

IN THE SUPREME COURT OF THE STATE OF NEVADA

DAVID R. BROWN, IN HIS CAPACITY
AS TRUSTEE TO JAMES
D'AMBROSIO,
Appellant
vs.
WYNN LAS VEGAS, LLC,
Respondent.

No. 63967

FILED

APR 17 2015

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a district court summary judgment in a tort action. Eighth Judicial District Court, Clark County; David B. Barker, Judge.

Appellant challenges the district court's grant of summary judgment in favor of respondent, which was based on appellant's failure to oppose respondent's motion. The appendices provided by the parties show that respondent served its motion and a notice providing the date and time of the hearing by mail on appellant at the address provided when his previous attorney withdrew, and appellant does not argue that the address was incorrect or that he provided respondent with any other service address. We therefore conclude that the district court did not abuse its discretion by entering summary judgment based on appellant's failure to oppose the motion.¹ See EDCR 2.20(e) (providing that an

¹To the extent that appellant argues that the district court should have granted his motion for reconsideration under NRCP 60(b) based on his mistake, inadvertence, surprise, or excusable neglect, appellant failed to raise that argument in the district court, and thus, we will not consider *continued on next page...*

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opposition to a motion must be filed within ten days after service of the motion and that the district court may construe a party's failure to oppose a motion as an admission that the motion is meritorious and a consent to granting the motion); *see also Walls v. Brewster*, 112 Nev. 175, 178, 912 P.2d 261, 263 (1996). Accordingly, we

ORDER the judgment of the district court AFFIRMED.



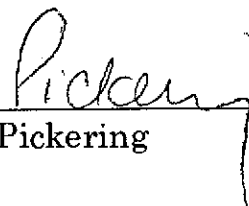
J.

Saitta



J.

Gibbons



J.

Pickering

cc: Hon. David B. Barker, District Judge
Carolyn Worrell, Settlement Judge
Day & Nance
Marquis Aurbach Coffing
Eighth District Court Clerk

...continued

the argument for the first time on appeal. *Old Aztec Mine, Inc. v. Brown*, 97 Nev. 49, 52, 623 P.2d 981, 983 (1981).