

IN THE SUPREME COURT OF THE STATE OF NEVADA

PHILIP GARLAND,  
Appellant,  
vs.  
CHARLES DAVIS,  
Respondent.

No. 41223

FILED

SEP 19 2003

ORDER OF AFFIRMANCE

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

This is a proper person appeal from a summary judgment in a breach of contract action. The district court granted summary judgment for respondent based upon appellant's failure to respond to respondent's request for admissions.


Under NRCP 36, a party served with a request for admissions must serve his answers or objections to the request within thirty days, or the matters sought to be admitted shall be deemed admitted. This court has repeatedly held that a party's failure to respond to a request for admissions results in the matters being conclusively established.<sup>1</sup> Here, appellant failed to respond to respondent's request for admissions within thirty days after service of the request. Moreover, while appellant opposed respondent's summary judgment motion, he still did not object or respond to the request for admissions. Pursuant to NRCP 36, appellant's failure to timely respond to the request for admissions resulted in the matters requested therein being admitted, thereby establishing conclusively that


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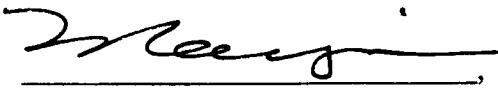
<sup>1</sup>Smith v. Emery, 109 Nev. 737, 742, 856 P.2d 1386, 1390 (1993) (citing Woods v. Label Investment Corp., 107 Nev. 419, 425, 812 P.2d 1293, 1297 (1991); Dzack v. Marshall, 80 Nev. 345, 347, 393 P.2d 610, 611 (1964)).

appellant owed respondent \$180,000 on the promissory notes, and entitling respondent to a judgment as a matter of law. Accordingly, we

ORDER the judgment of the district court AFFIRMED.<sup>2</sup>

  
\_\_\_\_\_, J.  
Rose

  
\_\_\_\_\_, J.  
Leavitt

  
\_\_\_\_\_, J.  
Maupin

cc: Hon. Sally L. Loehrer, District Judge  
Orlando J. De Castroverde  
Philip Garland  
Clark County Clerk

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<sup>2</sup>Although appellant was not granted leave to file papers in proper person, see NRAP 46(b), we have considered the proper person documents received from appellant. On April 10, 2003, this court directed appellant to pay the Supreme Court filing fee. On April 24, 2003, the district court entered an order allowing appellant to proceed in forma pauperis. Accordingly, no filing fee is due.