

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

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4 MARTHA GONZALEZ, an individual,
5 Plaintiff,

Case No. 2:14-cv-01126-APG-CWH

6 v.

**ORDER GRANTING MOTION TO
DISMISS PLAINTIFF'S THIRD CLAIM
FOR RELIEF**

7 INDIA MASALA, INC., a Nevada
8 Corporation, ROYAL INDIA, INC., a Nevada
9 Corporation and DOES I through X inclusive,
10 Defendants.

(Dkt. #5)

11 On August 1, 2014, the Defendants moved to dismiss the Third Claim for Relief in
12 Plaintiff's Complaint. (Dkt. #5.) Defendants contend that Plaintiff has not alleged that she
13 suffered a "physical impact" or "'serious emotional distress' causing physical injury or illness" as
14 required by Nevada law to support her claim for Negligent Infliction of Emotional Distress
15 ("NIED"). (*Id.* at 5:18-23, quoting *Barmettler v. Reno Air, Inc.*, 114 Nev. 441, 448, 956 P.2d
16 1382, 1387 (1998).) Defendants also contend that Plaintiff's NIED claim is barred by Nevada
17 Revised Statute §616A.020(1), which states that the "rights and remedies provided in [the Nevada
18 Industrial Insurance Act] for an employee on account of an injury by accident sustained arising
19 out of and in the course of the employment ... shall be exclusive of all other rights and remedies
20 of the employee." (*Id.* at 7:2-7.)

21 Plaintiff's response to the motion to dismiss was due by August 18, 2014. To date,
22 Plaintiff has filed no Opposition. Pursuant to Local Rule 7-2(d), the "failure of an opposing party
23 to file points and authorities in response to any motion shall constitute a consent to the granting of
24 the motion." Despite that rule, I have reviewed the merits of the motion, and good cause exists to
25 grant it, for the reasons set forth in the motion. Accordingly,

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IT IS HEREBY ORDERED that the Defendants' Motion to Dismiss the Third Claim for Relief (Dkt. #5) is GRANTED, and that claim is **DISMISSED**.

Dated: August 20, 2014.



ANDREW P. GORDON
UNITED STATES DISTRICT JUDGE