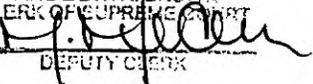


IN THE SUPREME COURT OF THE STATE OF NEVADA

NATALIA CAMPBELL, AN
INDIVIDUAL; AND MARIA DE DRADA,
AN INDIVIDUAL,
Appellants,
vs.
MONARCH CASINO & RESORT, INC.,
A DOMESTIC CORPORATION, D/B/A
ATLANTIS CASINO RESORT SPA,
Respondent.

NATALIA CAMPBELL, AN
INDIVIDUAL; AND MARIA DE DRADA,
AN INDIVIDUAL,
Appellants,
vs.
MONARCH CASINO & RESORT, INC.,
A DOMESTIC CORPORATION, D/B/A
ATLANTIS CASINO RESORT SPA,
Respondent.

No. 85939

FILED
MAR 20 2024
ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY: 
DEPUTY CLERK

No. 86392

ORDER OF REVERSAL AND REMAND

These are consolidated appeals from district court orders granting a motion to dismiss, denying a motion for reconsideration, and granting a motion for attorney fees in a personal injury case. Second Judicial District Court, Washoe County; Kathleen A. Sigurdson, Judge.

Appellants Natalia Campbell and Maria de Drada (collectively appellants) were injured in January 2019 during a visit to the Atlantis Casino Resort Spa in Reno, an establishment owned by respondent Monarch Casino & Resort, Inc. (Monarch). Pursuant to NRS 11.190(4)(e), appellants had a two-year limitations period to bring claims resulting from

24-091844

those injuries, but they did not file their complaint until May 2022. Their complaint, originally filed in the Eighth Judicial District Court, asserted that their claims were timely pursuant to directives issued by Governor Steve Sisolak that tolled statutes of limitations during the COVID-19 pandemic.¹ Monarch filed a motion to dismiss, arguing that the complaint was time-barred or, alternatively, that Governor Sisolak's directives were unconstitutional under the separation of powers clause.

After the motion to dismiss was filed, the parties stipulated to a change of venue to the Second Judicial District Court. However, the transfer upended the preexisting deadlines, causing the parties to lose track of the subsequent briefing deadlines on the motion to dismiss. Due to the confusion, appellants filed a motion for leave to file an opposition to Monarch's motion to dismiss. Appellants' motion for leave was fully briefed by both parties and submitted for decision. Unexpectedly, the district court then granted Monarch's motion to dismiss without first ruling on appellants' pending motion for leave. Appellants filed a motion for reconsideration alleging procedural error, which the district court denied. Appellants now appeal the district court orders granting dismissal and denying reconsideration in Docket No. 85939. Appellants further appeal a subsequent order awarding Monarch attorney fees in Docket No. 86392.

Reviewing a district court order denying a motion for reconsideration for an abuse of discretion, *R.J. Reynolds Tobacco Co. v. Eighth Jud. Dist. Ct.*, 138 Nev., Adv. Op. 55, 514 P.3d 425, 429 (2022), we conclude that the district court committed clear error by ruling on

¹See Declaration of Emergency Directive 009 (Revised) (April 1, 2020); Declaration of Emergency Directive 026 (June 29, 2020); Declaration of Emergency Directive 029 (July 31, 2020).

Monarch's motion to dismiss instead of appellants' motion for leave. We see no reasonable justification as to why, with appellants' motion for leave fully briefed and submitted for decision, the district court abruptly decided to rule on the motion to dismiss instead. In granting dismissal, the district court concluded that appellants' "[o]pposition" failed to present an applicable "exception" to the limitations period in NRS 11.190(4)(e) and instead made irrelevant points about the parties' "misunderstanding" of the tolling period. But the district court should have realized that appellants' "[o]pposition" was in fact a motion for leave (and/or a reply in support of the motion for leave), which merely requested leave to file an opposition to the motion to dismiss due to the confused deadlines resulting from the change of venue. Appellants' motion for leave and reply did not address whether the complaint was time-barred. Appellants should have been afforded an opportunity to oppose Monarch's arguments for dismissal.

The district court's order denying reconsideration overlooked these clear procedural errors with respect to the dismissal order.² Instead, in our view, good cause existed to allow appellants additional time to file an opposition. *See* NRCP 6(b)(1)(B)(ii) (permitting the district court, for good cause, to extend the time for a party to submit a filing "on motion made after

²The order denying reconsideration asserted that there was no error in granting dismissal because the district court had "ruled on the merits of [Monarch's] motion and thus decided that the Complaint was unsuccessful as a matter of law." But again, it was clear error for the district court to rule on the merits of Monarch's motion to dismiss when it never gave appellants a reasonable opportunity to present their arguments opposing dismissal.

the time has expired if the party failed to act because of excusable neglect”); *see also Moseley v. Eighth Jud. Dist. Ct.*, 124 Nev. 654, 668, 188 P.3d 1136, 1146 (2008) (providing factors under which a party is entitled to NRCP 6(b) relief due to excusable neglect). The record before us clearly demonstrates that the change of venue wreaked havoc upon the docket to the point that all parties lost track of deadlines. Any neglect on appellants’ part was thus excusable amidst this procedural disarray. Moreover, allowing appellants time to file an opposition would have been the orderly and equitable thing to do.

Accordingly, in Docket No. 85939, we reverse the district court’s order denying reconsideration. Given that reconsideration was warranted, we further reverse the district court’s order granting dismissal and remand for appellants to file an opposition responding to Monarch’s statute-of-limitations and separation-of-powers arguments.

In light of this conclusion, we necessarily reverse the district court’s order awarding attorney fees in Docket No. 86392, as Monarch is not yet entitled to fees as a prevailing party under NRS 18.010(2)(b).³ We therefore

³We note that the district court appeared to invoke NRCP 11’s sanctions provision as an alternative basis to award attorney fees. While the district court may order a party to pay their opponents’ fees as an NRCP 11(c) sanction, the court may not make such an order *sua sponte*. *See Tejero v. Portfolio Recovery Assocs., L.L.C.*, 955 F.3d 453, 458 (5th Cir. 2020) (explaining that attorney fees may only be awarded as a sanction under FRCP 11 upon “a Rule 11 motion, or an order to show cause under Rule 11(c)(3)”).

ORDER the judgment of the district court REVERSED AND
REMAND this matter to the district court for proceedings consistent with
this order.

Stiglich, J.
Stiglich

Pickering, J.
Pickering

Parraguirre, J.
Parraguirre

cc: Hon. Kathleen A. Sigurdson, District Judge
Gabrielle Jeanne Carr, Settlement Judge
Ladah Law Firm
James McKiernan Lawyers
Fennemore Craig, P.C./Las Vegas
Fennemore Craig P.C./Reno
Lemons, Grundy & Eisenberg
Laxalt Law Group, Ltd./Reno
Washoe District Court Clerk