IN THE COURT OF APPEALS OF THE STATE OF NEVADA

CHARLES N. BELSSNER,
Appellant,
vs.
LINDEN GITTINGS,
Respondent.

No. 82470-COA

ORDER OF AFFIRMANCE

Charles N. Belssner appeals from an order granting summary judgment in a tort action. Eighth Judicial District Court, Clark County; David M. Jones, Judge.[1]

Belssner filed a personal injury claim against respondent Linden Gittings as a result of a motor vehicle accident where Belssner claims that Gittings crossed several lanes of traffic, entered the wrong side of a parking lot entrance, and struck Belssner's vehicle while he was waiting to exit the parking lot.

Following court annexed arbitration proceedings, the district court referred this case to the short trial program where, as relevant here, Gittings propounded discovery and served Belssner with interrogatories, requests for production of documents, and requests for admissions. Although these documents were properly served on Belssner on November 11, 2020, Belssner (proceeding pro se) responded only to Gittings' requests

[1]Peter M. Angulo, Pro Tempore Judge, served as the short trial judge in this case.

for production of documents and did not respond to Gittings' requests for admission or interrogatories.

Consequently, on December 16, Gittings filed a motion for summary judgment, primarily arguing that (1) summary judgment should be granted under NRCP 36 as Belssner failed to timely respond to his requests for admissions, thereby admitting he was at fault for the accident and suffered no damages; (2) Belssner failed to produce proper NRCP 16.1 disclosures despite a previous court order instructing him to do so; and (3) Belssner could not prove his case at trial as he failed to timely and properly disclose witnesses and treating doctors in support of his case.

Although the short trial judge entered an order indicating that Belssner's opposition to the motion would be due by December 30, and informing the parties that a telephonic hearing would be held on the motion on January 20, 2021, Belssner did not file a written opposition to the motion until January 19, and did not answer the phone when called by the short trial judge. Nevertheless, the short trial judge considered Belssner's late opposition and decided the motion on the pleadings without argument.

Following the hearing, the short trial judge entered an order granting summary judgment based on Belssner's failure to respond to Gittings' requests for admission; and as an alternative, also dismissed Belssner's complaint as a sanction for his failure to properly complete his NRCP 16.1 disclosures as previously ordered by the court, and as a sanction for Belssner's conduct during the litigation, which included sending multiple inappropriate emails to the court and ignoring court orders. The district court entered judgment on the short trial judge's order, and

following several unsuccessful post-judgment motions, Belssner now appeals.[2]

As an initial matter, on appeal, Belssner fails to adequately challenge the district court's alternative grounds for resolving the case—dismissing the matter for failing to comply with NRCP 16.1's disclosure requirements and as a sanction for abusive litigation practices. *See Powell v. Liberty Mut. Fire Ins. Co.*, 127 Nev. 156, 161 n.3, 252 P.3d 668, 672 n.3 (2011) (providing that issues not raised on appeal are deemed waived); *Edwards v. Emperor's Garden Rest.*, 122 Nev. 317, 330 n.38, 130 P.3d 1280, 1288 n.38 (2006) (stating that this court need not consider claims that are not cogently argued). Thus, the challenged order can be affirmed on this basis alone. *Id.*; *see also Hillis v. Heineman*, 626 F.3d 1014, 1019 n.1 (9th Cir. 2010) (affirming a dismissal where the appellants failed to challenge the alternative ground that the district court provided for it). Nevertheless, we also address below the district court's grant of summary judgment based on Belssner's failure to respond to requests for admission under NRCP 36.

A district court's decision to grant summary judgment is reviewed de novo. *Wood v. Safeway, Inc.*, 121 Nev. 724, 729, 121 P.3d 1026, 1029 (2005). Summary judgment is proper if the pleadings and all other evidence on file demonstrate that no genuine issue of material fact exists "and that the moving party is entitled to a judgment as a matter of law." *Id.* (internal quotation marks omitted).

Under NRCP 36(a)(3), once a request for admission is served, "[a] matter is [deemed] admitted unless, within 30 days after being served,

---

[2]We note that Belssner filed a second notice of appeal in this case on March 5, 2021. Because that notice of appeal fails to identify an appealable order under NRAP 3A, we take no action as to that filing.

the party to whom the request is directed serves on the requesting party a written answer or objection addressed to the matter and signed by the party . . . ." Courts consider any matter admitted under NRCP 36 to be "conclusively established unless the court, on motion, permits the admission to be withdrawn or amended." NRCP 36(b). Moreover, "[i]t is well-settled that unanswered requests for admission may be properly relied upon as a basis for granting summary judgment." *Estate of Adams v. Fallini*, 132 Nev. 814, 820, 386 P.3d 621, 625 (2016).

Here, Gittings properly served his requests for admission, asking Belssner to admit liability and that he suffered no damages on November 11, 2020, and Belssner had until December 14, 2020 to respond.[3] On appeal, Belssner contends that he properly responded to the requests for admission, but our review of the record demonstrates that he only responded to Gittings' requests for production of documents—which is a separate and distinct form of discovery permitted under NRCP 26 and NRCP 34. Accordingly, Belssner's timely response to Gittings' requests for production of documents does not cure his failure to respond to the requests for admission under NRCP 36.

And because Belssner failed to respond to the requests for admission, the matters contained in those requests—that he admitted liability and that he suffered no damages—are considered conclusively established, "even if the established matters are ultimately untrue." *Smith v. Emery*, 109 Nev. 737, 742, 856 P.2d 1386, 1390 (1993). Consequently, no

---

[3]*See* NRCP 6(a) (stating that when calculating a period of time stated in days under the NRCP, one must exclude the day of the event that triggers the period, count every day including weekends and legal holidays, and if the last day of the period falls on a weekend or legal holiday, end the computation on the next day that is not a weekend or legal holiday).

genuine issues of fact remained with regard to Belssner's claims given his admissions and, therefore, we perceive no error in the district court's resulting grant of summary judgment in Gittings' favor. *Wood*, 121 Nev. at 729, 121 P.3d at 1029; *see also Estate of Adams*, 132 Nev. at 820, 386 P.3d at 625; *Wagner v. Carex Investigations & Sec. Inc.*, 93 Nev. 627, 631, 572 P.2d 921, 923 (1977) (holding that where admissions left no room for conflicting inferences and were dispositive of the case, summary judgment was appropriate). Accordingly, we

ORDER the judgment of the district court AFFIRMED.[4]

_____, C.J.
Gibbons

_____, J.
Tao

_____, J.
Bulla

cc: Hon. David M. Jones, District Judge
Peter M. Angulo, Pro Tempore Judge
Charles N. Belssner
Law Offices of Eric R. Larsen
Eighth District Court Clerk

[4]Insofar as Belssner raises arguments that are not specifically addressed in this order, we have considered the same and conclude that they either do not present a basis for relief or need not be reached given the disposition of this appeal.