district court's order "if it reached the correct result, albeit for different reasons"). While the district court incorrectly determined that it lacked jurisdiction over appellant's ADA claim, Yellow Freight System, Inc. v. Donnelly, 494 U.S. 820, 823 (1990), summary judgment was appropriate because appellant sought damages under her ADA claim, which are unavailable under the provision of the ADA applicable to appellant's claims. See Wander v. Kaus, 304 F.3d 856, 858 (9th Cir. 2002); see also 42 U.S.C. § 12188(a)(1) (2006) (stating that the remedies allowed under 42 U.S.C. § 2000a-3(a) (2006), which do not

provide for monetary damages, apply to the type of ADA claim that applies to appellant's case). Accordingly, we

ORDER the judgment of the district court AFFIRMED.

Parraguirre, J.
Parraguirre

Douglas, J.
Douglas

Pickering, J.
Pickering

cc: Hon. Abbi Silver, District Judge
Marilyn J. Vandermeer
Henderson City Attorney
Perry & Spann/Las Vegas
Eighth District Court Clerk