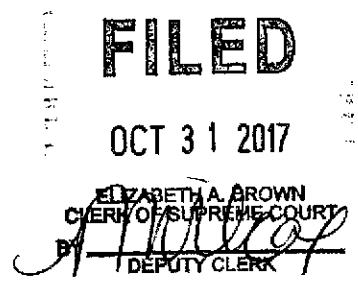
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

THE PELLA GROUP LLC, A GEORGIA LIMITED LIABILITY COMPANY; AND HEGEMON HOLDINGS LLC, A GEORGIA LIMITED LIABILITY COMPANY,
Appellants,
vs.
PARIS LAS VEGAS OPERATING COMPANY, A NEVADA CORPORATION, D/B/A PARIS LAS VEGAS,
Respondent.

No. 70627



ORDER OF AFFIRMANCE

The Pella Group LLC and Hegemon Holdings LLC appeal from a final judgment in a breach of contract action rendered at short trial. Eighth Judicial District Court, Clark County; James Crockett, Judge.[1]

In 2012, The Pella Group (Pella) entered into a contract with Paris Las Vegas to host its convention (Paris contract).[2] As provided by the Paris contract, Pella contracted separately with Encore Productions, Paris's in-house audiovisual firm, to provide audiovisual services for the convention (Encore contract). Pella opted for direct billing for the event, which was administered by the accounting office of Caesars Entertainment, Paris's parent company. Per its usual credit approval process, the accounting office

[1]Barbara I. Johnston served as the Short Trial Judge in this case.

[2]We do not recount the facts except as necessary to our disposition.

17-902283

provided a blank direct billing request form on Caesars letterhead.[3] An executive of Hegemon Holdings (Hegemon)—a company closely related to Pella and with which Pella shared personnel, including a director-level employee—completed and signed the request form. As the form required, the Hegemon executive herself listed the estimated costs of the event, including audiovisual services. After the convention, Caesars sent an invoice to "Hegemon Group Int'l" that included audiovisual charges totaling more than $13,000 over the pre-event estimate. Neither Pella nor Hegemon made any payments on the invoice. Thereafter, Caesars paid Encore the amount due on Pella's account.

Paris filed suit against Pella and Hegemon claiming breach of contract, breach of implied covenant of good faith and fair dealing, and unjust enrichment. The parties went to arbitration, where the arbitrator found in favor of Pella and Hegemon. Paris then sought trial de novo, and prevailed at short trial, and the district court confirmed the judgment. Pella and Hegemon appealed.

On appeal, appellants challenge the short trial judgment on four grounds: 1) the court misstated or misunderstood material testimony and evidence, which resulted in errors in the written order; 2) the court erred when it found Hegemon to be a signatory to the Paris contract and liable for damages; 3) the court erred in its interpretation of the Paris and Encore contracts; and 4) the court erred by finding Caesars "as a successor in interest to the Paris and Encore Contracts and, through the doctrine of assumpsit, became an intended third party beneficiary of the Paris and Encore Contract."

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[3]It is unclear from the record on appeal whether the blank direct billing form was sent to Pella or Hegemon.

"[F]indings of fact and conclusions of law, supported by substantial evidence, will not be set aside unless clearly erroneous," *Sheehan & Sheehan v. Nelson Malley & Co.*, 121 Nev. 481, 486, 117 P.3d 219, 223 (2005), and "due regard shall be given to the opportunity of the trial court to judge the credibility of the witnesses," NRCP 52(a). Substantial evidence is "that which a reasonable mind might accept as adequate to support a conclusion." *State Emp't Sec. Dep't v. Hilton Hotels Corp.*, 102 Nev. 606, 608, 729 P.2d 497, 498 (1986). Contract interpretation is reviewed de novo. *May v. Anderson*, 121 Nev. 668, 672, 119 P.3d 1254, 1257 (2005).

First, addressing appellants' contention that the short trial judge erred based on misunderstanding or misinterpreting trial testimony, we conclude that any resulting errors in fact finding were immaterial and did not affect the final result. Thus, appellants fail to show how they were prejudiced or that "but for the alleged error, a different result might reasonably have been reached." *Khoury v. Seastrand*, 132 Nev. ___, ___, 377 P.3d 81, 94 (2016) (internal quotation marks omitted); *see* NRCP 61 (stating that the court must disregard errors not affecting the substantial rights of the parties).

Next, we conclude that the short trial judge did not err in finding Hegemon liable for damages under the Paris contract because the contract was ambiguous as to the identities of the contracting parties, and the short trial judge's factual findings are supported by substantial evidence.

"The purpose of contract interpretation is to determine the parties' intent when they entered into the contract," *Century Sur. Co. v. Casino W., Inc.*, 130 Nev. 395, 398, 329 P.3d 614, 616 (2014), and

"[t]raditional rules of contract interpretation are employed to accomplish that result." *Davis v. Beling*, 128 Nev. 301, 321, 278 P.3d 501, 515 (2012) (internal quotation marks omitted). First, this court "focus[es] . . . on whether the language of the contract is clear and unambiguous; if it is, the contract will be enforced as written." *Id.* An ambiguous contract is susceptible to more than one reasonable interpretation. *Anvui, LLC v. G.L. Dragon, LLC*, 123 Nev. 212, 215, 163 P.3d 405, 407 (2007). Once ambiguity is established, "parol evidence is admissible . . . to clarify ambiguous terms so long as the evidence does not contradict the terms of the written agreement." *Ringle v. Bruton*, 120 Nev. 82, 91, 86 P.3d 1032, 1037 (2004).

