

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

FERNANDO RODRIGUEZ,
Appellant,
vs.
PROGRESSIVE NORTHERN
INSURANCE COMPANY, A
SUBROGEE OF BELLA CADAVONA,
Respondent.

No. 68368

FILED

MAY 18 2016

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER OF REVERSAL AND REMAND

This is an appeal from a final judgment entered on a court annexed arbitration award in an insurance subrogation matter. Eighth Judicial District Court, Clark County; James Crockett, Judge.

This appeal arises out of a car accident involving appellant Fernando Rodriguez and respondent Progressive Northern Insurance Company's insured, Bella Cadavona. When Rodriguez's insurance providers initially did not pay Cadavona's claims,¹ Progressive paid her claims and then filed a complaint for subrogation against Rodriguez. The case was assigned to mandatory, non-binding arbitration, and ultimately, an arbitration award was entered in favor of Progressive. Thereafter, Rodriguez requested a trial de novo.

Progressive moved to strike the request for a trial de novo, arguing that Rodriguez had failed to meaningfully participate in the

¹After the accident, a question arose as to whether the claims should be paid by Rodriguez's personal insurance provider or his employer's insurance provider. Later, both providers made payments to Cadavona relating to the accident. Those payments are not at issue in this appeal.

arbitration proceedings. See NAR 22(A) (providing that “[t]he failure of a party or an attorney to either prosecute or defend a case in good faith during the arbitration proceedings shall constitute a waiver of the right to a trial de novo”); *Gittings v. Hartz*, 116 Nev. 386, 390, 996 P.2d 898, 901 (2000) (explaining that “good faith” has generally been equated with “meaningful participation” in arbitration proceedings). Over Rodriguez’s opposition, the district court granted the motion to strike the request for a trial de novo and entered judgment on the arbitration award. On appeal, Rodriguez argues the district court failed to make specific findings of fact and conclusions of law, as required by Nevada law. Progressive contends the district court’s decision was proper.

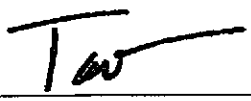
In *Chamberland v. Labarbera*, 110 Nev. 701, 705, 877 P.2d 523, 525 (1994), the Nevada Supreme Court held that “[a]ll forthcoming sanctioning orders under [NAR 22(A)] must be accompanied by specific written findings of fact and conclusions of law by the district court describing what type of conduct was at issue and how that conduct rose to the level of failed good faith participation.” Here, the district court’s order granting the motion to strike the request for a trial de novo summarily stated that the court found that Rodriguez failed to participate in good faith. The order did not contain any findings of fact or conclusions of law describing Rodriguez’s conduct or explaining how that conduct failed to demonstrate good faith participation.

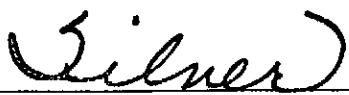
As the district court failed to make the required written findings of fact and conclusions of law, we conclude the district court abused its discretion in striking the request for a trial de novo. See *Gittings*, 116 Nev. at 391, 996 P.2d at 901 (explaining that a district court’s decision to strike a request for a trial de novo is reviewed for an

abuse of discretion). Accordingly, we reverse the district court's order striking the request for a trial de novo and remand this matter to the district court for further proceedings consistent with this order.²

It is so ORDERED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Silver

cc: Hon. James Crockett, District Judge
Janet Trost, Settlement Judge
Upson Smith/Las Vegas
Law Office of Lisa A. Taylor
Eighth District Court Clerk

²In reversing and remanding for the reason discussed in this order, we make no comment on the merits of the underlying motion to strike the request for a trial de novo. Moreover, as the district court did not explain its reasoning for striking the request, we do not reach appellant's remaining arguments that the district court struck the request for improper reasons.