

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JABLONSKI ENTERPRISES, LTD.,  
Appellant,  
vs.  
SUMMA, LLC, A NEVADA LIMITED  
LIABILITY COMPANY; HENRY  
TONKING, INDIVIDUALLY AND AS  
MANAGER OF SUMMA, LLC;  
LITHIUM CORPORATION, A NEVADA  
CORPORATION; GREG EKINS,  
INDIVIDUALLY; G.I.S. LAND  
SERVICES, A NEVADA  
CORPORATION; AND CLAYTON P.  
BRUST, INDIVIDUALLY,  
Respondents.

No. 71539

**FILED**

OCT 13 2017

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY: S. Young  
DEPUTY CLERK

*ORDER OF AFFIRMANCE*

Jablonski Enterprises, LTD., appeals from a district court order granting special motions to dismiss pursuant to NRS 41.660 in a land dispute matter. Fifth Judicial District Court, Nye County; Kimberly A. Wanker, Judge.

Appellant Jablonski filed parallel complaints against respondents in federal and state court on claims arising from respondents' communications with Nye County officials in an effort to amend the record ownership of certain real property.

Respondents Summa, LLC, Henry Tonking, and Clayton Brust (collectively Summa), and Lithium Corporation, G.I.S. Land Services, and Greg Ekins (collectively GIS) each filed separate special motions to dismiss the complaint in state court pursuant to NRS 41.660 (Nevada's anti-SLAPP statute). Jablonski did not file oppositions opposing either anti-SLAPP special motion to dismiss. Instead, Jablonski filed a motion to stay the case

pending resolution of the identical federal action. Summa then filed a notice of non-opposition, requesting entry of order on its anti-SLAPP special motion to dismiss. Jablonski opposed only the notice of entry.<sup>1</sup> After a hearing, the district court granted both anti-SLAPP special motions to dismiss because Jablonski failed to file an opposition under DCR 13(3).<sup>2</sup>

Jablonski now appeals, asserting (1) the district court improperly held that Jablonski failed to oppose the anti-SLAPP special motions to dismiss, (2) the court applied the wrong evidentiary standard when granting the anti-SLAPP special motions to dismiss, and (3) the court unconstitutionally applied NRS 41.660 to Jablonski's case. Having reviewed the briefs and record on appeal, we conclude that the district court did not abuse its discretion and we affirm.

A district court has discretion to treat the opposing party's failure to file an opposition "as an admission that the motion is meritorious and a consent to granting the same." DCR 13(3); *Walls v. Brewster*, 112 Nev. 175, 178-79, 912 P.2d 261, 263 (1996) (holding that the district court did not abuse its discretion by dismissing a case with prejudice for a party's failure to diligently oppose the motion to dismiss). DCR 13(3) provides that an opposing party shall serve and file its written opposition within ten days after the service of the motion.

On appeal, Jablonski concedes it did not file a written opposition to respondents' anti-SLAPP special motions to dismiss, and we conclude

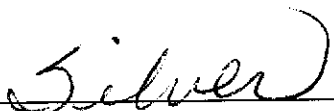
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<sup>1</sup>Under NRS 41.660(3)(f), the district court was required to "[r]ule on the motion within 20 judicial days after the motion [was] served upon the plaintiff."


<sup>2</sup>We do not recount the facts except as necessary to our disposition.

Jablonski's argument that it included oppositional arguments in its request to stay the matter or made arguments at a later time are unavailing. Because the district court judge properly granted respondents' anti-SLAPP special motions to dismiss, it follows that the district court did not abuse its discretion.<sup>3</sup> Accordingly, we

ORDER the judgment of the district court AFFIRMED.

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

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

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

cc: Hon. Kimberly A. Wanker, District Judge  
Law Office of Lisa Rasmussen  
Robison, Simons, Sharp & Brust  
Erwin & Thompson LLP  
Nye County Clerk

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<sup>3</sup>We have considered Jablonski's remaining arguments, that the court applied the wrong evidentiary standard in the order granting the anti-SLAPP motions, and by using the wrong standard the court unconstitutionally applied NRS 41.660 to Jablonski's case. However, the district court did not apply NRS 41.660's evidentiary standard, instead it determined Jablonski failed to meet its burden because it failed to oppose the anti-SLAPP special motions to dismiss. Moreover, even if the court had applied the wrong evidentiary standard the court reached the right result. *Saavedra-Sandoval v. Wal-Mart Stores, Inc.*, 126 Nev. 592, 599, 245 P.3d 1198, 1202 (2010) ("This court will affirm a district court's order if the district court reached the correct result, even if for the wrong reason."). Therefore, in light of our disposition, we conclude these arguments are unpersuasive.