

## Scholarly Commons @ UNLV Boyd Law

---

Nevada Supreme Court Summaries

Law Journals

---

11-23-2011

### Summary of Choy v. Ameristar Casinos, Inc., 128 Nev. Adv. Op. 29

Rami Hernandez  
*Nevada Law Journal*

Follow this and additional works at: <https://scholars.law.unlv.edu/nvscs>



Part of the [Civil Procedure Commons](#)

---

#### Recommended Citation

Hernandez, Rami, "Summary of Choy v. Ameristar Casinos, Inc., 128 Nev. Adv. Op. 29" (2011). *Nevada Supreme Court Summaries*. 210.

<https://scholars.law.unlv.edu/nvscs/210>

This Case Summary is brought to you by the Scholarly Commons @ UNLV Boyd Law, an institutional repository administered by the Wiener-Rogers Law Library at the William S. Boyd School of Law. For more information, please contact [youngwoo.ban@unlv.edu](mailto:youngwoo.ban@unlv.edu).

*Choy v. Ameristar Casinos, Inc.*, 127 Nev. Adv. Op. 78 (Nov. 23, 2011)<sup>1</sup>  
CIVIL PROCEDURE – SUMMARY JUDGMENT

**Summary**

The Court considers an appeal from a district court summary judgment in a tort action.

**Disposition/Outcome**

The Court affirmed summary judgment because Choy failed to attach an affidavit stating the reasons why continuance of the motion for summary judgment was necessary and because he failed to present any facts or affidavits demonstrating the existence of a genuine issue of material fact.

**Factual and Procedural History**

Paul Choy (“Choy”) filed a complaint in district court against Ameristar Casinos, Inc. (“Ameristar”) alleging multiple tort claims. Approximately nine months after filing the complaint, Ameristar moved for summary judgment on the basis that it did not own the Ameristar Casino Hotel in Kansas City and was improperly named as a party. Choy opposed summary judgment, arguing that under NRCP 56(f),<sup>2</sup> the motion should be continued to allow additional discovery. The district court granted Ameristar’s motion for summary judgment and Choy appealed.

**Discussion**

Justice Douglas wrote for the unanimous, three-justice panel. The Court began its analysis by stating that the standard of review for a grant or denial of continuance for a motion for summary judgment is an abuse of discretion standard. NRCP 56(f) requires the party seeking the continuance to provide an affidavit justifying the continuance and the need for additional discovery. Choy failed to attach such an affidavit, so the Court affirmed the district court’s denial of a continuance. The Court also affirmed the summary judgment because Choy did not demonstrate the existence of a material fact supporting his claims.

**Conclusion**

In an opposition to a summary judgment motion under NRCP 56(f), a court must deny a request for continuance if no affidavit is attached.

---

<sup>1</sup> By Justin Shiroff

<sup>2</sup> NEV. R. CIV. P. 56(f)