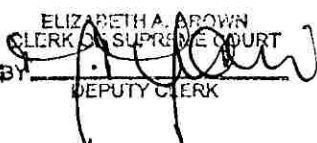


IN THE COURT OF APPEALS OF THE STATE OF NEVADA

KATHERN A. BEASLEY,
Appellant,
vs.
PALM MORTUARY, INC.; AND LA
PALOMA FUNERAL SERVICES, LLC,
Respondents.

No. 85431-COA

FILED
JAN 10 2024
ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

Kathern A. Beasley appeals from a district court summary judgment in a tort action. Eighth Judicial District Court, Clark County; Susan Johnson, Judge.

Frank Beasley, Jr., died in June 2019. His body was subsequently transferred to respondent Palm Mortuary, Inc., after non-party Passion Gray Hobbs contacted Palm, represented herself as Frank's daughter, and began making arrangements for his body to be cremated. A death certificate was subsequently filed in July 2019, which showed that the disposition of the body was cremation by Palm, although Palm had yet to take any action in that respect.

Around the same time, Frank's eldest daughter, Kathern, notified Palm that she was Frank's next-of-kin, asserted that she therefore had authority to arrange for his body's disposition, indicated that she preferred burial rather than cremation, and directed Palm to take no action with respect to the body until she and her siblings had an opportunity to view it for identification purposes. Palm accordingly terminated its plan to cremate the body, but essentially indicated that Kathern would need to obtain a court order confirming her authority to direct the body's final

disposition before it would proceed with the burial, which she failed to do while Palm had custody of the body. Nevertheless, in the interim, Palm requested that Kathern execute its viewing disclosure, which required her to waive any claim against it arising from her viewing of the body, which had begun to decompose. Kathern refused to do so, and Palm therefore did not permit her to view the body. Because Kathern also failed to otherwise make any arrangements for the disposition of the body without a viewing, Palm reported it as abandoned to Clark County Social Services (CCSS) approximately nine months after it initially accepted custody of the body.

As a result, the body was transferred to La Paloma Funeral Services, LLC (LPFS), which had a contractual arrangement with CCSS to handle the final disposition of abandoned bodies. Kathern subsequently obtained an order confirming her authority to arrange for the body's final disposition and also contacted LPFS to make the necessary arrangements, but as before, she expressed her desire to first view the body with her siblings for identification purposes but refused to execute LPFS's viewing disclosure, which was similar to Palm's. As a result, no action was taken with respect to the body.

In April 2021, nearly two years after Frank's death, Kathern commenced the underlying proceeding against Palm and LPFS, asserting claims against them in her operative complaint for intentional desecration and mishandling of the body as well as a claim against Palm for negligence.¹

¹During the proceedings that followed, the district court determined in January 2022 that Kathern waived her right to arrange for the body's disposition based on her continuing refusal to make such arrangements with LPFS and failure to otherwise have the body transferred to another appropriate facility. At some point thereafter, LPFS cremated the body and an amended death certificate was filed in March 2022, reflecting that fact.

For support, Kathern essentially alleged that Palm's and LPFS's actions prevented a decent and timely disposition of the body. Following extensive proceedings, Palm and LPFS separately moved for summary judgment, arguing that they were entitled to judgment as a matter of law for various reasons, which are detailed below. Over Kathern's opposition, the district court entered orders granting Palm's and LPFS's motions for summary judgment for the reasons stated therein. This appeal followed.

This court reviews a district court 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.* When deciding a summary judgment motion, all evidence must be viewed in a light most favorable to the nonmoving party. *Id.* General allegations and conclusory statements do not create genuine disputes of fact. *Id.* at 731, 121 P.3d at 1030-31. The party moving for summary judgment must meet its initial burden of production to show there exists no genuine dispute of material fact. *Cuzze v. Univ. & Cmty. Coll. Sys. of Nev.*, 123 Nev. 598, 602, 172 P.3d 131, 134 (2007). If the moving party meets that burden, then the burden of production shifts to the nonmoving party, who must show the existence of a genuine dispute of material fact. *Id.*

Because Kathern does not present any argument concerning the district court's January 2022 decision or LPFS's subsequent cremation of the body, we do not further discuss them in this order.

