

IN THE SUPREME COURT OF THE STATE OF NEVADA

NEVADA AUTOMOBILE NETWORK
SELF-INSURED GROUP (NANSIG),

Appellant,

vs.

BUDDY JEFFERSON GUY,

Respondent.

No. 36515

FILED

DEC 17 2001

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. Bloom*
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

Appellant Nevada Automobile Network Self-Insured Group ("NANSIG") appeals from a district court order and judgment dismissing its declaratory relief action and from an order releasing funds in a consolidated tort action for withdrawal and disbursement in accordance with a prior court order.

On appeal, NANSIG argues the following: (1) the district court abused its discretion when it adjudicated the rights and liabilities of parties not before the court; (2) the district court abused its discretion when it dismissed the complaint for declaratory judgment; and (3) the Breen v. Caesars Palace¹ formula is invalid and/or improperly applied. We disagree.

We conclude that the district court did not err by not joining NANSIG into the lawsuit because NANSIG had the option of taking an active role in the underlying negligence action by bringing an independent direct action or by intervening.² However, NANSIG voluntarily chose to act as a lien claimant against Guy's recovery. Hence, NANSIG cannot now complain that it should have been joined. We further conclude that notice to Silver State, NANSIG's third-party administrator, and Staub, NANSIG's attorney, was sufficient to establish jurisdiction over NANSIG because Silver State had the authority to pursue the claim on behalf of NANSIG.³

¹102 Nev. 79, 715 P.2d 1070 (1986).

²SIIS v. District Court, 111 Nev. 28, 888 P.2d 911 (1995).

³NRS 616B.371(3).


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Moreover, we conclude that the district court properly dismissed the complaint for declaratory judgment because declaratory relief was not available to NANSIG as no justiciable controversy existed.⁴ Additionally, the April 4, 2000 order became final and the complaint was properly dismissed under the doctrine of collateral estoppel.⁵

Finally, we conclude that the formula established in Breen is currently the law in Nevada and the district court was correct to follow it. NANSIG has failed to provide authority that convinces this court otherwise. Having considered appellant's contentions, we

ORDER judgment of the district court AFFIRMED.


_____, J.
Young


_____, J.
Agosti


_____, J.
Leavitt

cc: Hon. Lee A. Gates, District Judge
J. Michael McGroarty, Chtd
Greenman Goldberg Raby & Martinez
Clark County Clerk

⁴Knittle v. Progressive Casualty Ins. Co., 112 Nev. 8, 10, 908 P.2d 724, 725 (1996).

⁵Laforge v. State, University System, 116 Nev. 415, 419, 997 P.2d 130, 133 (2000).