

IN THE SUPREME COURT OF THE STATE OF NEVADA

HAROLD F. CHORNEY,
Appellant,
vs.
A-CAB COMPANY, A NEVADA
CORPORATION; AND NEVADA STAR
CAB COMPANY D/B/A STAR CAB
COMPANY,
Respondents.

No. 56952

FILED

APR 12 2012

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *A. Maline*
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a proper person appeal from a district court denial of a motion to compel and a judgment on a short-trial jury verdict in a tort action. Eighth Judicial District Court, Clark County; Michelle Leavitt, Judge.

Appellant alleges that he was injured while a passenger in respondent A-Cab Company's vehicle when the vehicle stopped abruptly while executing a left-hand turn. Appellant's claim was litigated through the court-annexed arbitration system, and the arbitrator found for appellant and awarded him \$5,000. Appellant filed a request for a trial de novo, and a jury trial was held through the short-trial program. The jury returned a verdict in favor of respondents.

Appellant argues on appeal that the district court did not allow him to present evidence and witnesses in support of his case, and that opposing counsel failed to include several of appellant's trial exhibits in the evidentiary books for trial. Respondents assert that the trial court properly excluded inadmissible or irrelevant exhibits and witnesses, and that all of the documents appellant argues were not included in the evidentiary books were in fact included.

“[T]he trial court is vested with broad discretion in determining the admissibility of evidence.” Sheehan & Sheehan v. Nelson Malley & Co., 121 Nev. 481, 492, 117 P.3d 219, 226 (2005) (quoting State ex rel. Dep’t Hwys. v. Nev. Aggregates, 92 Nev. 370, 376, 551 P.2d 1095, 1098 (1976)). This court “review[s] a district court’s decision to admit or exclude evidence for abuse of discretion, and . . . will not interfere with the district court’s exercise of its discretion absent a showing of palpable abuse.” M.C. Multi-Family Dev. v. Crestdale Assocs., 124 Nev. 901, 913, 193 P.3d 536, 544 (2008).

Having considered the parties arguments and the record, we conclude that appellant has not shown that the district court abused its discretion by excluding the witnesses and documents identified in appellant’s proper person appeal statement. The district court acted within its discretion in excluding prelitigation correspondence between appellant and respondents’ insurance adjusters, medical records not related to the incident at issue, the curriculum vitae of one of appellant’s treating physicians who testified at trial, and appellant’s deposition testimony and attached documents. NRS 48.025(2) (providing that “[e]vidence which is not relevant is not admissible”); NRS 48.035(2) (allowing the exclusion of relevant evidence “if its probative value is substantially outweighed by considerations of undue delay, waste of time or needless presentation of cumulative evidence”); NRS 48.135(1) (stating that evidence of insurance is not admissible on the issue of negligence); NRCP 32(a)(3) (allowing a deposition of a witness to be used at trial where the witness is dead, out of state or at a distance greater than 100 miles from the place of trial, the party offering the deposition has been unable to obtain the attendance of the witness by subpoena, or, upon application

and notice, under "exceptional circumstances"). The district court also acted within its discretion in excluding the testimony of James Hannah, a process server, and Lee Martinez, an insurance underwriter for respondents' insurance company.¹ NRS 48.025(2); NRS 48.035(2); NRS 48.135(1). Accordingly, we

ORDER the judgment of the district court AFFIRMED.

Cherry, J.
Cherry

Pickering, J.
Pickering

Hardesty, J.
Hardesty

cc: Hon. Michelle Leavitt, District Judge
Ralph J. Rohay, Esq., Short Trial Judge
Harold F. Chorney
Rogers, Mastrangelo, Carvalho & Mitchell, Ltd.
Eighth District Court Clerk

¹As to remaining items of evidence identified by appellant in his civil proper person statement, a review of the record shows either that appellant did not ask for the items to be admitted as evidence, or that the items were in fact admitted.