

IN THE SUPREME COURT OF THE STATE OF NEVADA

JEFFREY A. MYERS, INDIVIDUALLY;
AND ANDREW JAMES,
INDIVIDUALLY,
Appellants,

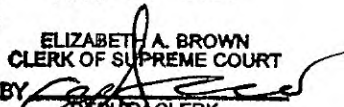
vs.

THI OF NEVADA AT CHEYENNE, LLC,
A FOREIGN CORPORATION D/B/A
COLLEGE PARK REHABILITATION
CENTER; HEALTHCARE REALTY OF
CHEYENNE, LLC, A DELAWARE
CORPORATION; AND FUNDAMENTAL
ADMINISTRATIVE SERVICES, LLC, A
DELAWARE CORPORATION,
Respondents.

No. 85441

FILED

AUG 17 2023

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a district court order denying a motion for a new trial. Eighth Judicial District Court, Clark County; Mark Gibbons, Senior Judge.¹

Appellants Jeffery Myers and Andrew James filed an action for negligence against respondent THI of Nevada at Cheyenne, LLC dba College Park Rehabilitation Center (College Park).² They claimed that

¹Pursuant to NRAP 34(f)(1), we have determined that oral argument is not warranted in this appeal.

²While College Park presents arguments concerning a directed verdict for respondents Healthcare Realty of Cheyenne, LLC and

College Park employees negligently left a screw in an electrical box, which fell, causing a short and resulting arc flash that injured Myers and James when they were repairing the electrical box. Myers and James alleged that College Park breached its duty of care to inspect and maintain the breaker, and if the breaker had been properly inspected and maintained, it would have tripped, thus preventing the arc flash. The district court instructed the jury on landowner/occupant premises liability and the general duty to exercise reasonable care in not creating a risk of harm to others. It further instructed that, to establish their claim, Myers and James had to show that College Park controlled the property and was negligent in its inspection, use, or maintenance thereof, that James and Myers were harmed, and that College Park's negligence was a substantial factor in causing that harm. After a seven-day trial, the jury returned a special verdict form, on which it responded "NO" to the first question: "Were the defendants [College Park] negligent?"³

Myers and James filed a motion for a new trial arguing that the jury manifestly disregarded the district court's duty-of-care instructions because the evidence shows that College Park breached its duty to maintain the breaker. The district court denied the motion. This appeal followed.

NRCP 59(a)(1)(E) provides that a "manifest disregard by the jury of the instructions of the court" may constitute grounds for a new trial. To establish manifest disregard of the instructions, the movant must demonstrate that, "had the jurors properly applied the instructions of the

Fundamental Administrative Services, LLC, we need not address them because Myers and James do not challenge the directed verdict on appeal.

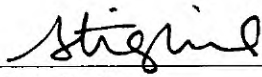
³The form stated that the jury should leave the remaining questions blank if it answered "NO" as to College Park's negligence.

court, it would have been impossible for them to reach the verdict which they reached.” *Town & Country Elec. Co. v. Hawke*, 100 Nev. 701, 702, 692 P.2d 490, 490-91 (1984) (observing that NRCP 59(a) is strictly construed (quoting *Weaver Bros., Ltd. v. Misskelley*, 98 Nev. 232, 234, 645 P.2d 438, 439 (1982))). This court presumes that the jury followed the court’s instructions, *Motor Coach Indus., Inc. v. Khiabani*, 137 Nev. 416, 424, 493 P.3d 1007, 1015 (2021), and will uphold a jury’s verdict if “a reasonable mind might accept [the evidence] as adequate to support a conclusion,” *Prabhu v. Levine*, 112 Nev. 1538, 1543, 930 P.2d 103, 107 (1996).


Having reviewed the record and considered the briefing, we perceive no abuse of discretion in the district court’s determination that it was not impossible for the jury to reach its verdict based on the evidence, and its resulting decision denying the new trial motion. *Gunderson v. D.R. Horton, Inc.*, 130 Nev. 67, 74, 319 P.3d 606, 611 (2014) (reviewing a district court denial of “a motion for a new trial for an abuse of discretion”). To prevail on a negligence claim, a plaintiff must establish: (1) a duty of care exists, (2) breach of that duty, (3) legal causation, and (4) damages. *Wiley v. Redd*, 110 Nev. 1310, 1315, 885 P.2d 592, 595 (1994). Because the verdict form’s first question asks about College Park’s “negligence,” not just whether it breached its duty of care, the jury may have determined that Myers and James failed to prove one of the other elements. For example, the jury could have rejected as not credible the testimonies of Myers, James, and their expert witness addressing College Park’s failure to inspect, use, or maintain their property. Specifically, College Park’s director of maintenance testified he never goes inside the electric panels, and the facility maintained its electrical infrastructure through separate maintenance companies over the years. Thus, based on the trial evidence,

the jury could both comply with the court's instructions and conclude, as it did, that College Park was not negligent. Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Stiglich


_____, J.
Lee


_____, J.
Bell

cc: Chief Judge, The Eighth Judicial District Court
Hon. Mark Gibbons, Senior Justice
Eleissa C. Lavelle, Settlement Judge
Cap & Kudler
Giovanniello Law Group
Eighth District Court Clerk