

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

JUL 18 2018

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

ANDI KRAJA,

Plaintiff-Appellant,

v.

BELLAGIO, LLC; VINCENT ROTOLO,

Defendants-Appellees.

No. 17-16105

D.C. No. 2:15-cv-01983-APG-NJK

MEMORANDUM*

Appeal from the United States District Court
for the District of Nevada
Andrew P. Gordon, District Judge, Presiding

Submitted July 10, 2018**

Before: CANBY, W. FLETCHER, and CALLAHAN, Circuit Judges.

Andi Kraja appeals from the district court's summary judgment in his employment discrimination action alleging federal and state law claims. We have jurisdiction under 28 U.S.C. § 1291. We review de novo. *Davis v. City of Las Vegas*, 478 F.3d 1048, 1053 (9th Cir. 2007). We reverse and remand.

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

The district court granted summary judgment on Kraja's intentional infliction of emotional distress ("IIED") claim because it concluded that Kraja failed to establish, as a matter of law, that defendants' conduct could be considered extreme and outrageous. However, viewing the evidence in the light most favorable to Kraja, Kraja raised a genuine dispute of material fact as to whether defendants' conduct could constitute extreme and outrageous conduct with the intention of, or reckless disregard for, causing emotional distress. *See Nelson v. City of Las Vegas*, 665 P.2d 1141, 1145 (Nev. 1983) (elements of an IIED claim under Nevada law); *see also Posadas v. City of Reno*, 851 P.2d 438, 444 (Nev. 1993) (discussing situations in which the question of what constitutes extreme and outrageous conduct was a question reserved for a jury). We reverse the district court's summary judgment on Kraja's IIED claim, and remand for further proceedings on this claim only.

REVERSED and REMANDED.