

IN THE SUPREME COURT OF THE STATE OF NEVADA

JOHN R. GARRETTSON AND DONNA  
GARRETTSON,  
Appellants,  
vs.  
STEVE KRAUSE,  
Respondent.

No. 53686

**FILED**

JUN 10 2010

TRACEE K. LINDEMAN  
CLERK OF SUPREME COURT  
B. *[Signature]*  
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a district court order dismissing a tort action and from a post-judgment order denying NRCP 60(b) relief. First Judicial District Court, Carson City; James Todd Russell, Judge.

The district court dismissed the underlying case based on its conclusion that appellants had not complied with NRCP 16.1 and because appellants' counsel failed to oppose respondent's motion to dismiss. The record, however, reflects that appellants had filed an opposition, albeit an untimely one, one day beyond the 10-day time period for doing so set forth in FJDCR 15(3)<sup>1</sup> and one day before the district court entered its dismissal order. Thereafter, appellants sought to set aside the district court's order under NRCP 60(b),<sup>2</sup> which the district court denied. This appeal followed.

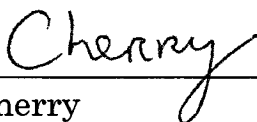
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<sup>1</sup>Respondent's motion was served on January 22, 2009. Calculating FJDCR 15(3)'s ten-day period from that date, and excluding nonjudicial days under NRCP 6(a), that period expired on February 5. NRCP 6(e) adds three days because the motion was served by mail, which brings the due date to February 8. And because February 8 was a Sunday, the due date fell on the next judicial day, February 9. See Winston Products Co. v. Deboer, 122 Nev. 517, 134 P.3d 726 (2006) (explaining the method of calculation under NRCP 6(a) and 6(e)). Appellants, however, did not file and serve their opposition until February 10.

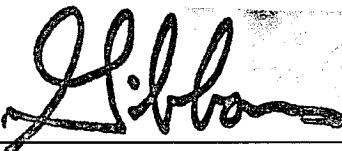
<sup>2</sup>More specifically, appellants' motion notes, without discussion or analysis of any portion of the rule, that they sought relief under, among other rules, NRCP 60.

Appellants' sole contention on appeal is that dismissal of their case and the denial of NRCP 60(b) relief was improper because respondent prematurely submitted his motion to dismiss. Appellants, however, do not dispute that their opposition was untimely filed and make no effort to explain how respondent's purportedly premature submission of his motion is relevant to their failure to file a timely opposition. Moreover, appellants' opening brief fails to address the district court's conclusion that appellants did not comply with NRCP 16.1's requirements. In light of appellants' failure to provide any relevant arguments addressing their untimely opposition and the district court's conclusion that they failed to comply with NRCP 16.1, we necessarily affirm the district court's order dismissing their complaint and its post-judgment order denying their motion for NRCP 60(b) relief. See Edwards v. Emperor's Garden Rest., 122 Nev. 317, 330 n.38, 130 P.3d 1280, 1288 n.38 (2006) (noting that appellants have the responsibility to provide cogent arguments in support of their appellate concerns and declining to consider an appellate challenge to a district court's rulings when the appellant failed to do so).

It is so ORDERED.

  
\_\_\_\_\_, J.  
Cherry

  
\_\_\_\_\_, J.  
Saitta

  
\_\_\_\_\_, J.  
Gibbons

cc: Hon. James Todd Russell, District Judge  
Madelyn Shipman, Settlement Judge  
Lawrence L. Lozensky  
Steve Krause  
Carson City Clerk