

IN THE SUPREME COURT OF THE STATE OF NEVADA

MICHAEL ANGELO DRAKE,  
Appellant,  
vs.  
ARNOLD BROCK, JR.,  
Respondent.

No. 43375

**FILED**

OCT 26 2006

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY *J. Smith*  
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a proper person appeal from a district court order dismissing a complaint without prejudice for failure to comply with the court's order to file a more definite statement. Second Judicial District Court, Washoe County; Steven P. Elliott, Judge.

Orders of dismissal are subject to rigorous review by this court.<sup>1</sup> A motion to dismiss should be granted after the district court determines whether or not the challenged pleading sets forth allegations sufficient to make out the elements of a right to relief.<sup>2</sup> When considering a motion to dismiss, the court is bound to construe the pleading liberally and draw every fair intendment in favor of the non-moving party.<sup>3</sup>

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<sup>1</sup>Shoen v. SAC Holding Corp., 122 Nev. \_\_, \_\_, 137 P.3d 1171, 1180 (2006).


<sup>2</sup>Edgar v. Wagner, 101 Nev. 226, 227, 669 P.2d 110,112 (1995).

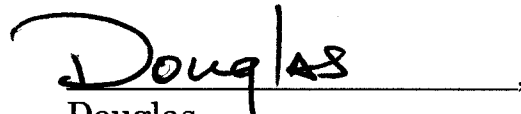
<sup>3</sup>Vacation Village v. Hitachi America, 110 Nev. 481, 484, 874 P.2d 744, 746 (1994).

Our review of the record and appellant's civil proper person appeal statement demonstrates that the district court did not err when it dismissed appellant's complaint without prejudice. Accordingly, we affirm the district court's order.

It is so ORDERED.

  
\_\_\_\_\_, J.  
Gibbons

  
\_\_\_\_\_, J.  
Maupin

  
\_\_\_\_\_, J.  
Douglas

cc: Hon. Steven P. Elliott, District Judge  
Michael Angelo Drake  
Arnold Brock Jr.  
Washoe District Court Clerk