On appeal, Kathern initially presents two procedural challenges to the summary judgments in favor of Palm and LPFS.² First, Kathern argues that the district court should have simply denied Palm's and LPFS's motions for summary judgment because their replies to her oppositions to their motions were purportedly untimely pursuant to EDCR 2.20(g), which permits the moving party to file a reply to an opposition not later than seven days before a matter is set for a hearing. However, Palm's and LPFS's replies were timely filed seven days before the hearings on their motions, and regardless, the failure to timely file a reply does not provide a basis for the district court to deny a motion since a reply is not required. *See id.* ("A moving party *may* file a reply." (emphasis added)). Second, Kathern cites federal cases for the proposition that the district court was required to provide her with an explanation of the requirements for opposing summary judgment before it could enter summary judgment in favor of Palm and LPFS. *See Klingele v. Eikenberry*, 849 F.2d 409, 411-12 (9th Cir. 1988) (concluding that federal district courts are obligated to advise pro se inmate litigants of the summary judgment requirements before granting an opposing party summary judgment); *see also Rand v. Rowland*, 154 F.3d 952, 959 (9th Cir. 1998) (reaffirming the *Klingele* rule's

²Kathern's arguments are presented in a document that is styled as both a petition for a writ of certiorari and an informal brief. Because Kathern commenced an appeal to challenge the summary judgments in favor of Palm and LPFS by filing a notice of appeal with the district court clerk, *see* NRAP 3(a)(1) (providing that appeal may generally "be taken only by filing a notice of appeal with the district court clerk within the time allowed by [NRAP 4]"), we construe the subject document as an informal brief, rather than a petition for a writ of certiorari, which must be filed with the clerk of court in a separate proceeding. *See* NRAP 21(c) (explaining the requirements for petitioning for a writ of certiorari).

applicability in the United States Court of Appeals for the Ninth Circuit). However, although the Nevada Supreme Court has recognized “that, in the summary judgment setting at least, lack of explanation to a proper person litigant as to what is required to defeat a properly supported summary judgment has been held in some jurisdictions to be error cognizable on direct appeal,” see *Bonnell v. Lawrence*, 128 Nev. 394, 403, 282 P.3d 712, 718 (2012), that court has not adopted such a rule for this jurisdiction. Moreover, Kathern does not suggest that her lack of representation or any incapacity prevented her from meaningfully opposing Palm’s and LPFS’s motions for summary judgment. See *id.* at 404, 282 P.3d at 718 (recognizing that lack of representation combined with incapacity may provide a basis to avoid a judgment (citing Restatement (Second) of Judgments § 72 (1982))). Thus, relief is unwarranted in these respects.

Turning to the merits, Kathern essentially argues that the district court’s decision to grant summary judgment in favor of Palm and LPFS on her claims for negligence and intentional desecration and mishandling of the body was unsupported by the record. The Nevada Supreme Court has recognized that, in the performance of their services, mortuaries, funeral homes, and other similar facilities “undertake[] a duty to competently prepare the decedent’s body for the benefit of the bereaved” and that plaintiffs may bring a negligence claim when they fail to do so. See *Boorman v. Nev. Mem’l Cremation Soc’y, Inc.*, 126 Nev. 301, 306, 236 P.3d 4, 7 (2010) (“[T]he negligent handling of a deceased person’s remains is a commonly recognized tort.”). To prevail on a claim for negligence, the plaintiff must establish the following four elements: “(1) the existence of a duty of care, (2) breach of that duty, (3) legal causation, and (4) damages.” *Sanchez v. Wal-Mart Stores, Inc.*, 125 Nev. 818, 824, 221 P.3d 1276, 1280

