

IN THE SUPREME COURT OF THE STATE OF NEVADA

ANYA S. DUKE,
Appellant,
vs.
ROGER M. SIMON, M.D.,
INDIVIDUALLY AND AS AN AGENT
FOR RETINA CONSULTANTS OF
NEVADA, A NEVADA CORPORATION,
Respondents.

No. 57570

FILED

AUG 23 2012

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

ORDER OF AFFIRMANCE

This is a proper person appeal from a district court judgment on a jury verdict in a medical malpractice case. Eighth Judicial District Court, Clark County; James M. Bixler, Judge.

In her proper person appeal statement, appellant contends that the district court abused its discretion by entering nine orders granting: (1) summary judgment as to the issue of loss of earning capacity; (2) summary judgment as to punitive damages; (3) summary judgment as to claims against R. Jeffrey Parker, M.D.; (4) a motion in limine to exclude at trial evidence and testimony concerning appellant's allegation that the alleged delay in treatment impacted the outcome of her condition; (5) a motion in limine to exclude at trial evidence or testimony related to appellant's assertion that damage to her left eye resulted from the damage respondents allegedly caused to her right eye; (6) a motion in limine to exclude at trial evidence and all reference to the issues of causation and liability not supported by expert testimony; (7) a motion in limine to exclude at trial evidence or testimony regarding appellant's out-of-pocket expenses; (8) a motion in limine to exclude at trial evidence or testimony concerning a certain American Academy of Ophthalmology article; and (9)


summary judgment regarding issues of informed consent.¹ Appellant contends that these orders impaired her ability to present her case in chief at trial, resulting in an adverse jury verdict and judgment. Respondents contend that appellant's arguments are largely barred by the law-of-the-case doctrine, as this court has previously affirmed the district court's disposition of several of the motions and that the district court properly granted all of the motions due to appellant's failure to file written oppositions within the time allotted under EDCR 2.20 and the district court's order extending the time to file oppositions.


In an earlier appeal stemming from the same district court action, this court determined that the district court acted within its authority to treat appellant's failure to timely file a written opposition to Dr. Parker's motion for summary judgment as an admission of merit and to thus grant summary judgment in favor of Dr. Parker. Duke v. Simon, Docket No. 36716 (Order Reversing and Remanding, May 6, 2003). This determination is binding law of the case. Hsu v. County of Clark, 123 Nev. 625, 173 P.3d 724 (2007).

¹Although appellant in her proper person civil appeal statement, states that respondents filed more than these nine motions, she specifically limits her appeal to the above enumerated nine motions. Only those arguments properly raised in the proper person civil appeal statement are before this court on appeal. To the extent that appellant references other purported errors in her district court action in her reply brief and in her various motions, those contentions are outside of the scope of this appeal. See Attorney General v. Montero, 124 Nev. 573, 577 n.9, 188 P.3d 47, 49-50 n.9 (2008) (citing Phillips v. Mercer, 94 Nev. 279, 283, 579 P.2d 174, 176 (1978) (providing that an issue raised for the first time in the reply brief need not be considered on appeal)).

Further, we conclude that the district court did not abuse its discretion in granting the remainder of respondents' motions. Appellant failed to file any written oppositions by the February 23, 1998, deadline set by the district court's order granting appellant additional time beyond the original time allotted under EDCR 2.20. Thus, the district court did not abuse its discretion by granting the motions in limine, excluding the evidence and testimony at trial, or by entering the summary judgments. See Las Vegas Fetish & Fantasy v. Ahern Rentals, 124 Nev. 272, 278 n.15, 182 P.3d 764, 768, n.15 (2008) (stating that the district court did not abuse its discretion in applying then EDCR 2.20(b) (now EDCR 2.20(e)) to an opposition that was eventually filed, but was untimely). Accordingly, we

ORDER the judgment of the district court AFFIRMED.²


_____, J.
Gibbons


_____, J.
Pickering


_____, J.
Parraguirre

cc: Hon. James M. Bixler, District Judge
Any S. Duke
Alverson Taylor Mortensen & Sanders
Eighth District Court Clerk

²In light of this order, we deny all outstanding motions and other requests for relief.