

IN THE SUPREME COURT OF THE STATE OF NEVADA

HAROLD BRIAN KRIEG,
Appellant,
vs.
RICHARD GREGORY CRAIN,
Respondent.

No. 57793

FILED

JAN 17 2012

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *Angela*
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a proper person appeal from a district court order dismissing appellant's complaint in a contract action. Eighth Judicial District Court, Clark County; Michael Villani, Judge.

In his proper person complaint in the district court, appellant alleged that respondent breached the parties' oral agreement, under which respondent allegedly agreed to pay appellant ten percent of any money that might be awarded to respondent and respondent's nine colleagues as a result of an employment discrimination action that respondent and his colleagues were contemplating filing against their employer.¹ According to the complaint, the fee was to be paid to appellant in exchange for appellant providing paralegal services related to that action, including "researching documents (regarding the ten bartenders' discrimination claim, and other related paralegal work)." Appellant attached to his complaint his research work and documents that he prepared for respondent and respondent's colleagues.

¹According to appellant, respondent and his colleagues later agreed to settle the employment action.

Respondent filed an NRCP 12(b)(5) motion to dismiss the complaint, which appellant opposed. Following a hearing, the district court granted the motion, finding that appellant failed to state a claim for breach of contract, since he was not authorized to practice law, and that appellant failed to allege facts to support the elements for the remainder of his causes of action.²


This court reviews de novo an order granting an NRCP 12(b)(5) motion to dismiss, accepting all factual allegations in the complaint as true, and drawing all inferences in the plaintiff's favor. Buzz Stew, LLC v. City of N. Las Vegas, 124 Nev. 224, 227-28, 181 P.3d 670, 672 (2008). This court has explained that dismissal is appropriate when the allegations contained in a complaint do not meet the elements of a claim. Stockmeier v. State, Dep't of Corrections, 124 Nev. 313, 316, 183 P.3d 133, 135 (2008).

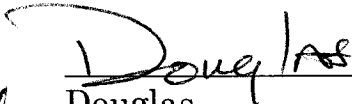
Having considered appellant's arguments and the record on appeal, we conclude that the district court properly dismissed appellant's

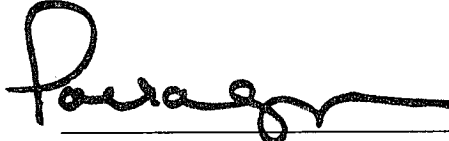
²Appellant's other causes of action stemmed from the alleged breach of the oral agreement and a landlord tenant issue. His "acts of bad faith" claim was based on respondent's alleged failure to "divulge[] the fact that [respondent] has a history of not paying his bills/moneys he owes, renegeing on financial deals, and/or changing the terms of the agreement after the work has been done." The negligence claim was based on respondent's alleged failure to pay the mortgage on appellant's former apartment (respondent was appellant's landlord at the time), and expenses appellant allegedly incurred as a result of having to move because of the resultant foreclosure. The fraud claim was based on appellant's allegations that he did not know that respondent had a history of renegeing on deals. The "bait and switch" claim was based on allegations that respondent insulted appellant by offering to pay him \$300, instead of \$25,000, which, according to appellant, is ten percent of the total settlement respondent and his nine colleagues received.

complaint. See NRS 7.285 (prohibiting the unauthorized practice of law); In re Lerner, 124 Nev. 1232, 1238, 197 P.3d 1067, 1072 (2008) (noting that the practice of law is “implicated whenever a person is faced with a legal issue that cannot be handled by resort to routine forms or customs, and when the person makes the decision not to rely on his or her own judgment but to obtain assistance from someone else, a stranger to the situation”) (citing Pioneer Title v. State Bar, 74 Nev. 186, 326 P.2d 408 (1958)); Pioneer Title, 74 Nev. at 191, 326 P.2d at 410 (explaining that when a person who is not a lawyer and not a party to a transaction gives professional advice or judgment, the unauthorized practice of law is presented); Vincent v. Santa Cruz, 98 Nev. 338, 341, 647 P.2d 379, 381 (1982) (providing that generally “contracts made in contravention of the law do not create a right of action”). Accordingly, we

ORDER the judgment of the district court AFFIRMED.³


Gibbons, J.


Douglas, J.


Parraguirre, J.

cc: Hon. Michael Villani, District Judge
Harold Brian Krieg
Graziadei & Cantor, Ltd.
Eighth District Court Clerk

³We have considered appellant’s other arguments on appeal and conclude that they lack merit.