(2009). Although Nevada's appellate courts have not specifically recognized a tort claim based on the intentional desecration and mishandling of a body, Kathern premised her claim on Restatement (Second) of Torts § 868 (1979), which provides that a defendant is subject to liability upon a showing that he or she "intentionally . . . remove[d], with[e]ld[], mutilate[d], or operate[d] upon the body of a dead person or prevent[ed] its proper internment or cremation." See *Boorman*, 126 Nev. at 310, 236 P.3d at 9 (briefly discussing Restatement (Second) of Torts § 868 in addressing a claim for negligent infliction of emotional distress without specifically adopting the intentional tort component of that rule). We need not decide whether to adopt Restatement (Second) of Torts § 868, either in whole or in part, since, even assuming that it applies here, we conclude that the district court properly granted Palm's and LPFS's motions for summary judgment for the reasons discussed below.

Summary judgment in favor of Palm

NRS Chapter 451 regulates the disposition of deceased human bodies lying in Nevada and generally requires that they "be decently buried or cremated within a reasonable time after death." NRS 451.020(1). But the authority to order the burial or cremation of a deceased person rests with his or her next of kin and various other persons according to an order of priority established by NRS 451.024(1). When NRS 451.024(1)'s authorized person "is not reasonably available or is unable to act as the authorized person," his or her authority passes to the next person in the statute's order of priority. NRS 451.024(10). It is presumed that an authorized person is not reasonably available to act as an authorized person if, as relevant here, "the person has been unwilling or unable to make final arrangements for the burial or cremation of the human remains of the

decedent, within 30 days after the initial contact or attempt to contact by the [facility handling the remains].” NRS 451.024(11). In the event that no person claims a body, NRS 451.024(6) provides that “the appropriate public officer may order the burial or cremation of the remains and provide for the respectful disposition of the remains.”

In its motion for summary judgment, Palm argued that Kathern lacked evidence to show that it breached any duty of care owed to her or that it committed an intentional act that would give rise to liability under Restatement (Second) of Torts § 868. In particular, Palm argued that it terminated its plans to cremate the body upon receiving notice from Kathern that she was the authorized person pursuant to NRS 451.024(1); that Kathern instructed it to do nothing with the body until she had the opportunity to view it; that Kathern subsequently refused to sign its viewing disclosure for a viewing or to make arrangements for the body’s disposition without a viewing; that, as a result, it simply maintained the body at its facility for approximately nine months in accordance with applicable laws and regulations; and that it eventually reported the body as abandoned to CCSS due to Kathern’s inaction, which resulted in the body being transferred to LPFS. For support, Palm submitted a declaration from its president who swore to the foregoing facts as well as a transcript from Kathern’s deposition where she testified that she directed Palm to “not do anything with [the] body until me, my sister and brother have had the opportunity to view [it].”³

³Insofar as Kathern attempts to demonstrate that her deposition transcript was inadmissible and could not be considered in the district court’s evaluation of Palm’s motion for summary judgment, *see* NRCP 56(c)(2) (providing that a party may oppose summary judgment by arguing

Hence, Palm demonstrated that it proceeded as if Kathern had authority to order the body's final disposition under NRS 451.024(1), notwithstanding that she did not provide it with a court order confirming the same as it had requested, and complied with her instructions concerning the body. Further, Palm showed that it maintained the body in accordance

