

IN THE SUPREME COURT OF THE STATE OF NEVADA

MELISSA GUEZMIR,
Appellant,
vs.
INTERNATIONAL AVIATION
TERMINALS CORP., A DELAWARE
CORPORATION,
Respondent.

No. 39554

FILED

AUG 25 2004

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

ORDER OF AFFIRMANCE

This is an appeal from an order setting aside a default judgment. Eighth Judicial District Court, Clark County; Jeffrey D. Sobel, Judge.

Melissa Guezmir appeals from a district court order setting aside a default judgment entered upon her claims of negligence against respondent, International Aviation Terminal Corp. (IAT). Guezmir claims that the district court abused its discretion by granting IAT's motion to set aside the default judgment. We affirm.

FACTS AND PROCEDURAL HISTORY

On March 18, 1999, appellant Melissa Guezmir was injured after tripping over a portion of a parking bumper in a parking lot operated by IAT and leased by Guezmir's employer, America West Airlines. During the six months after Guezmir's accident, her attorney and IAT's liability insurer participated in communications regarding her claim of negligence and damages. In February 2000, IAT's insurer closed Guezmir's claim after failing to hear from Guezmir or her attorney for over two months.

Guezmir filed suit against IAT on November 15, 2000, and effected service on November 16, 2000. IAT timely forwarded the complaint and summons to its insurer; however, the insurer failed to act

upon them by filing an answer or other motion. Guezmir entered default on December 18, 2000, and obtained a default judgment on June 1, 2001. Neither IAT nor its insurer received notice of Guezmir's entry of default or the default judgment. No communications ensued between Guezmir and IAT or its insurer from the filing of the proceedings until Guezmir requested financial information from IAT in February 2002.

Upon learning of Guezmir's attempted execution of the default judgment, IAT filed a motion to set aside the default judgment as void under NRCP 60(b), alleging that Guezmir failed to satisfy the three-days' notice requirement of NRCP 55(b)(2). The district court granted IAT's motion to set aside the default judgment under NRCP 60(b). Guezmir timely appealed.

DISCUSSION

We recently held in Lindblom v. Prime Hospitality Corp. that pre-suit interactions constitute an appearance and entitle a defendant to three days' notice of default proceedings under NRCP 55(b)(2).¹ A party's failure to provide such notice renders the judgment void pursuant to NRCP 60(b).²

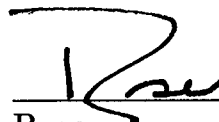
In accordance with Lindblom, we conclude that the pre-suit interactions between Guezmir and IAT constituted an appearance under NRCP 55(b)(2). Therefore, Guezmir was required to provide IAT with three-days' notice of her application for default judgment, and her failure

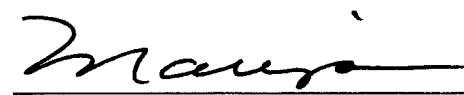
¹120 Nev. ___, ___, ___ P.3d ___, ___ (Adv. Op. No. 40 at 6, June 10, 2004).


²Id.

to provide such notice rendered the default judgment void.³ The district court did not abuse its discretion by granting IAT's motion to set aside the default judgment. Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Rose


_____, J.
Maupin


_____, J.
Douglas

cc: Eighth Judicial District Court Department 5, District Judge
Kenneth L. Hall
Perry & Spann/Las Vegas
Clark County Clerk

³See NRCP 60(b).