The Paris contract names as parties "the Pella Group" and "Paris Las Vegas." But the contract also invokes Hegemon at a crucial place in the document: namely, where it identifies Randy Krogh in his roles as both managing director of Pella and director of operations for Hegemon in the contract's address block and signature block—information that testimony established Krogh himself would have provided Paris—and Krogh signed the contract over both titles. The contract also mentions Hegemon when it offers a complimentary suite for the use of "Hegemon Holdings executives"—notably not for the use of Pella executives. The contract is thus susceptible to two reasonable interpretations: 1) Pella is the party having the convention, and the person arranging it also happens to be a director at a company that is not involved (Hegemon); or 2) Pella is the party having the convention, but Hegemon is actively involved and benefitting from the transaction.

The record shows that Krogh signed the Paris contract in his capacity as director of both Pella and Hegemon. In addition, the parties corresponded using Hegemon email addresses; indeed, none of the

documents in the record on appeal show any correspondence with Pella entities. Further, Hegemon's chief financial officer signed the direct billing authorization form. This evidence supports the short trial judge's factual findings leading to the conclusion that Hegemon is bound under the Paris contract, and thus the findings are not clearly erroneous and we will not disturb them.

We now turn to the Encore contract. Appellants claim that the short trial judge disregarded express terms of the Encore contract, which required payment directly to Encore for its services.[4] But contrary to appellants' claims, no language in the Encore contract requires that Pella pay Encore directly. The contract requires the signor to "agree[ ] to pay Encore $37,956.67 for the services, equipment and labor" detailed in the contract. And the "payment terms" provision states, "Lessee agrees to pay Encore . . . [and] [p]ayment is due and payable in full upon signing this Rental Contract unless otherwise negotiated and agreed to in writing on a Commencement of Work document." This provision places temporal conditions on payment, but it does not speak to method of payment. Thus, the term is susceptible to two reasonable interpretations: 1) Pella must pay Encore directly for audiovisual services, either in advance or at some other time negotiated by the parties; or 2) Pella must pay Encore, either in advance or at some other time negotiated by the parties, by whatever method of payment the parties arrange.

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[4]Appellants' remaining arguments regarding contract interpretation are conclusory statements unsupported by analysis and authority. Thus, we will not address them. *Edwards v. Emperor's Garden Rest.*, 122 Nev. 317, 330 n. 38, 130 P.3d 1280, 1288 n. 38 (2006) (noting that the court need not consider claims not cogently argued).

Turning again to the record on appeal to resolve ambiguities via parol evidence, we find no evidence that Pella intended to or was required to pay Encore directly. Indeed, Pella chose neither of the payment options that would have required, or even allowed, them to pay Encore directly. Instead, Pella chose billing through the master account administered by Caesars. Also, the record shows Pella had notice that the master account would include audiovisual charges. Caesars sent Krogh a document entitled "hotel credit group summary" before the event, which reflected the estimates for all event services, including audiovisual services. Additionally, Hegemon's chief financial officer completed and returned to Caesars the request for direct billing, on which she herself included an estimate of audiovisual costs. Thus, based on our de novo review of the record, we conclude that the short trial judge did not err in her interpretation of the Encore contract.

Finally, we consider whether the short trial judge erred in concluding that Caesars became an intended beneficiary of the funds owed by appellants to Encore. The record shows that Caesars, not Encore, sent all billing-related correspondence to appellants. These documents provided sufficient notice to appellants that they were dealing not only with Paris but also with Caesars—and not with Encore—with regard to billing and collection. The short trial judge concluded that appellants are liable to Caesars either by privity of contract or by the doctrine of assumpsit. Those conclusions were superfluous because the factual findings that Appellants are liable to pay Caesars are supported by substantial evidence and are thus sufficient to conclude that Caesars was entitled to payment. *See Saavedra-Sandoval v. Wal-Mart Stores, Inc.*, 126 Nev. 592, 599, 245 P.3d 1198, 1202 (2010) (stating an appellate court will affirm a lower court's order if the

lower court reached the correct result, even if for the wrong reason). Therefore, because the short trial judge's findings of fact are supported by substantial evidence, we conclude that she did not err in finding Caesars an intended beneficiary.

In conclusion, the short trial judge's findings of fact and conclusions of law are supported by substantial evidence and any error had no effect on the outcome below. Accordingly, we

ORDER the judgment of the district court AFFIRMED.

_____, C.J.
Silver

_____, J.
Tao

_____, J.
Gibbons

cc: Hon. James Crockett, District Judge
Robert F. Saint-Aubin, Settlement Judge
Muckleroy Lunt, LLC
Lewis Brisbois Bisgaard & Smith, LLP/Las Vegas
Eighth District Court Clerk