that the material cited to support or dispute a fact is inadmissible), her arguments are unavailing. Indeed, despite Kathern's assertion to the contrary, the deposition transcript includes a signed certification by the court reporter. See NRCP 30(f)(1) (stating that a deposition transcript must be accompanied by a written certification from the court reporter "that the deposition accurately records the witness's testimony). And although Kathern also observes that she did not sign the deposition and was not permitted an opportunity to review it, a witness's signature is only required when the witness requests to review the deposition transcript before the deposition is completed and subsequently provides a list of changes to his or her deposition testimony and the reason for the changes. See NRCP 30(e) (stating the same). Here, the court reporter failed to comply with NRCP 30(e)(2), which required her to "note in the certificate prescribed by NRCP 30(f)(1) whether a review was requested." But we discern no prejudice to Kathern because she has not directed this court's attention to any documentation to show that she requested a review of the deposition transcript at any time, much less that she did so before the deposition was completed, and Kathern also has not identified any specific aspect of the deposition transcript that she considers inaccurate. See *Edwards v. Emperor's Garden Rest.*, 122 Nev. 317, 330 n.38, 130 P.3d 1280, 1288 n.38 (2006) (providing that appellate courts need not consider issues unsupported by cogent argument); cf. NRCP 61 ("At every stage of the proceeding, the court must disregard all errors and defects that do not affect any party's substantial rights."). Lastly, to the extent Kathern attempts to demonstrate that the deposition transcript was untimely based on NRCP 16.1(a)(3)'s rules concerning pretrial disclosures, her argument is unavailing because her deposition was taken by stenographic means, see NRCP 16.1(a)(3)(A)(ii) (requiring pretrial disclosure of a deposition transcript if the deposition was not taken stenographically), and since Palm furnished the transcript more than 30 days before the case was scheduled for trial, see NRCP 16.1(a)(3)(B)(i) (providing that pretrial disclosure must generally be made at least 30 days before trial).

with applicable laws and regulations. Moreover, Palm established that NRS 451.024(11)'s abandoned body presumption was triggered when Kathern failed to make final arrangements for the body's disposition within 30 days of her initial contact with Palm. And because Kathern has never suggested that her authority to order the burial or cremation of the body should have passed to someone else in NRS 451.024(1)'s order of priority pursuant to NRS 451.024(10), *see Old Aztec Mine, Inc. v. Brown*, 97 Nev. 49, 52, 623 P.2d 981, 983 (1981) ("A point not urged in the trial court . . . is deemed to have been waived and will not be considered on appeal."); *see also Powell v. Liberty Mut. Fire Ins. Co.*, 127 Nev. 156, 161 n.3, 252 P.3d 668, 672 n.3 (2011) (providing that arguments not raised on appeal are deemed waived), Palm likewise showed that it properly reported the body as abandoned to CCSS and transferred it to LPFS based on CCSS's arrangements with LPFS, NRS 451.024(6).

By establishing the foregoing, Palm satisfied its burden of production for purposes of summary judgment because it both pointed out the absence of evidence to support Kathern's claims and demonstrated that it did not breach any duty of care owed to her or otherwise commit an intentional act that would give rise to liability under Restatement (Second) of Torts § 868. *See Cuzze*, 123 Nev. at 602-03, 172 P.3d at 134 (explaining that, when the nonmoving party bears the burden of persuasion at trial, the party moving for summary judgment may satisfy its burden of production by "submitting evidence that negates an essential element of the nonmoving's party's claim" or "pointing out . . . that there is an absence of evidence to support the nonmoving party's case" (alteration in original) (internal quotation marks omitted)). Consequently, the burden of production shifted to Kathern, who was required to "transcend the

pleadings and, by affidavit or other admissible evidence, introduce specific facts that show a genuine [dispute] of material fact,” which the district court essentially concluded she failed to do. *See id.* at 603, 172 P.3d at 134.

Kathern disagrees with that determination and points to various circumstances that she believes precluded the entry of summary judgment, seemingly on grounds that Palm’s actions prevented the body from being decently buried or cremated within a reasonable time after Frank’s death. *See* NRS 451.020(1). First, Kathern observes that Palm made no attempt to confirm who Passion was when it accepted the body and began making arrangements with her for its cremation. However, Palm’s decision to accept Frank’s body and begin making arrangements for its cremation under such circumstances does not support an actionable claim under either of Kathern’s legal theories. Indeed, although the parties do not dispute that Kathern was the person who was authorized to order the body’s disposition under NRS 451.024(1), the record reflects that Palm’s initial actions with respect to the body were taken based on an authorization for cremation and disposition executed by Passion in which she represented that she had authority to order the cremation. *See* NRS 451.660(1) (generally prohibiting a crematory from cremating human remains until it receives, among other things, a written authorization signed by, as relevant here, a person with authority under NRS 451.660(1) and setting forth what must be included in the authorization). By executing that authorization, Passion warranted the truth of her representations therein, including her authority to order the cremation, and became “personally liable for any damages resulting from the falsity of a warranted

