

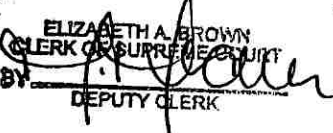
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

NANCY MINAMI,
Appellant,
vs.
REN SONG,
Respondent.

No. 84744-COA

FILED

APR 20 2023

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER OF REVERSAL AND REMAND

Nancy Minami appeals from a district court order striking her complaint and disposing of the underlying case as a discovery sanction under NRCP 37 in a quiet title action. Eighth Judicial District Court, Clark County; Ronald J. Israel, Judge.

In the underlying proceedings, respondent Ren Song filed a “Motion to Strike Pleadings Per NRCP 37,” wherein he moved the district court to strike Minami’s complaint for alleged discovery abuses. Following briefing on the matter, the district court considered the motion on its chambers calendar, and ultimately granted the motion, finding that Minami “abruptly cancelled five of her noticed depositions,” with one resulting in a nonappearance, and has generally been “unresponsive and vague regarding her intentions and ability to participate in discovery.” Accordingly, the district court struck Minami’s complaint and closed the case. This appeal followed.

This court will not reverse a district court decision imposing a discovery sanction absent a showing of abuse of discretion. *Young v. Johnny*

23-12300

Ribeiro Bldg., Inc., 106 Nev. 88, 92, 787 P.2d 777, 779 (1990). However, our appellate courts have recognized that when case-concluding sanctions are imposed, a somewhat heightened standard of review will apply. *Id.* The district court can meet this heightened standard of review through an “express, careful and preferably written explanation of the court’s analysis of the pertinent factors,” which include (1) the degree of willfulness of the offending party; (2) the extent to which the non-offending party would be prejudiced by a lesser sanction; (3) the severity of the sanction of dismissal relative to the severity of the misconduct; (4) the feasibility and fairness of alternative, less severe sanctions; (5) the policy favoring adjudication on the merits; and (6) the need to deter both the parties and future litigants from similar abuses. *Id.* at 93, 787 P.2d at 780.

Having reviewed the briefs of the parties and the record on appeal, we reverse the district court’s order striking Minami’s complaint. Here, Minami was never ordered to attend her deposition, and the district court did not identify the violation of any such order. Instead, the district court’s order summarily struck Minami’s complaint without appropriate discussion of the relevant *Young* factors. And while the district court’s order acknowledged the fact that discovery sanctions are subject to a “somewhat heightened standard of review” under *Bahena v. Goodyear Tire & Rubber Co.*, 126 Nev. 243, 249, 235 P.3d 592, 596 (2010), and concluded that Minami’s actions were willful, the district court nonetheless failed to provide the “express, careful and preferably written explanation of the court’s analysis of the pertinent factors” required by *Young* in making its decision to strike Minami’s complaint. *Id.* Accordingly, we reverse the

order of the district court striking Minami's complaint and disposing of the underlying case and remand this matter to the district court for further proceedings consistent with this order.

It is so ORDERED.¹


_____, C.J.
Gibbons


_____, J.
Bulla


_____, J.
Westbrook

cc: Hon. Ronald J. Israel, District Judge
Lin Law Group
Michael T. Hua Law
Eighth District Court Clerk

¹Insofar as the parties raise 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.