

IN THE SUPREME COURT OF THE STATE OF NEVADA

CHARLES THOMAS WISEMAN AND
CHRISTINA WISEMAN,
Appellants,
vs.
BONANZA REPORTING RENO, INC.,
AND DIANNE M. BRUMLEY,
Respondents.

No. 38804

FILED

NOV 21 2003

JANETTE L. THOMAS
CLERK OF SUPREME COURT
BY *J. Richard*
JEREMY DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from an order granting summary judgment in favor of respondents Bonanza Reporting, Inc. and Diane M. Brumley. Appellants Charles Thomas Wiseman and Christina Wiseman filed a complaint against respondents alleging breach of contract and related claims. Appellants claimed that Brumley, a court reporter in a federal action wherein appellants sued Washoe County and several other defendants, intentionally altered and deleted various portions of deposition transcripts. The district court granted respondents' motion for summary judgment after concluding that appellants failed to prove that they were damaged by the alleged alterations or omissions.

This court reviews a district court's order granting summary judgment de novo.¹ Summary judgment is only appropriate when, after reviewing the record in a light most favorable to the non-moving party, there is no genuine issue of material fact, and the moving party is entitled to judgment as a matter of law.² In opposing a motion for summary

¹Executive Mgmt. v. Ticor Title Ins. Co., 114 Nev. 823, 834, 963 P.2d 465, 473 (1998).

²Butler v. Bogdanovich, 101 Nev. 449, 451, 705 P.2d 662, 663 (1985).

judgment, the non-moving party must, by affidavit or otherwise, set forth substantial evidence demonstrating the existence of a genuine factual issue for trial.³ But, a party “is not entitled to build a case on the gossamer threads of whimsy, speculation and conjecture.”⁴

After reviewing the record, we agree with the district court’s conclusion that summary judgment was warranted under the circumstances. The judge in the federal action made it clear that the missing deposition pages did not affect the outcome of the case, and the appellants failed to demonstrate that they were actually damaged by the alleged alterations in the deposition testimony. Indeed, the federal action was dismissed after the federal judge determined that appellants asserted conclusory arguments and failed to satisfy jurisdictional requirements.

We have observed that if “an essential element of a claim for relief is absent, the facts, disputed or otherwise, as to the other elements are rendered immaterial and summary judgment is proper.”⁵ Because appellants failed to demonstrate triable issues of material fact regarding essential elements of their breach of contract and related claims, we

³Bulbman, Inc. v. Nevada Bell, 108 Nev. 105, 110, 825 P.2d 588, 591 (1992).


⁴Hahn v. Sargent, 523 F.2d 461, 467 (1st Cir. 1975), cert. denied, 425 U.S. 904 (1976), quoted in Posadas v. City of Reno, 109 Nev. 448, 452, 851 P.2d 438, 442 (1993).


⁵Bulbman, 108 Nev. at 111, 825 P.2d at 592.

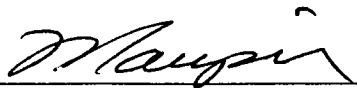
conclude that summary judgment was properly granted in respondents' favor.⁶

Accordingly, we

ORDER the judgment of the district court AFFIRMED.

 _____, J.
Rose

 _____, J.
Leavitt

 _____, J.
Maupin

cc: Hon. Jerome Polaha, District Judge
Mirch & Mirch
Jones Vargas/Reno
Laxalt & Nomura, Ltd./Reno
Washoe District Court Clerk

⁶After considering appellants' arguments related to the district court's adoption of the discovery commissioner's recommendations and its decision to grant a continuance, we conclude that they lack merit.