fact or from . . . her lack of authority.” NRS 451.705(1). Thus, we discern no basis for relief in this respect.⁴

Second, Kathern asserts that Palm indicated that it would not proceed with a burial until she obtained a court order confirming her authority to arrange for the body’s final disposition under NRS 451.024(1), but later reported the body as abandoned even though she was in the process of obtaining a court order. Initially, because Palm was confronted with a dispute between Kathern and Passion concerning who had authority under NRS 451.024(1) to order the body’s disposition, it was permitted, but not required, to refuse to take any action with respect to the body, without incurring any liability, pending a court order resolving the dispute. *See* NRS 451.710(1) (providing that, when a crematory has a reasonable basis to question the representations in an order for cremation or is otherwise

⁴For the same reason, relief is unwarranted insofar as Kathern attempts to demonstrate that Palm cremated the body after receiving the authorization from Passion based on the death certificate that was filed in July 2019, which stated that the disposition of the body was cremation by Palm. *See* NRS 451.705(2) (“The operator [of a crematory] has no liability for cremating the remains” based on an order for cremation). Moreover, the death certificate does not definitively prove that Palm cremated the body because a signed death certificate is required before cremation may occur. *See* NRS 451.660(1) (“The operator of a crematory shall not cremate human remains until a death certificate has been signed . . .”). And regardless, Palm presented ample evidence to demonstrate that it did not cremate the body, including its president’s declaration to that effect and the amended death certificate that was filed in March 2022, which indicated that the disposition of the body was cremation by LPFS. Although Kathern doubts the veracity of the foregoing and seemingly believes that Palm substituted a different body for Frank’s body after it was purportedly cremated in July 2019, she cannot rely “on the gossamer threads of whimsy, speculation and conjecture” to establish a genuine dispute of material fact. *See Wood*, 121 Nev. at 731, 121 P.3d at 1030 (internal quotation marks omitted).

aware of a dispute concerning the cremation of a deceased person's body, it may refuse to accept or cremate the body, without incurring liability, until it receives a court order confirming the resolution of the dispute). Although Kathern did not produce the court order that Palm requested, it nevertheless proceeded as if Kathern was the authorized person under NRS 451.024(1) and complied with her instructions concerning the body. While it is unclear from the record whether Palm would have eventually buried the body in the absence of the court order, the record does demonstrate that Kathern would not make arrangements for a burial unless she was permitted to view the body without signing Palm's viewing disclosure. And given that Kathern had not arranged for the body's final disposition within nine months after she had initially contacted Palm and had demonstrated an unwillingness to do so, NRS 451.024(11)'s abandoned-body provision was triggered, and Palm could properly report the body as abandoned to CCSS pursuant to NRS 451.024(6).⁵

Third, Kathern argues that Palm failed to maintain the body in accordance with the applicable rules and regulations, alluding to the fact that Palm did not embalm the body. However, although an attending physician, coroner, health officer, and the State Board of Health are authorized to direct that a deceased human body be embalmed under certain circumstances, *see* NRS 451.065(2) (providing that the State Board of Health may require embalming "if necessary to protect the public

⁵Although Kathern questions whether CCSS authorized the subsequent transfer of the body to LPFS, she has proffered no documentation or testimony that demonstrates that CCSS did not and cannot rely "on the gossamer threads of whimsy, speculation and conjecture" to establish a genuine dispute of material fact. *See Wood*, 121 Nev. at 731, 121 P.3d at 1030 (internal quotation marks omitted).

