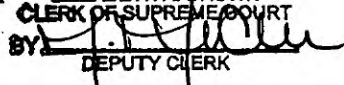


IN THE COURT OF APPEALS OF THE STATE OF NEVADA

RICHARD DAVID GREEN, AN  
INDIVIDUAL,  
Appellant,  
vs.  
HOLDYN CASTILLO, AN INDIVIDUAL;  
AND HERNANDEZ TRUCKING &  
MATERIAL HAULING, INC., A  
DOMESTIC CORPORATION,  
Respondents.

No. 87748-COA

**FILED**  
SEP 20 2024  
ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY:   
DEPUTY CLERK

*ORDER OF AFFIRMANCE*

Richard David Green appeals from an order of the district court granting summary judgment in a negligence action. Eighth Judicial District Court, Clark County; Jessica K. Peterson, Judge.

Green filed a complaint in which he alleged that respondent Holdyn Castillo was driving a vehicle owned by his employer, respondent Hernandez Trucking & Material Hauling, Inc. Green alleged that Castillo's vehicle struck overhead electrical lines, and those lines fell, hitting Green's vehicle. Green further alleged that he sustained physical injuries and emotional distress because of the incident. Based on those factual allegations, Green raised causes of action for negligence, negligent entrustment, negligent hiring, negligent training, and negligent supervision.

Respondents answered and the district court entered a scheduling order. The parties exchanged some discovery, but several disputes arose concerning Green's responses to respondents' discovery

requests. In addition, respondents served Green with requests for admission, but Green did not respond to them.

Respondents subsequently filed a motion for summary judgment and submitted the unanswered requests for admission in support of that motion. Respondents argued that there were no genuine disputes of material fact as Green failed to timely respond to respondents' requests for admission. Respondents asserted that, as a result of Green's failure to respond, the requests for admission refuted any liability towards respondents as Green admitted that respondents were not negligent and that he suffered no injuries because of the traffic incident.

Green did not oppose the motion for summary judgment but instead filed several documents that he labeled as motions to compel discovery. Despite this label, however, Green did not seek additional discovery but instead contended that he should not have to disclose his personal medical information to respondents.

The district court ultimately granted the motion for summary judgment pursuant to EDCR 2.20(e) as it concluded that Green's failure to oppose the motion for summary judgment constituted a concession that the motion was meritorious and should be granted. The district court also concluded that there was no dispute that Green was served with the requests for admission and that he failed to timely respond to the requests. Accordingly, because the requests for admission were deemed admitted, the court concluded it was undisputed that Green could not establish the elements of the causes of action raised in his complaint. Therefore, the court granted summary judgment in favor of respondents. This appeal followed.

On appeal, Green challenges the district court's decision to grant respondents' motion for summary judgment. Generally, this court

reviews a district court's order granting summary judgment de novo. *Wood v. Safeway, Inc.*, 121 Nev. 724, 729, 121 P.3d 1026, 1029 (2005). However, we review a district court's decision to grant a motion for failure to oppose under EDCR 2.20(e) for an abuse of discretion. *Las Vegas Fetish & Fantasy Halloween Ball, Inc. v. Ahern Rentals, Inc.*, 124 Nev. 272, 278 & n.15, 182 P.3d 764, 768 & n.15 (2008) (stating that the district court did not abuse its discretion by applying EDCR 2.20(b), which is now EDCR 2.20(e), where an opposition was not timely filed); *see also King v. Carlidge*, 121 Nev. 926, 926-27, 124 P.3d 1161, 1162 (2005) (reviewing, under an abuse of discretion standard, a district court decision to grant a motion pursuant to the district court rules based on a party's failure to oppose the motion). "An abuse of discretion occurs if the district court's decision is arbitrary or capricious or if it exceeds the bounds of law or reason." *Skender v. Brunsonbuilt Constr. & Dev. Co.*, 122 Nev. 1430, 1435, 148 P.3d 710, 714 (2006) (internal quotation marks omitted).

As stated previously, the district court granted respondents' motion for summary judgment on two bases, pursuant to EDCR 2.20(e) and because there were no genuine disputes of fact in light of Green's failure to respond to the requests for admission. In his informal brief, Green fails to address, or even acknowledge, the court's decision to grant the motion pursuant to EDCR 2.20(e). As a result, Green waived any challenge to that basis for the district court's decision to grant the motion for summary judgment and he has therefore failed to establish a basis for reversal. *See Hung v. Genting Berhad*, 138 Nev., Adv. Op. 50, 513 P.3d 1285, 1288 (Ct. App. 2022) (providing that an appellant generally must challenge all the independent alternative grounds relied upon by the district court, otherwise the ruling will be affirmed); *Powell v. Liberty Mut. Fire Ins. Co.*, 127 Nev.

156, 161 n.3, 252 P.3d 668, 672 n.3 (2011) (providing that issues an appellant does not raise on appeal are waived).


Green also appears to argue that the district court should have allowed him additional time to conduct discovery prior to granting the motion for summary judgment. We review the denial of a request for a continuance in the face of a motion for summary judgment for abuse of discretion. *Aviation Ventures, Inc. v. Joan Morris, Inc.*, 121 Nev. 113, 117-18, 110 P.3d 59, 62 (2005). NRCP 56(d) provides that a district court may allow additional time to conduct discovery if the nonmovant shows by affidavit or declaration that, for specified reasons, it cannot present facts essential to justify its opposition. *Choy v. Ameristar Casinos, Inc.*, 127 Nev. 870, 873, 265 P.3d 698, 700 (2011). In addition, such a continuance is only appropriate when the movant expresses how further discovery will create a genuine dispute of material fact. *Aviation Ventures*, 121 Nev. at 118, 110 P.3d at 62.

Here, Green filed several motions concerning discovery after respondents moved for summary judgment. However, Green did not specifically explain why he could not present sufficient facts to justify his opposition or how any additional information he hoped to obtain through discovery would create a genuine dispute of material fact. In addition, Green did not attempt to show by affidavit or declaration that he needed additional time to conduct discovery after respondents moved for summary judgment, and his discussion of discovery-related issues in his purported motions to compel was insufficient to meet NRCP 56(d)'s affidavit requirement. *See Choy*, 127 Nev. at 873, 265 P.3d at 700. Under these circumstances, the district court was well within its discretion to decline to

grant a continuance for discovery. *See Aviation Ventures*, 121 Nev. at 117-18, 110 P.3d at 62.

Based on the foregoing, we

ORDER the judgment of the district court AFFIRMED.<sup>1</sup>

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

  
\_\_\_\_\_, J.  
Bulla

  
\_\_\_\_\_, J.  
Westbrook

cc: Hon. Jessica K. Peterson, District Judge  
Richard David Green  
Rex Law  
Lewis Brisbois Bisgaard & Smith, LLP/Las Vegas  
Eighth District Court Clerk

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<sup>1</sup>Insofar as Green raises arguments that are not specifically addressed in this order, we have considered the same and conclude that they do not present a basis for relief.