



IN THE COURT OF APPEALS OF THE STATE OF NEVADA

AG PRODUCTION SERVICES, INC.,
Appellant,
vs.
JUANNA BLACKWELL,
Respondent.

No. 89699-COA

ORDER OF AFFIRMANCE

AG Production Services, Inc., appeals from a district court order granting a motion for judgment on the pleadings under EDCR 2.20(e) in a contract action. Eighth Judicial District Court, Clark County; Hon. Jacob A. Reynolds, Judge.

This matter relates to a contract between AG Production Services, Inc. (AGP), and Transfix Productions, LLC (Transfix). As part of that agreement, respondent Juanna Blackwell—the Chief Operating Officer of Transfix—signed a “Customer Information Form” that specified she would be personally liable for Transfix’s extension of credit. Transfix failed to make payments required by its contract with AGP, and AGP thereafter sued Blackwell for breach of contract, breach of guarantee, and declaratory relief.

On September 9, 2024, Blackwell moved to dismiss the complaint for lack of in personam jurisdiction or, in the alternative, for judgment on the pleadings under NRCP 12(c). Under EDCR 2.20(e), which requires oppositions to be filed within 14 days of service of the initial motion, AGP’s opposition was due on September 23. However, AGP requested and was granted a two-day extension of time to file its opposition, extending the deadline to September 25. At 12:04 a.m. on September 26, AGP filed a document purporting to oppose

Blackwell's motion. Due to a claimed technical error, that document contained only the first page and did not contain a memorandum of points and authorities. After a discussion between counsel, the parties agreed AGP would fix this error as soon as possible. AGP did not file any other documents over the next several days and on October 8, Blackwell filed a reply indicating that no opposition had been filed and requested relief under EDCR 2.20. On October 10, the district court issued a minute order continuing the original hearing and indicating that AGP had until October 14 to file its opposition. The district court further specified that if AGP did not "file an Opposition by October 14, 2024[,] then [Blackwell] may file a proposed order pursuant to EDCR 2.20."

AGP filed its opposition at 12:10 a.m. on October 15, 2024. Blackwell submitted a proposed order granting her motion for judgment on the pleadings, which did not address the motion on any substantive grounds, but rather, outlined the procedural posture of the events above, and granted Blackwell's motion for judgment on the pleadings based on AGP's failure to file a timely opposition under EDCR 2.20(e). Blackwell did not provide a copy of the proposed order to AGP, which alleged it was unaware of the order until the district court entered the order and vacated the scheduled hearing. This appeal followed.¹

On appeal, AGP argues that the district court abused its discretion when it granted Blackwell's motion for judgment on the pleadings under EDCR 2.20(e) as it did not have an opportunity to be heard on the merits of the motion

¹We note that the parties generally refer to the district court order as an order granting a motion to dismiss in their respective briefs. However, the district court did not dismiss AGP's complaint, but instead, granted judgment on the pleadings under NRCP 12(c) in favor of Blackwell.

or the delay in filing. AGP generally argues that dismissal under these circumstances violates Nevada’s policy of deciding cases on the merits, and that the district court’s decision to sign Blackwell’s proposed order without providing AGP with a chance to review it requires this court to vacate the underlying order.

In response, Blackwell argues that the district court acted within its discretion to enter judgment on the pleadings under EDCR 2.20(e). Blackwell argues that AGP had notice of the original motion, and advance notice that the district court would grant the motion as unopposed if it failed to file a timely opposition before October 14.

Under EDCR 2.20(e), a district court has the discretion to construe a party’s failure to timely oppose a motion “as an admission that the motion . . . is meritorious and a consent to granting the same.” *See, e.g., Las Vegas Fetish & Fantasy Halloween Ball, Inc. v. Ahern Rentals, Inc.*, 124 Nev. 272, 277-78, 182 P.3d 764, 768 (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 eventually filed, but untimely).

Having reviewed the arguments of the parties and the record on appeal, we can discern no abuse of discretion in the district court’s application of EDCR 2.20(e) to the instant motion. *King v. Cartlidge*, 121 Nev. 926, 927-28, 124 P.3d 1161, 1162-63 (2005). Here, the parties do not contest that AGP’s opposition was filed after the district court’s October 14, 2024, deadline. The record further reflects that this was not the first missed opportunity to respond to the motion in this case, as AGP was granted a first extension to file an opposition on September 25 but did not file that document until September 26. Further, the document filed on September 26 was incomplete, and although AGP represented to opposing counsel that the missing pages were the result of

technical difficulties that would soon be resolved, it did not attempt to refile that opposition until after the October 14 deadline expired. However, the language of EDCR 2.20(e) does not mandate courts consider whether a party has good cause for either failing to file, or untimely filing, their oppositions before deeming the motion unopposed and meritorious. *See, e.g., Ochoa v. Terry*, No. 86752-COA, 2024 WL 3099191, *5 (Ct. App. June 21, 2024) (Order of Affirmance); *see also King*, 121 Nev. at 928, 124 P.3d at 1162 (holding that “delay alone” was a sufficient basis for the district court to deem a motion for summary judgment as unopposed and meritorious—the specific circumstances justifying the delay were inconsequential to the court’s decision). Thus, relief is unwarranted on this basis.

Nevertheless, AGP also argues that the district court abused its discretion by considering and signing Blackwell’s proposed order without providing it with a chance to review the order. AGP argues that this action violates local rules and this court’s decision in *Eivazi v. Eivazi*, wherein we recognized that “a district court may properly adopt a party’s proposed order, provided that the opposing party is apprised of the order and given an opportunity to respond.” 139 Nev. 408, 412, 537 P.3d 476, 483 (Ct. App. 2023) (*citing Byford v. State*, 123 Nev. 67, 69, 156 P.3d 691, 692 (2007)). However, this alone is not an independent basis for reversal. *Id.* at 413, 537 P.3d at 483.

Instead, appellate courts must analyze “the content and substance of the proposed order that was adopted by the district court and decide whether any particular findings of fact and conclusions of law were unsupported by substantial evidence or legally erroneous.” *Id.* at 414, 537 P.3d at 484. And here, as stated above, AGP has not demonstrated that the district court’s order was unsupported by substantial evidence or that the district court’s reliance on EDCR 2.20(e) in this instance was an abuse of discretion or legally

erroneous. Accordingly, we conclude that any failure of the district court to allow AGP to review the proposed order prior to entry was harmless. *See, e.g., Centeno v. Warden HDSP*, No. 88255-COA, 2024 WL 4658704, *1 n.2 (Ct. App. Oct. 31, 2024) (Order of Affirmance) (concluding, in a criminal case, that “[a]ny failure of the district court to ensure that [appellant] had an opportunity to review and respond to the proposed order was harmless”); *see also Wyeth v. Rowatt*, 126 Nev. 446, 465, 244 P.3d 765, 778 (2010) (“To establish that an error is prejudicial, the movant must show that the error affects the party’s substantial rights so that, but for the alleged error, a different result might reasonably have been reached.”); *cf.* NRCP 61 (“At every stage of the proceeding, the court must disregard all errors and defects that do not affect any party’s substantial rights.”). As AGP has not demonstrated any basis for relief, we

ORDER the judgment of the district court AFFIRMED.²


Bulla, C.J.


Gibbons, J.


Westbrook, J.

²Insofar as AGP 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.

cc: Jacob A. Reynolds, District Judge
James A. Kohl, Settlement Judge
Jacquelyn Kelley
McLetchie Law
Eighth District Court Clerk