

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

TRI STATE TOWING AND RECOVERY,
INC., A DOMESTIC CORPORATION;
AND JAMES M. RUBBICO, AN
INDIVIDUAL,
Appellants,
vs.
ALISHA GRUNDY, AN INDIVIDUAL,
Respondent.

No. 80602-COA

FILED

APR 29 2021

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER OF AFFIRMANCE

Tri State Towing and Recovery, Inc., and James M. Rubbico appeal from a final judgment in a contract and tort action. Eighth Judicial District Court, Clark County; Gloria Sturman, Judge.

To satisfy a storage lien against several automobiles owned by respondent Alisha Grundy, Tri State Towing and Recovery, Inc., sold them to its owner, Rubbico (collectively referred to herein as Tri State). Grundy later sued Tri State, asserting various contract and tort claims. Following a bench trial, the district court found that Tri State sold the automobiles in violation of a temporary restraining order (TRO), and the court therefore awarded Grundy her damages. This appeal followed.

This court reviews a district court's legal conclusions following a bench trial de novo, but we will not disturb the district court's factual findings "unless they are clearly erroneous or not supported by substantial evidence." *Wells Fargo Bank, N.A. v. Radecki*, 134 Nev. 619, 621, 426 P.3d 593, 596 (2018).


On appeal, Tri State argues that it did not violate the TRO and that the damages award was based on inadmissible hearsay. Tri State,

however, did not provide this court with the trial transcripts, the trial briefs, or any of the motion practice from the underlying proceeding. As a result, we are unable to determine what, if any, arguments were made with respect to these matters below. It is an appellant's duty to ensure that an adequate trial court record is prepared, and we presume that items not contained in the record on appeal support the district court's conclusions. *See Cuzze v. Univ. & Cmty. Coll. Sys. of Nev.*, 123 Nev. 598, 603, 172 P.3d 131, 135 (2008). Consequently, we must conclude that Tri State failed to demonstrate that the district court erred by entering judgment in favor of Grundy, *Radecki*, 134 Nev. at 621, 426 P.3d at 596, and we therefore

ORDER the judgment of the district court AFFIRMED.¹


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

¹We direct Tri State's attorney of record, Harold P. Gewerter, who was temporarily suspended from the practice of law in 2020, to serve Tri State with a copy of this order within 10 days of its entry, by registered or certified mail, return receipt requested. *Cf.* SCR 115(3) (setting forth the duty of an attorney who has been suspended from the active practice of law to notify any clients involved in pending litigation, and the court presiding over the proceeding, of his or her suspension). Further, to the extent Tri State wishes to take any further action in this matter, it will need to obtain new counsel in order to do so.

cc: Hon. Gloria Sturman, District Judge
Tri State Towing and Recovery, Inc.
James M. Rubbico
Harold P. Gewerter, Esq., Ltd.
Christopherson Law Offices
Eighth District Court Clerk