

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

DANA RAE GEHRING, AS PARENT  
AND NATURAL GUARDIAN OF  
MORGAN GEHRING, A MINOR,  
Appellants,  
vs.  
CITY OF HENDERSON,  
Respondent.

No. 69922

FILED

MAR 22 2017

ENZO BROWN  
CLERK OF SUPREME COURT  
BY *Enzo Brown*  
DEPUTY CLERK

*ORDER OF REVERSAL AND REMAND*

This is an appeal from an order granting summary judgment. Eighth Judicial District Court, Clark County; Joanna Kishner, Judge.

Dana Rae Gehring sued the City of Henderson for injuries sustained by her minor child, who fell from monkey bars while attending the Safekey program. The district court granted Henderson's motion for summary judgment, finding that Gehring's claims were barred by a waiver she signed when enrolling her child in Safekey.<sup>1</sup>

We review a district court's order granting summary judgment de novo. *Wood v. Safeway, Inc.*, 121 Nev. 724, 729, 121 P.3d 1026, 1029 (2005). Summary judgment is proper if, when viewed in the light most favorable to the non-moving party, the pleadings and all other evidence on file demonstrate that no genuine issue of material fact exists and that the moving party is entitled to judgment as a matter of law. *Id.*

Contract interpretation is a question of law. *Redrock Valley Ranch, LLC v. Washoe Cty.*, 127 Nev. 451, 460, 254 P.3d 641, 647-48 (2011). To interpret a contract, "[t]his court initially determines whether

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<sup>1</sup>We do not recount the facts except as necessary to our disposition.

the language of the contract is clear and unambiguous; if it is, the contract will be enforced as written.” *Am. First Fed. Credit Union v. Soro*, 131 Nev. \_\_\_, \_\_\_, 359 P.3d 105, 106 (2015) (quotations and citation omitted). If a contract is ambiguous, courts may consider parol evidence to ascertain the contract’s terms. *M.C. Multi-Family Dev., L.L.C. v. Crestdale Assocs., Ltd.*, 124 Nev. 901, 914, 193 P.3d 536, 545 (2008).

In this case, the waiver applies only to injuries arising from participation in “the activity(ies) Youth Enrichment listed in the parent handbook[.]” But, the handbook fails to provide a list of Safekey activities.<sup>2</sup> Instead, the handbook provides a generalized description of what Safekey offers, such as “special activities” and “stimulating activities” to help children grow but nothing resembling a list. Although the waiver later mentions the “activity(ies) described above,” again it fails to give any specific description of the activities in the waiver or in the handbook. We therefore conclude the waiver’s use of the term “activity(ies)” is ambiguous. As the district court incorrectly determined that the waiver was unambiguous, it necessarily failed to consider parol evidence as to the meaning of material terms. And because that evidence may be instructive on whether the waiver applies to a small child playing on monkey bars, summary judgment was improper.

Henderson also argued before the district court that it is immune from Gehring’s claims under NRS Chapter 41. “Issues of sovereign immunity under NRS Chapter 41 present mixed questions of

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<sup>2</sup>We disagree with Henderson’s assertion that the waiver’s use of “activity” unambiguously equates to “Safekey,” as the handbook defines Safekey as a “program” and generally describes “activities” that Safekey may provide.

law and fact.” *Ransdell v. Clark Cty.*, 124 Nev. 847, 854, 192 P.3d 756, 761 (2008); see also *Chastain v. Clark Cty. Sch. Dist.*, 109 Nev. 1172, 866 P.2d 286 (1993). The district court never addressed the application of the immunity doctrine in its order, and we are unable to ascertain, based upon the limited record on appeal, whether immunity applies as to each of appellant’s causes of action delineated within her complaint. Therefore, we cannot affirm on this basis, and we make no comment as to whether Henderson may be immune from Gehring’s claims. Accordingly, we

ORDER the judgment of the district court REVERSED AND REMAND this matter to the district court for proceedings consistent with this order.

  
\_\_\_\_\_, C.J.  
Silver

  
\_\_\_\_\_, J.  
Tao

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

cc: Hon. Joanna Kishner, District Judge  
Nathaniel J. Reed, Settlement Judge  
Richard Harris Law Firm  
Henderson City Attorney  
Eighth District Court Clerk