

IN THE SUPREME COURT OF THE STATE OF NEVADA

KIRK SANCHEZ, AN INDIVIDUAL,
Appellant,
vs.
TA OPERATING NEVADA, LLC, A
DOMESTIC LIMITED LIABILITY
COMPANY; AND HPT TA
PROPERTIES TRUST, A FOREIGN
REAL ESTATE INVESTMENT TRUST,
Respondents.

No. 86350

FILED
AUG 15 2024
ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment in a personal injury action against a landowner. Eighth Judicial District Court, Clark County; Adriana Escobar, Judge.

Appellant Kirk Sanchez was injured in a motorcycle accident that occurred on the public road next to respondents TA Operating Nevada, LLC and HPT TA Properties Trust's (collectively "TA parties") truck stop. Sanchez filed a complaint against TA parties alleging that he was hit while riding a motorcycle by a semi-truck as its driver pulled out of TA parties' truck stop parking lot. He alleged TA parties negligently maintained its property by failing to install a stop sign, stop line, or yield sign at the exit and by permitting semi-trucks to park along the public road, thereby causing a visual obstruction to trucks exiting onto the road.

TA parties moved for summary judgment, arguing that Sanchez failed to show that he could produce sufficient evidence at trial to support the duty and causation elements of his claim. The district court granted the

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motion. Sanchez moved for reconsideration, which the district court denied. Sanchez appeals.

We review the district court's decision to grant summary judgment de novo. *Wood v. Safeway, Inc.*, 121 Nev. 724, 729, 121 P.3d 1026, 1029 (2005). Summary judgment is proper if the pleadings and other evidence on file "demonstrate that no genuine issue of material fact exists and the moving party is entitled to judgment as a matter of law." *Id.* at 731, 121 P.3d at 1031 (internal quotation marks omitted). We must view the evidence and reasonable inferences drawn from it in a light most favorable to the nonmoving party. *Id.* at 732, 121 P.3d at 1031. The proponent of summary judgment may demonstrate that they are entitled to judgment as a matter of law by "pointing out . . . that there is an absence of evidence to support the nonmoving party's case." *Cuzze v. Univ. & Cmty. Coll. Sys. of Nev.*, 123 Nev. 598, 602-03, 172 P.3d 131, 134 (2007) (internal quotation marks omitted). To state a claim for negligence, a plaintiff must allege that the defendant's breach was the legal cause of the plaintiff's injuries. *Sadler v. PacifiCare of Nev.*, 130 Nev. 990, 995, 340 P.3d 1264, 1267 (2014). Legal causation consists of actual and proximate causation. *Clark Cnty. Sch. Dist. v. Payo*, 133 Nev. 626, 636, 403 P.3d 1270, 1279 (2017). To prove actual causation, a "plaintiff must show that *but for* defendant's negligence, his or her injuries would not have occurred." *Sims v. Gen. Tel. & Elecs.*, 107 Nev. 516, 524, 815 P.2d 151, 156 (1991), *overruled on other grounds by Tucker v. Action Equip. & Scaffold Co.*, 113 Nev. 1349, 951 P.2d 1027 (1997). To prove proximate causation, a plaintiff must show that their injury was the foreseeable consequence of the negligent acts of the defendant. *Payo*, 133 Nev. at 636, 403 P.3d at 1279.

Viewing the evidence in the light most favorable to Sanchez, we conclude summary judgment was appropriate because Sanchez failed to present sufficient evidence to support the proposition that the truck driver's visibility was impacted or that the lack of a stop sign contributed to the accident, such that a reasonable jury could find in his favor. *Wood*, 121 Nev. at 732, 121 P.3d at 1031; *Cuzze*, 123 Nev. at 602-03, 172 P.3d at 134. Sanchez testified that he was driving his motorcycle on the public roadway and a semi-truck pulled out in front of him. He avers that he did not see the semi-truck until a second before the collision and believed the truck was sticking out about halfway into the lane and moving when he collided with it. Sanchez hit the front of the truck with his right leg but he did not fall off the motorcycle or otherwise stop at the scene of the accident; rather, he continued driving on to his original destination. The truck driver was never located, and the district court was not presented with any evidence of what the truck driver did before the accident or if the driver's visibility was obstructed by other semi-trucks parked along the roadway.


The absence of any evidence regarding the truck driver's actions or visibility precludes a reasonable jury from concluding that but for TA parties' failure to install a traffic sign at the exit of the parking lot or its permitting semi-trucks to park along the roadway, this accident would not have happened. Instead, the jury would be left to speculate without any evidence about the truck driver's actions or whether any negligence on behalf of TA parties caused the accident that occurred on a public roadway. *Wood*, 121 Nev. at 732, 121 P.3d at 1031 (explaining that a party opposing summary judgment "is not entitled to build a case on the gossamer threads of whimsy, speculation, and conjecture" (internal quotation marks omitted)).

Therefore, the district court properly granted summary judgment in favor of respondents. Accordingly, we

ORDER the judgment of the district court AFFIRMED.¹


_____, J.
Herndon


_____, J.
Lee


_____, J.
Bell

cc: Hon. Adriana Escobar, District Judge
Patrick N. Chapin, Settlement Judge
The Schnitzer Law Firm
Hanratty Law Group
Clark Hill PLLC
Wright Close & Barger, LLP
McDonald Toole Wiggins, P.A./Orlando
Eighth District Court Clerk

¹To the extent Sanchez has raised arguments on appeal that we did not specifically address, we are not persuaded that those arguments warrant reversal.