

IN THE SUPREME COURT OF THE STATE OF NEVADA

TELEWEB PRODUCTIONS, INC.,
Appellant,
vs.
LIFESUCCESS PRODUCTIONS, LLC,
Respondent.

No. 64042

FILED

FEB 12 2015

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

ORDER OF AFFIRMANCE

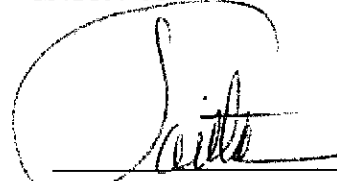
This is an appeal from a district court order granting a motion to set aside a default judgment. Eighth Judicial District Court, Clark County; Kerry Louise Earley, District Judge.


Having considered the parties' arguments and the record on appeal, we conclude that the district court was within its discretion when it granted NRCP 60(b) relief on the ground of excusable neglect. *See Kahn v. Orme*, 108 Nev. 510, 513, 835 P.2d 790, 792 (1992) (reviewing a district court's decision on an NRCP 60(b) motion for an abuse of discretion), *overruled on other grounds by Epstein v. Epstein*, 113 Nev. 1401, 950 P.2d 771 (1997); *Passarelli v. J-Mar Dev., Inc.*, 102 Nev. 283, 286, 720 P.2d 1221, 1224 (1986) ("Counsel's failure to meet his professional obligations constitutes excusable neglect."); *Staschel v. Weaver Bros., Ltd.*, 98 Nev. 559, 560-61, 655 P.2d 518, 519 (1982) (same).

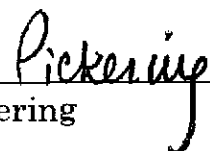
Appellant nevertheless contends on appeal that respondent's motion should have been denied because it was not filed within six months of when notice of entry of the default judgment was served. *See* NRCP 60(b) ("The motion shall be made . . . not more than 6 months after the proceeding was taken or the date that written notice of entry of the

judgment or order was served.”). We reject this contention on the ground that it was not timely made. In particular, in respondent’s NRCP 60(b) motion and in its reply, respondent argued that the six-month time frame was not triggered because notice of the default judgment’s entry had not been served. Appellant did not refute this purportedly inaccurate argument in either its opposition to the NRCP 60(b) motion or at the hearing on the motion. Thus, the district court’s failure to consider an issue that was not presented to it cannot be deemed an abuse of discretion. *See Kahn*, 108 Nev. at 513, 835 P.2d at 792. Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Saïtta


_____, J.
Gibbons


_____, J.
Pickering

cc: Hon. Kerry Louise Earley, District Judge
Robert F. Saint-Aubin, Settlement Judge
Kyle & Kyle
Wilson, Elser, Moskowitz, Edelman & Dicker, LLP/Las Vegas
Eighth District Court Clerk