IN THE SUPREME COURT OF THE STATE OF NEVADA

ALEXANDREA STRIEGEL; AND THOMAS ELI STRIEGEL,
Appellants,
vs.
RUJAKE GROSS; JESSICA SHERMAN; AND DOUGLAS MATTER,
Respondents.

No. 56831

FILED

NOV 16 2012

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a final judgment in consolidated negligence actions. Eighth Judicial District Court, Clark County; Timothy C. Williams, Judge.

Appellants challenge the district court's decision to grant summary judgment in favor of respondent Jessica Sherman.[1] Specifically, they contend that the district court improperly determined that they failed to produce evidence supporting the breach and causation elements of their negligence claim. Cuzze v. Univ. & Cmty. Coll. Sys. of Nev., 123 Nev. 598, 602-03, 172 P.3d 131, 134 (2007) (indicating that if the nonmoving party bears the burden of persuasion on an issue, the moving party is entitled to summary judgment when "there is an absence of evidence to support the nonmoving party's case" (internal quotation omitted)); see also Van Cleave v. Kietz-Mill Minit Mart, 97 Nev. 414, 417, 633 P.2d 1220, 1222 (1981) (explaining that, with regard to causation, inferences will be drawn in

[1]The record on appeal contains a March 11, 2009, district court order granting respondent Douglas Matter's motion to dismiss and an August 9, 2010, judgment entered against respondent Rujake Gross. Because appellants make no arguments challenging these rulings, we do not address them.

favor of the party opposing summary judgment, but that this party must nevertheless show that he can present evidence at trial to support his claim).

We review an appeal from an order granting summary judgment de novo. Wood v. Safeway, Inc., 121 Nev. 724, 729, 121 P.3d 1026, 1029 (2005). "Summary judgment is appropriate under NRCP 56 when the pleadings, depositions, answers to interrogatories, admissions, and affidavits, if any, that are properly before the court demonstrate that no genuine issue of material fact exists, and the moving party is entitled to judgment as a matter of law." Id. at 731, 121 P.3d at 1031 (disavowing the "slightest doubt" standard that prior decisions had alluded to).

Appellants' briefs set forth two primary theories of liability: (1) Sherman was speeding; and (2) she had too many passengers in her car, which caused her to be distracted.[2] In general, appellants contend that the trial testimony of Sherman and her passengers would have been sufficient to raise an inference of negligence with regard to at least one of these theories.

The deposition testimony of Sherman and her passengers demonstrates otherwise. With regard to the first theory, some passengers testified that they were unaware whether Sherman was speeding. Sherman and the remaining passengers testified that they knew Sherman

---

[2]Appellants also suggest that having too many passengers in the car exceeded the car's maximum recommended weight, which increased the car's stopping distance when Sherman applied the brakes. Appellants presented no evidence indicating that the weight of the seven teenagers exceeded the car's maximum recommended weight, let alone evidence that any excess weight actually increased the car's stopping distance.

was not speeding.[3] Similarly, with regard to the second theory, some passengers testified that they were unaware whether Sherman was distracted, while Sherman and the remaining passengers testified that she was not distracted or did not appear distracted.[4]

A review of the record reveals no other evidence to support either of these theories of liability.[5] Accordingly, we

ORDER the judgment of the district court AFFIRMED.[6]

Douglas, J.
Douglas

Gibbons, J.
Gibbons

Parraguirre, J.
Parraguirre

---

[3]Appellants also allege that Sherman was "not traveling at a speed that was appropriate for the conditions." To the extent that this was a different theory of liability, appellants produced no evidence to support this theory either.

[4]During her deposition, Sherman was unable to estimate how many car lengths she had traveled from her last stopping point to the accident scene. Appellants contend that this inability sufficiently raises an inference that Sherman was distracted. We disagree. See Wood, 121 Nev. at 732, 121 P.3d at 1031 (indicating that the nonmoving party may not build a case on speculation). Similarly, it is unreasonable to infer that Sherman was distracted based simply on respondent Gross's testimony that he was distracted. Id.

[5]We therefore affirm the district court's award of attorney fees and costs.

[6]We have determined that this appeal should be submitted for a decision on the briefs without oral argument. See NRAP 34(f)(1).

cc: Hon. Timothy C. Williams, District Judge
Lansford W. Levitt, Settlement Judge
Christensen Law Offices, LLC
Hutchison & Steffen, LLC
Freeman Mondragon Law Firm
Eighth District Court Clerk