

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

VICTORIA BOHLAND,  
Appellant,  
vs.  
THE LAW OFFICES OF GARY L.  
FALES & ASSOCIATES,  
Respondent.

No. 84550-COA

**FILED**

JAN 13 2023

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY   
DEPUTY CLERK

*ORDER OF AFFIRMANCE*

Victoria Bohland appeals from a district court order granting summary judgment in a legal-malpractice action. Eighth Judicial District Court, Clark County; Veronica Barisich, Judge.

Bohland formed a company in Nevada, Heavens Above, LLC, which designated respondent, the Law Offices of Gary L. Fales & Associates (Fales), as its registered agent. Nonparty Cheryl Atkins sued Heavens Above in Wisconsin in connection with an unsuccessful business venture there and, when the company failed to respond, obtained a default judgment against it for over \$100,000. Heavens Above then filed a motion in the Wisconsin court requesting that it set the default judgment aside, but the court denied the motion, and the Court of Appeals of Wisconsin affirmed. *See Atkins v. Heavens Above, LLC*, No. 2018AP482, 2018 WL 6787893, at \*1-3 (Wis. Ct. App. Dec. 26, 2018). Bohland later filed the underlying action for legal malpractice against Fales, alleging she suffered damages as a result of the law firm's failure to inform her that it was served with process

in the Wisconsin action against Heavens Above. Fales ultimately moved for summary judgment, which the district court granted, concluding essentially that Bohland failed to produce admissible evidence in opposition to Fales' motion or designate any expert witnesses as required to prove legal malpractice. This appeal followed.

We review a district court's order granting summary judgment de novo. *Wood v. Safeway, Inc.*, 121 Nev. 724, 729, 121 P.3d 1026, 1029 (2005). Summary judgment is proper if the pleadings and all other evidence on file demonstrate that no genuine dispute of material fact exists and that the moving party is entitled to judgment as a matter of law. *Id.* A defendant is entitled to summary judgment "[w]here an essential element of [the plaintiff's] claim for relief is absent." *Bulbman, Inc. v. Nev. Bell*, 108 Nev. 105, 111, 825 P.2d 588, 592 (1992). To recover on a legal-malpractice claim, a plaintiff must show the existence of an attorney-client relationship and that the defendant owed a duty to the plaintiff, breached that duty, and thereby proximately caused the plaintiff to incur damages. *Semenza v. Nev. Med. Liab. Ins. Co.*, 104 Nev. 666, 667-68, 765 P.2d 184, 185 (1988). In such cases, expert testimony is generally required to establish the breach of a duty and may be required to show causation of damages. *Allyn v. McDonald*, 112 Nev. 68, 71-72, 910 P.2d 263, 266 (1996); see *Dolmayan v. Doxey*, No. 64089, 2015 WL 5431966, at \*1-2 (Nev. Sept. 10, 2015) (Order of Affirmance) (affirming a summary judgment where plaintiff failed to designate an expert to prove duty, breach, and causation in a legal-malpractice action).

Here, one of the grounds relied upon by the district court in granting summary judgment was that Bohland failed to support her claim with expert testimony. In her informal brief on appeal, the only argument Bohland presents with respect to expert testimony is that she could not afford the services of an expert witness because she is indigent. But she fails to explain how indigency would negate any requirement for expert testimony in legal-malpractice cases. *See Edwards v. Emperor's Garden Rest.*, 122 Nev. 317, 330 n.38, 130 P.3d 1280, 1288 n.38 (2006) (providing that the appellate courts need not consider claims unsupported by cogent argument). And we note that our supreme court has rejected various arguments that the analogous requirement that a plaintiff in a medical-malpractice case support her complaint with an expert affidavit impermissibly restricts indigent plaintiffs' access to the courts. *See Peck v. Zipf*, 133 Nev. 890, 895-99, 407 P.3d 775, 780-83 (2017). We therefore reject this argument.

Bohland proceeds to argue the merits of the prior lawsuit in Wisconsin in an effort to demonstrate that she would have prevailed in that case and that Fales' conduct therefore caused her damages. But because she does not set forth any meritorious argument as to why expert testimony was not legally required to substantively prove her claim, affirmance of the district court's order granting summary judgment is warranted on that ground alone. *See Allyn*, 112 Nev. at 71-72, 910 P.2d at 266; *Bulbman*, 108 Nev. at 111, 825 P.2d at 592; *see also Hung v. Genting Berhad*, 138 Nev., Adv. Op. 50, 513 P.3d 1285, 1289 (Ct. App. 2022) (holding that an appellant

must challenge all of the independent alternative grounds relied upon by the district court to obtain reversal of its order). We therefore

ORDER the judgment of the district court AFFIRMED.

  
\_\_\_\_\_, C.J.  
Gibbons

  
\_\_\_\_\_, J.  
Bulla

  
\_\_\_\_\_, J.  
Westbrook

cc: Hon. Veronica Barisich, District Judge  
Victoria Bohland  
Lipson Neilson P.C.  
Eighth District Court Clerk