

IN THE SUPREME COURT OF THE STATE OF NEVADA

MARY BROOKSBANK, ON BEHALF OF
HERSELF AND ALL SIMILARLY
SITUATED,
Appellant,
vs.
ALBERTSONS, INC. AND JOHN
STEEN,
Respondents.

No. 39045

FILED

JUN 18 2003

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. Richards*
CHIEF DEPUTY CLERK

ORDER OF REVERSAL AND REMAND

Mary Brooksbank appeals the district court's order granting summary judgment in favor of respondents Albertsons, Inc. and John Steen. The district court found that respondents acted in good faith because Albertsons' business practice of sending a letter requesting payment for the check issued by Brooksbank was commercially reasonable.

We review orders granting summary judgment de novo.¹ After viewing all evidence and taking every reasonable inference in the light most favorable to the nonmoving party, summary judgment is appropriate when there are no genuine issues of material fact and the moving party is

¹Lumbermen's Underwriting v. RCR Plumbing, 114 Nev. 1231, 1234, 969 P.2d 301, 303 (1998).

entitled to judgment as a matter of law.² If there is the slightest doubt as to any material issue of fact, the litigant has a right to trial by a jury.³

We conclude that the district court erred in granting summary judgment because whether respondents acted in good faith or in a commercially reasonable manner cannot be decided as a matter of law in this instance.⁴

Additionally, in light of this disposition, we deny respondents' request for sanctions pursuant to NRAP 38.

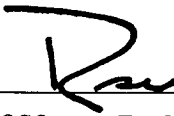
Accordingly, we


²Posadas v. City of Reno, 109 Nev. 448, 452, 851 P.2d 438, 441-42 (1993).

³Pressler v. City of Reno, 118 Nev. ___, ___, 50 P.3d 1096, 1098 (2002).

⁴Cf Leavitt v. Leisure Sports Inc., 103 Nev. 81, 86, 734 P.2d 1221, 1224 (1987) (observing that whether duty of good faith imposed by a fiduciary relationship was breached is a question for the trier of fact); Embree Construction Group, Inc. v. Rafcor, Inc., 411 S.E.2d 916, 925 (N.C. 1992) (noting that the question of good faith related to a claim for tortious interference with contract is one of fact to be resolved by the jury and cannot be resolved on a motion to dismiss); Security State Bank v. Burk, 995 P.2d 1272, 1277 (Wash. Ct. App. 2000) (observing that when the appropriateness of the disposition of collateral by a secured party is contested, the issue of commercial reasonableness is a question of fact to be determined by the trier of fact).

ORDER the judgment of the district court REVERSED AND
REMAND this matter to the district court for proceedings consistent with
this order.


_____, J.
Rose


_____, J.
Gibbons

cc: Hon. Janet J. Berry, District Judge
Brooksbank & Associates
Perry & Spann/Reno
Washoe District Court Clerk

