

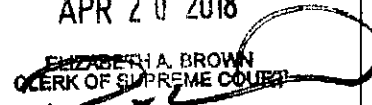
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

ESTELA VILLEGAS,  
Appellant,  
vs.  
FARMERS INSURANCE GROUP, D/B/A  
FIRE INSURANCE EXCHANGE, A  
NEVADA LICENSED COMPANY,  
Respondent.

No. 72367

FILED

APR 20 2018

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY  DEPUTY CLERK

ORDER OF AFFIRMANCE

Estela Villegas appeals from a district court order granting summary judgment in a breach of contract action. Eighth Judicial District Court, Clark County; Joseph Hardy, Jr., Judge.

Villegas filed a claim with her homeowners' insurance company, respondent Farmers Insurance Group d/b/a Fire Insurance Exchange ("Fire Insurance Exchange"), for injuries sustained when she was struck by a car while walking near her community mailbox. Fire Insurance Exchange denied Villegas' claim and, thereafter, she sued for breach of contract and breach of the covenant of good faith and fair dealing.<sup>1</sup> The district court granted summary judgment in favor of Fire Insurance Exchange based upon the plain language of the policy exclusions.<sup>2</sup>

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

<sup>2</sup>We are unpersuaded by Villegas' argument that the district court erred by granting summary judgment prior to the parties holding an NRCP 16.1 early case conference as Villegas never filed a request for a continuance of summary judgment pursuant to NRCP 56(f) requesting additional time to conduct discovery. *See Choy v. Ameristar Casinos, Inc.*, 127 Nev. 870, 872, 265 P.3d 698, 700 (2011) (noting that NRCP 56(f) requires that a party seeking additional discovery provide an affidavit stating why the party cannot put forth essential facts in order to defeat summary judgment).

On appeal, Villegas argues that the district court erred by granting summary judgment because the policy's applicable exclusions contradict other provisions, are ambiguous, and should be construed against Fire Insurance Exchange. In addition, Villegas argues that the policy's separate structure provision covers bodily injury incurred in the area of the community mailbox. We disagree.

Insurance policy interpretation is a question of law we review de novo. *Powell v. Liberty Mut. Fire Ins. Co.*, 127 Nev. 156, 161, 252 P.3d 668, 672 (2011). We review a district court's order granting summary judgment de novo, and will uphold summary judgment only where "the pleadings and other evidence on file demonstrate that no genuine issue as to any material fact remains and that the moving party is entitled to a judgment as a matter of law." *Wood v. Safeway, Inc.*, 121 Nev. 724, 729, 121 P.3d 1026, 1029 (2005) (internal quotation omitted).

We first determine whether the bodily injury exclusion for residents within the homeowners' insurance policy is ambiguous. "[W]hether an insurance policy is ambiguous turns on whether it creates reasonable expectations of coverage as drafted." *Powell*, 127 Nev. at 162, 252 P.3d at 672 (quoting *United Nat'l Ins. Co. v. Frontier Ins. Co.*, 120 Nev. 678, 684, 99 P.3d 1153, 1157 (2004)). A court must interpret insurance policy coverages broadly, but exclusions narrowly and in a manner which effectuates the reasonable expectations of the insured. *Id.* at 162, 166-67, 252 P.3d at 672, 675 (reversing summary judgment upon concluding that an exclusion provision was ambiguous). But an appellate court should not rewrite unambiguous provisions or rewrite an insurance policy so as to increase an insurer's legal obligations against the intent of the parties.

*Vitale v. Jefferson Ins. Co. of N. Y.*, 116 Nev. 590, 595, 5 P.3d 1054, 1057-58 (2000).

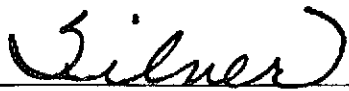
Here, Villegas' homeowners' insurance policy states Fire Insurance Exchange will cover claims for bodily injury damages to a third party, and expressly excludes bodily injuries to a resident of the home. The language excluding bodily injury to a resident is clear and unambiguous. See *Siggelkow v. Phx. Ins. Co.*, 109 Nev. 42, 44, 846 P.2d 303, 304 (1993) (noting that provisions of a policy must be "read as a whole in order to give reasonable and harmonious meaning to the entire policy"). Because the homeowners' policy exclusion is clear and unambiguous and Villegas does not dispute she is a resident of the home, the district court did not err in finding the exclusion applied.

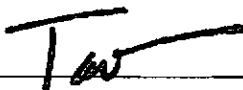
Next, we conclude that the exclusion provision regarding motor vehicle caused bodily injuries is likewise clear and unambiguous. Because the policy unambiguously excludes coverage for personal injuries caused by a motor vehicle and Villegas does not dispute that a motor vehicle caused her injuries, the district court did not err in finding the exclusion applied. See *Senteney v. Fire Ins. Exch.*, 101 Nev. 654, 657, 707 P.2d 1149, 1151 (1985) (affirming summary judgment where a homeowners' insurance policy automobile exclusion clause was unambiguous and properly excluded the plaintiff's claims that arose from an automobile accident).

Finally, Villegas' argument that the separate structure provision properly covers bodily injury incurred within the community mailbox area is unavailing, as this provision is found within the property-loss coverage section and, thus, relates solely to reimbursement due to property loss, not personal injury. Because the policy exclusions unambiguously apply to Villegas' claims, the district court did not err in

concluding that summary judgment was proper under these facts.<sup>3</sup>  
Accordingly, we

ORDER the judgment of the district court AFFIRMED.

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

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

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

cc: Hon. Joseph Hardy, Jr., District Judge  
Stephen E. Haberfeld, Settlement Judge  
Kirk T. Kennedy  
Feldman Graf  
Eighth District Court Clerk

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<sup>3</sup>In light of our conclusion that Villegas' claim for breach of contract fails, it follows that Villegas' claim for breach of the covenant of good faith and fair dealing also fails, as Fire Insurance Exchange properly denied Villegas' claim based on the policy exclusions. *See Pemberton v. Farmers Ins. Exch.*, 109 Nev. 789, 793, 858 P.2d 380, 382 (1993) ("An insurer fails to act in good faith when it refuses 'without proper cause' to compensate the insured for a loss covered by the policy." (quoting *U.S. Fire & Guar. Co. v. Peterson*, 91 Nev. 617, 620, 540 P.2d 1070, 1071 (1975))).