


IN THE COURT OF APPEALS OF THE STATE OF NEVADA

DRUSCILLA THYSSEN,  
Appellant,  
vs.  
MARTIN CROWLEY,  
Respondent.

No. 72414

FILED

MAY 09 2018

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY  DEPUTY CLERK

*ORDER OF AFFIRMANCE*

Druscilla Thyssen appeals from a district court order denying her special motion to dismiss pursuant to NRS 41.660. First Judicial District Court, Storey County; James E. Wilson, Judge.

Respondent Martin Crowley previously represented Thyssen in various legal matters. This attorney-client relationship ended in hostility, which included Thyssen participating in various complaints to the state bar regarding Crowley. Crowley later sued Thyssen, asserting claims for monies due and owing, tortious breach of contract, unjust enrichment, and quantum meruit. Thyssen then filed a special motion to dismiss pursuant to NRS 41.660, arguing that Crowley's suit was meant to discourage her participation in the state bar proceedings. Initially, the district court granted the motion to dismiss, which Crowley appealed. This court subsequently reversed and remanded the matter to the district court to make findings relating to the burden shifting analysis required under NRS 41.660. *See Crowley v. Thyssen*, Docket No. 69120 (Order of Reversal and Remand, Ct. App., Jan. 5, 2017).

Upon remand and further consideration of the parties' arguments below, the district court denied Thyssen's special motion to dismiss. This appeal followed.

NRS 41.660 protects defendants against "strategic lawsuits against public participation," or SLAPPs. The 2013 version<sup>1</sup> of this statute provides for a special motion to dismiss as a procedural mechanism for defendants to dispose of meritless suits filed in retaliation for certain forms of speech. *See* NRS 41.660(1) (2013). NRS 41.660(3) establishes a burden-shifting framework for consideration of these special motions to dismiss, which requires the defendant to demonstrate that the plaintiff's lawsuit was "based upon a good faith communication in furtherance of the right to petition or the right to free speech in direct connection with an issue of public concern."


With the first appeal in this matter, the district court failed to make a determination regarding whether Thyssen satisfied this initial burden. On remand, the district court specifically found that Crowley's claims "do not allege any act in connection with the information Thyssen . . . provided to the State Bar." We agree. Crowley's claims are contractual in nature, *i.e.*, failure to pay for services rendered, which does not constitute an anti-SLAPP "communication." *See* NRS 41.637. And because Thyssen's arguments regarding the state bar complaints and other litigation activities

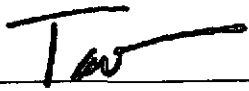
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<sup>1</sup>This statute was amended in 2015, but the 2013 version is applicable here as Crowley's suit was filed prior to the effective date of the 2015 version.

do not give rise to the contractual breach allegations of Crowley's complaint, we do not reach the issue of whether Crowley could meet his burden under the second step of NRS 41.660. Accordingly, we affirm the district court's denial of the special motion to dismiss.<sup>2</sup>

It is so ORDERED.

  
\_\_\_\_\_, C.J.  
Silver

  
\_\_\_\_\_, J.  
Tao

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

cc: Hon. James E. Wilson, District Judge  
Kozak & Associates, LLC  
Martin G. Crowley  
Storey County Clerk

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<sup>2</sup>We have considered Thyssen's additional arguments and do not see any basis for relief from the court's order below.