health”); NAC 451.010(1) (providing that an attending physical, coroner, and health officer may direct the embalming of a deceased human body based on knowledge of suspicion that the decedent died from a communicable disease), the general rule in Nevada is that, when a deceased human body “has not been disposed of or otherwise preserved within 18 hours after the time of death,” the facility handling the body must, “in the interest of public health, take such steps as may be reasonably necessary to preserve the dead body or may store the dead body in a sealed container,” NAC 451.010(3); *see also* NRS 451.065 (providing that a facility that handles human remains commits a misdemeanor when it requires embalming of a body prior to its final disposition). Here, although it is undisputed that Palm did not embalm the body, but instead maintained it in a sealed container, this action was in accordance with Kathern’s direction, as evidenced by her deposition testimony, that Palm do nothing with the body until she had the opportunity to view it. Moreover, in her sworn declaration, Palm’s president indicated that Palm maintained the body in a manner consistent with NAC 451.010. And because Kathern did not present any evidence to show otherwise or that the means by which Palm maintained the body were inconsistent with any other applicable statute or regulation, including NAC 451.015, which sets forth the refrigeration requirements for the sealed container referenced in NAC 451.010(3), she has failed to establish a basis for relief in this respect.

Fourth, Kathern points out that Palm refused to allow her to view the body because she would not sign its viewing disclosure, which required her to release Palm of any liability for claims arising from a viewing. As a preliminary matter, the law generally regards agreements containing such exculpatory clauses as enforceable. *See Miller v. A & R*

Joint Ventures, 97 Nev. 580, 582, 636 P.2d 277, 278 (1981) (providing that an exculpatory agreement “is generally regarded as a valid exercise of the freedom of contract”). Although we are not concerned with the enforceability of the viewing disclosure in the present case, given that Kathern refused to sign it, the foregoing demonstrates that there was nothing inherently inappropriate in Palm’s decision to condition its performance of services on Kathern’s execution of an exculpatory agreement. We recognize that, when Palm refused to permit Kathern to view the body because she would not sign its viewing disclosure, significant delays ensued since Kathern preferred to view the body before its final disposition. However, Palm’s inaction in this respect was in accordance with Kathern’s express instruction to do nothing with the body until she had an opportunity to view it. Moreover, nothing in Nevada law mandated that Palm unconditionally perform services for Kathern, who could have elected to seek services from another mortuary or similar facility under terms that were agreeable to her, given that she had the authority to determine when, where, and how the body’s final disposition was achieved. *See* NRS 451.024(1). And because Kathern has not directed this court’s attention to any documentation or testimony demonstrating that Palm improperly handled the body while it was in Palm’s custody, as discussed above, we conclude that she has failed to demonstrate that Palm’s conduct with respect to the viewing disclosure amounted to a breach of its duty of care or an intentional act that would give rise to liability under Restatement (Second) of Torts § 868.

Thus, for the foregoing reasons, we conclude that Kathern failed to demonstrate that the district court erred by granting Palm’s motion for

summary judgment, *see Wood*, 121 Nev. at 729, 121 P.3d at 1029, and we therefore affirm that decision.

Summary judgment in favor of LPFS

In moving for summary judgment on Kathern's claim against it for intentional desecration and mishandling of the body, LPFS quoted extensively from the transcript of Kathern's deposition, which was attached to its motion,⁶ to show that she identified narrow bases for her claim against LPFS. In particular, Kathern stated that LPFS was liable because, as relevant here, it accepted the body without her consent and did not embalm the body.⁷ From there, LPFS argued that its mere acceptance of the body after Palm reported it as abandoned to CCSS⁸ did not rise to the level of an

⁶To the extent that Kathern challenges the admissibility of the deposition transcript, her arguments fail for largely the same reasons discussed at note 3, *supra*, in the context of the excerpt from the deposition transcript that Palm attached to its motion. We do recognize that LPFS failed to include the signed certification from the court reporter with the deposition transcript attached to its motion for summary judgment. However, LPFS provided the signed certification with its reply, and Palm also provided the document with the excerpt from the deposition transcript that it attached to its motion for summary judgment.

