

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

MATTHEW GALANTI AND JESSICA
GALANTI,
Appellants,
vs.
STARBUCKS COFFEE COMPANY;
PAUL HACKER; MITZIE MEDINA;
AND HOWARD SCHULTZ, C.E.O.,
Respondents.

No. 90502-COA

ORDER OF AFFIRMANCE

Michael and Jessica Galanti (collectively appellants) appeal from a judgment entered on an arbitration award following a district court order striking their request for trial de novo. Eighth Judicial District Court, Clark County; Ronald J. Israel, Judge.

Appellants filed suit, alleging that while picking up a drink order at one of respondent Starbucks Coffee Company's locations, Matthew went to the restroom to wash his hands and apparently did so before realizing that the sink and sink handles were covered with blood. Appellants alleged that despite Matthew getting blood on his hands, Starbucks refused to let him wash his hands in the employee bathroom or in a sink in the food preparation area. Appellants alleged that for several weeks they feared that Matthew had contracted a bloodborne pathogen and had passed it to Jessica through sexual contact. Medical tests were negative for pathogens. Following motion practice, Starbucks filed an answer and the matter was assigned to the court-annexed arbitration program. The case proceeded through the arbitration program on appellants' claim of negligence. Following the arbitration, the arbitrator entered judgment in favor of Starbucks.

Appellants then filed a request for trial de novo and sought removal from the short trial program. Starbucks filed a motion to strike, arguing that appellants failed to participate in the arbitration in good faith because they did not meaningfully participate in discovery, refused to identify medical providers or provide a computation of damages, and otherwise provided only evasive and insufficient responses to written discovery. Appellants opposed, arguing they did not act in bad faith and that their medical records were irrelevant to this matter. Following Starbucks' reply, the district court entered an order striking appellants' request for trial de novo and entered judgment on the arbitration award. Appellants now appeal.

As an initial matter, review on appeal from a judgment entered on an arbitration award following an order striking a request for trial de novo is limited to the order striking the trial de novo request and written interlocutory orders disposing of a portion of the case. See NAR 18(f). Therefore, while appellants raise numerous arguments addressing issues other than the striking of their trial de novo request, they are not properly before this court and are thus not addressed herein.

Regarding the order striking appellants' trial de novo request, NAR 22(a) provides that "[t]he failure of a party or an attorney to either prosecute or defend a case in good faith during the arbitration proceedings shall constitute a waiver of the right to a trial de novo." In this context, good faith means meaningful participation. See *Casino Props., Inc. v. Andrews*, 112 Nev. 132, 135, 911 P.2d 1181, 1182-83 (1996). The decision to strike a request for a trial de novo is reviewed for an abuse of discretion. *Gittings v. Hartz*, 116 Nev. 386, 391, 996 P.2d 898, 901 (2000).

In its motion to strike, Starbucks alleged appellants largely failed to reply to discovery requests, and when they did reply, provided only evasive and incomplete answers. Further, Starbucks asserted appellants failed to produce a computation of damages, refused to identify medical providers, and failed to provide a prehearing statement. The district court concluded that appellants' behavior demonstrated they did not meaningfully participate in arbitration and thus waived the ability to request trial de novo. On appeal, appellants do not address these findings and instead argue the court abused its discretion by waiting four months to issue the order, and by holding a case conference in the interim, which caused appellants to believe a trial was forthcoming. However, appellants fail to cogently argue how this alleged delay constituted an abuse of discretion when the order was premised on their failure to meaningfully participate in the arbitration proceedings. *See Edwards v. Emperor's Garden Rest.*, 122 Nev. 317, 330 n.38, 130 P.3d 1280, 1288 n.38 (2006) (providing that this court need not consider claims that are unsupported by cogent arguments).

Accordingly, we

ORDER the judgment of the district court AFFIRMED.



Bulla, C.J.



Gibbons, J.



Westbrook, J.

cc: Hon. Ronald J. Israel, District Judge
Jessica Galanti
Matthew Galanti
Murchison & Cumming, LLC/Las Vegas
Eighth District Court Clerk