IN THE SUPREME COURT OF THE STATE OF NEVADA

IEHAB HAWATMEH, INDIVIDUALLY AND AS PARENT AND NATURAL GUARDIAN OF YASMEEN HAWATMEH, A MINOR CHILD; IEHAB HAWATMEH, AS ADMINISTORATOR OF THE ESTATE OF DIANNE HAWATMEH, DECEASED, IEHAB HAWATMEH, AS ADMINISTRATOR OF THE ESTATE OF JOSEPH HAWATMEH, DECEASED; AND LAYTH HAWATMEH, AN INDIVIDUAL,
Appellants,
vs.
NICOLE GANIER, AN INDIVIDUAL,
Respondent.

No. 83901

FILED

JAN 12 2023

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a district court order, certified as final under NRCP 54(b), granting a motion for judgment on the pleadings in a tort action. Eighth Judicial District Court, Clark County; Erika D. Ballou, Judge. Reviewing the order de novo, *Sadler v. PacifiCare of Nev., Inc.*, 130 Nev. 990, 993, 340 P.3d 1264, 1266 (2014), we affirm.[1]

Appellants contend that the district court erred in granting respondent's motion for judgment on the pleadings because (1) it was filed prematurely, i.e., before respondent answered the complaint; or alternatively (2) appellants' respondeat superior theory of liability against respondent's employer(s) did not preclude her from being held individually liable for appellants' alleged damages.

---

[1]Pursuant to NRAP 34(f)(1), we have determined that oral argument is not warranted.

23-01122

We are not persuaded that these arguments warrant reversal. Appellants are correct that respondent's motion was premature, *see* NRCP 12(c), but offer no meaningful reason why the district court could not have simply construed it as an NRCP 12(b)(5) motion given that each motion is reviewed under the same standard.[2] *See Sadler*, 130 Nev. at 993-94, 340 P.3d at 1266 ("As with a dismissal for failure to state a claim, in reviewing a judgment on the pleadings, we will accept the factual allegations in the complaint as true and draw all inferences in favor of the nonmoving party." (citing *Buzz Stew, LLC v. City of N. Las Vegas,* 124 Nev. 224, 228, 181 P.3d 670, 672 (2008), for the NRCP 12(b)(5) standard of review).

Nor are we persuaded that appellants' second argument warrants reversal. Appellants' complaint referred repeatedly to a lease agreement that contained Provision 37.D, which provided that "[n]o employee, agent, or management company is personally liable for any of our contractual, statutory, or other obligations merely by virtue of acting on our behalf." Given that appellants' complaint alleged respondent was acting within the scope of her employment, and given that appellant does not meaningfully dispute that Provision 37.D applies, we conclude that respondent was entitled to judgment on the pleadings.[3] *Cf. Baxter v. Dignity Health*, 131 Nev. 759, 764, 357 P.3d 927, 930 (2015) ("A court may. . . consider unattached evidence on which the complaint necessarily

---

[2]Appellant cites two cases that have held that a premature judgment on the pleadings constitutes reversible error, but in both those cases, it was the *plaintiff* that filed the motion.

[3]Appellants suggest that respondent may have signed the lease in her individual capacity despite the allegations in appellants' complaint that respondent was the apartment complex's manager. Appellants provide no explanation—nor is any explanation self-evident—for why respondent would have signed the lease in her individual capacity.

relies if: (1) the complaint refers to the document; (2) the document is central to the plaintiff's claim; and (3) no party questions the authenticity of the document." (internal quotation marks omitted)). Accordingly, we

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

________________, C.J.
Stiglich

________________, Sr.J.
Gibbons

________________, Sr.J.
Silver

cc: Hon. Erika D. Ballou, District Judge
John Walter Boyer, Settlement Judge
Roger P. Croteau & Associates, Ltd.
Lewis Brisbois Bisgaard & Smith, LLP/Las Vegas
Eighth District Court Clerk

[4]The Honorable Mark Gibbons and Abbi Silver, Senior Justices, participated in the decision of this matter under a general order of assignment.