IN THE COURT OF APPEALS OF THE STATE OF NEVADA

ARECIO MORENO SUAZO, INDIVIDUALLY,
Appellant,
vs.
OSCAR OMAR PONCE, INDIVIDUALLY; AND MIRIAM YANETH PONCE, INDIVIDUALLY,
Respondents.

No. 74625-COA

ORDER OF REVERSAL AND REMAND

Arecio Moreno Suazo appeals from a final order granting a motion to strike his request for a trial de novo. Eighth Judicial District Court, Clark County; Douglas Smith, Judge.

Suazo was in a motor vehicle collision with respondents Oscar and Miriam Ponce, both of whom sustained injuries. The Ponces filed a negligence lawsuit against Suazo that proceeded through Nevada's mandatory arbitration program. The arbitrator awarded the injured parties $17,400, and Suazo thereafter timely requested a trial de novo. The Ponces moved to strike Suazo's request 74 days after Suazo filed the request. The district court granted the Ponces' motion to strike.[1]

On appeal, Suazo argues that under NAR 18(G) the motion to strike was untimely because the Ponces filed it more than 30 days after service of the trial de novo request, and that the district court therefore erred by considering that motion. The Ponces differ, arguing that nothing in NAR 18(G) restricts the district court's ability to consider their motion to strike. We agree with Suazo and disagree with the Ponces.

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

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We review decisions to strike a request for trial de novo for an abuse of discretion. *Gittings v. Hartz*, 116 Nev. 386, 390, 996 P.2d 898, 901 (2000). A district court abuses its discretion where it disregards controlling law or its factual findings are not based on substantial evidence. *MB America, Inc. v. Alaska Pac. Leasing*, 132 Nev. 78, 88, 367 P.3d 1286, 1292 (2016); *Campbell v. Maestro*, 116 Nev. 380, 383, 996 P.2d 412, 414 (2000). "[We] review a district court's interpretation of a statute or court rule . . . de novo." *Marquis & Aurbach v. Eighth Judicial Dist. Court*, 122 Nev. 1147, 1156, 146 P.3d 1130, 1136 (2006). "When a rule is clear on its face, we will not look beyond the rule's plain language." *Morrow v. Eighth Judicial Dist. Court*, 129 Nev. 110, 113, 294 P.3d 411, 414 (2013).

The word "may" in statutes and rules is generally permissive. D.C.R.2(6); *Dornbach v. Tenth Judicial Dist. Court*, 130 Nev. 305, 310-11, 324 P.3d 369, 373 (2014) (holding that where NRCP 16.1 provides that a "case may be dismissed," the language was permissive); *Sechrest v. State*, 101 Nev. 360, 367, 705 P.2d 626, 631 (1985) (holding that because the language in NRS 260.060 was permissive, it was not an abuse of discretion for the district court to deny appellant's request for additional counsel) *overruled on other grounds by Harte v. State*, 116 Nev. 1054, 1067, 13 P.3d 420, 429 (2000). However, the words "may not" are prohibitive. NRS 0.025(b) ("'May not' or 'no * * * may' abridges or removes a right, privilege or power."); *Culinary and Hotel Serv. Workers Union v. Haugen*, 76 Nev. 424, 428-29, 357 P.2d 113, 115 (1960) (holding that although District Court Rule 2(6) and 2(8) defined "may" as permissive, "[i]t does not logically follow, however, that the requirement that the court 'may not' extend the time is anything but prohibitive.").

Here, the Ponces' motion to strike was untimely. Under NAR 18(G), "[a] motion to strike a request for trial de novo **may not** be filed more than 30 days after service of the request for trial de novo." (Emphasis added). But here, the Ponces filed their motion two and a half months after service of the trial de novo request. Therefore, because the Ponces filed their motion to strike Suazo's trial de novo request well after NAR 18(G)'s 30-day deadline, we conclude the district court lacked authority to grant the motion.[2] 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. Douglas Smith, District Judge
Carolyn Worrell, Settlement Judge
EAD Law Group LLC
Robert L. Cardwell & Associates
Ladah Law Firm
Eighth District Court Clerk

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[2]We decline to reach respondent's argument that Suazo did not arbitrate in good faith.