

SUPREME COURT OF NEVADA

Choy v. Ameristar Casinos, Inc.

127 Nev. 870 (2011) · Decided November 23, 2011

SUMMARY

The Nevada Supreme Court held that a party opposing summary judgment must provide the affidavit required by NRCP 56(f) when seeking a continuance for additional discovery. Because Choy submitted only a paragraph in his opposition and presented no specific facts showing that Ameristar owned or operated the casino, the court affirmed both the denial of a continuance and the grant of summary judgment.

CASE DETAILS

COURT	Supreme Court of Nevada
WRITING FOR THE COURT	Douglas, J.; Hardesty, J.; Parraguirre, J.
JURISDICTION	Nevada
DECIDED	November 23, 2011
DISPOSITION	affirmed
PROCEDURAL POSTURE	Choy appealed from a district court order denying his request for a continuance of Ameristar's summary-judgment motion and granting Ameristar summary judgment.
STANDARD OF REVIEW	The denial of a continuance to permit further discovery is reviewed for abuse of discretion. Summary judgment is reviewed de novo.
PRECEDENTIAL VALUE	Published Nevada Supreme Court opinion; precedential.
PARTIES	Paul Choy v. Ameristar Casinos, Inc.

TOPICS

- summary judgment
- civil procedure
- standard of review
- appellate procedure
- casino regulation

PRACTICE AREAS

- Civil procedure
- Appellate procedure
- Torts
- Gambling

QUESTIONS PRESENTED

1. Whether a party opposing summary judgment may obtain a continuance for additional discovery under NRCP 56(f) without submitting the required affidavit.
2. Whether summary judgment was proper when the opposing party presented no specific facts or affidavits creating a genuine issue as to whether the defendant owned or operated the casino.

HOLDINGS

1. A party opposing summary judgment and seeking denial or continuance to obtain additional affidavits or conduct further discovery must provide an affidavit stating why the requested denial or continuance is necessary. A request contained only in the opposition brief is not substantially compliant with NRCP 56(f).
2. Summary judgment was proper because Choy failed to present specific facts or affidavits demonstrating a genuine issue that Ameristar owned or operated the Ameristar Casino Hotel Kansas City.

KEY QUOTATIONS

“By its plain language, NRCP 56(f) requires that the party opposing summary judgment provide an affidavit stating the reasons why denial or continuance of the motion for summary judgment is necessary to allow the opposing party to obtain further affidavits or discovery.” (127 Nev. at 871)

“A request for a continuance contained within the opposition to the motion is not sufficient to meet this unequivocal affidavit requirement.” (127 Nev. at 873)

FACTUAL BACKGROUND

Choy alleged that casino security guards approached and questioned him while he was gambling at the Ameristar Casino Hotel Kansas City in Missouri, handcuffed him when he declined to answer, and searched his belongings. He sued Ameristar Casinos, Inc., but Ameristar asserted that it did not own or operate that casino, which was operated by a wholly owned subsidiary. Choy offered no specific facts or affidavits showing that Ameristar owned or operated the casino.

PROCEDURAL HISTORY

Choy filed tort claims in Nevada district court arising from an encounter with security guards at a casino in Missouri. Ameristar moved for summary judgment, arguing that it did not own or operate the casino and therefore was not properly named as a party. Choy requested additional discovery in a paragraph within his opposition but did not submit the affidavit required by NRCP 56(f). The district court denied a continuance and granted summary judgment to Ameristar, and the Nevada Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- *Aviation Ventures v. Joan Morris, Inc.*, 121 Nev. 113, 117-18, 110 P.3d 59, 62 (2005)

- Paramount Ins. v. Rayson & Smitley, 86 Nev. 644, 649, 472 P.2d 530, 533 (1970)
- Webb v. Clark County School Dist., 125 Nev. 611, 618, 218 P.3d 1239, 1244 (2009)
- LVCVA v. Secretary of State, 124 Nev. 669, 682-84, 191 P.3d 1138, 1146-48 (2008)
- Wood v. Safeway, Inc., 121 Nev. 724, 729, 731, 121 P.3d 1026, 1029, 1030-31 (2005)

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