

IN THE SUPREME COURT OF THE STATE OF NEVADA

LAWRENCE LIBIT,
Appellant,
vs.
JACKIE O'BRIEN AND FARMERS
INSURANCE COMPANY,
Respondents.

No. 54328

FILED

SEP 13 2010

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a proper person appeal from a district court judgment in a personal injury action. Second Judicial District Court, Washoe County; Robert H. Perry, Judge.

Appellant and respondent Jackie O'Brien were involved in a car accident, following which appellant entered into a property damage settlement with O'Brien's insurance provider, Farmers Insurance Exchange (Farmers).¹ Thereafter, appellant filed suit against O'Brien, alleging personal injury, and against Farmers, alleging bad faith and misrepresentation in negotiating the property damage settlement. The district court dismissed Farmers as an improper defendant, and the case proceeded to arbitration against O'Brien. A settlement was reached in the arbitration. On appeal, appellant argues that the district court erred by dismissing Farmers from the action.

¹Appellant initially filed suit against Farmers Insurance Company. However, the district court permitted appellant to amend the suit to correctly name O'Brien's insurance provider, Farmers Insurance Exchange.

Given that appellant did not state a claim against Farmers, the district court did not abuse its discretion by declining to allow appellant to amend his complaint to clarify his claims against Farmers. See Kantor v. Kantor, 116 Nev. 886, 891, 8 P.3d 825, 828 (2000) (stating that the denial of a motion for leave to amend will not be reversed absent a showing of abuse of discretion). Moreover, the district court did not err by declining to enter a default judgment against Farmers for failing to answer the complaint. As discussed above, Farmers was properly dismissed as a defendant, so no answer was required.²

In light of the above, we

ORDER the judgment of the district court AFFIRMED.

Hardesty, J.
Hardesty

Douglas, J.
Douglas

Pickering, J.
Pickering

cc: Hon. Robert H. Perry, District Judge
Lawrence Libit
David L. Riddle & Associates
Feldman Graf
Washoe District Court Clerk

²We note that appellant asserted in his notice of appeal that the dismissal violated his Fifth and Fourteenth Amendment rights. He did not, however, provide any argument to support this assertion, and thus, it is not discussed in this order. Edwards v. Emperor's Garden Rest., 122 Nev. 317, 330 n.38, 130 P.3d 1280, 1288 n.38 (2006).