

IN THE SUPREME COURT OF THE STATE OF NEVADA

REGINA PANTANI,  
Appellant,  
vs.  
NEW ALBERTSON'S, INC.,  
Respondent.

No. 61399

**FILED**

JAN 17 2013

TRAGIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY *Angel*  
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a proper person appeal from a district court order dismissing a tort action in the short-trial program. Eighth Judicial District Court, Clark County; Mark R. Denton, Judge.


Appellant filed a personal injury claim against respondent. After appellant failed to appear for scheduled depositions, respondent sought and obtained a court order requiring appellant to appear at a deposition and submit to independent medical examination (IME). After the doctor conducting the IME was unable to examine appellant, based on limitations insisted upon by appellant, respondent filed a motion to hold appellant in contempt and dismiss her case. The district court issued an order imposing the lesser sanction of requiring appellant to pay costs incurred by respondent for the IME and providing that if appellant did not pay the sanction that her complaint would be dismissed with prejudice. Appellant does not dispute that she did not pay the ordered sanction, and the district court therefore dismissed her case with prejudice. This appeal followed.

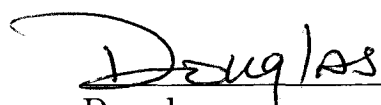
Discovery sanctions are reviewed for an abuse of discretion. Foster v. Dingwall, 126 Nev. \_\_\_, \_\_\_, 227 P.3d 1042, 1048 (2010). NRCPC 37(b)(2) allows the district court to dismiss an action if a party has failed

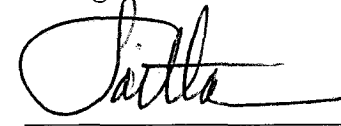
to obey a discovery order. Additionally, this court has recognized that courts have the inherent equitable power to dismiss actions for abusive litigation practices. Young v. Johnny Ribeiro Building, 106 Nev. 88, 92, 787 P.2d 777, 779 (1990). The factors a court may consider in dismissing a case as a discovery sanction include the degree of willfulness of the offending party, the severity of the discovery abuse, whether sanctions unfairly operate to penalize a party for the misconduct of his or her attorney, and the need to deter both the parties and future litigants from similar abuses. Id. at 93, 787 P.2d at 780.

Having reviewed appellant's proper personal appeal statement and the record on appeal, we conclude that the district court did not abuse its discretion in dismissing appellant's case as a discovery sanction. Appellant failed to appear for scheduled depositions and failed to comply with the district court's order that she submit to an IME. The district court initially granted a lesser sanction, which appellant failed to pay. As such, it was within the district court's discretion to sanction appellant by dismissing her case. NRCP 37(b)(2). Accordingly, we

ORDER the judgment of the district court AFFIRMED.

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

  
\_\_\_\_\_, J.  
Douglas

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

cc: Hon. Mark R. Denton, District Judge  
Rebecca L. Mastrangelo, Short Trial Judge  
Regina Pantani  
Backus, Carranza & Burden  
Eighth District Court Clerk