⁷Kathern also identified a third basis for her claim—that LPFS purportedly obstructed her efforts to have the body DNA tested. Although the district court agreed with LPFS that the DNA-testing issue did not support a claim for intentional desecration and mishandling of a body, Kathern does not challenge the propriety of that determination on appeal, and we therefore do not address it further.

⁸Although LPFS did not attach any documentation to its motion to establish that it accepted the body after Palm reported it to CCSS as abandoned, the record before this court includes the declaration from Palm's president, which as discussed above, demonstrated that Palm properly reported the body as abandoned to CCSS, which resulted in its transfer to LPFS. *See* NRS 451.024(6), (11).

intentional act that would give rise to liability under Restatement (Second) of Torts § 868. LPFS also asserted that the same was true of the fact that it did not embalm the body since Kathern testified that she directed LPFS to do nothing with the body until she had an opportunity to view it, which never occurred, and because it was not required to embalm the body under Nevada law, but instead, could maintain the body in its refrigerator. *See* NRS 451.065; NAC 451.010(3); NAC 451.015.


Because Restatement (Second) of Torts § 868 requires an intentional “remov[al], withhold[ing], mutilat[ion], or operat[ion] upon the body of a dead person or prevent[ion] of its proper internment or cremation,” LPFS was correct in both respects. Thus, LPFS’s showing was sufficient to negate an essential element of Kathern’s claim for intentional desecration and mishandling of the body and therefore satisfied its burden of production for purposes of summary judgment. *See Cuzze*, 123 Nev. at 602-03, 172 P.3d at 134. As a result, the burden of production shifted to Kathern to establish a genuine dispute of material fact, *see id.* at 603, 172 P.3d at 134, which the district court essentially concluded she failed to do.

To overcome the foregoing, Kathern does not challenge LPFS’s and the district court’s construction of her claim for intentional discretion or mishandling of the body, but instead she argues that LPFS failed to produce evidence that affirmatively proved that CCSS authorized the transfer of the body from Palm to LPFS, that LPFS lacked authority to touch the body without her express permission, and that LPFS properly maintained the body. However, as discussed above, LPFS made a sufficient showing in its motion of summary judgment to shift the burden of production to Kathern to “transcend the pleadings and, by affidavit or other admissible evidence, introduce specific facts that show a genuine [dispute]

of material fact.” *Id.* And Kathern has not directed this court’s attention to any documentation or testimony showing that CCSS did not authorize the transfer of the body; that she rescinded her instruction to LPFS to do nothing with the body until she viewed it or otherwise directed LPFS to take any action with respect to the body, aside from having it DNA tested, which is not at issue here; or that LPFS did not properly maintain the body notwithstanding that it was unembalmed. Thus, because Kathern cannot rely “on the gossamer threads of whimsy, speculation and conjecture” to establish a genuine dispute of material fact, we conclude that she has failed to demonstrate that the district court erred by granting LPFS’s motion for summary judgment, *see Wood*, 121 Nev. at 731, 121 P.3d at 1030 (internal quotation marks omitted), and we therefore affirm that decision.

It is so ORDERED.⁹


_____, C.J.
Gibbons


_____, J.
Bulla


_____, J.
Westbrook

⁹Insofar as Kathern raises arguments that are not specifically addressed in this order, we have considered the same and conclude that they do not present a basis for relief.

cc: Hon. Susan Johnson, District Judge
Kathern A. Beasley
Rogers, Mastrangelo, Carvalho & Mitchell, Ltd.
Weinberg, Wheeler, Hudgins, Gunn & Dial, LLC/Las Vegas
Eighth District Court Clerk