

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

NEELU PAL, M.D., AN INDIVIDUAL,  
Appellant,  
vs.  
HAFTERLAW, LLC, A NEVADA  
LIMITED LIABILITY COMPANY,  
Respondent.

No. 67473

**FILED**

**MAR 1 1 2016**

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY S. Young  
DEPUTY CLERK

*ORDER AFFIRMING IN PART, REVERSING IN PART  
AND REMANDING*

This is an appeal from a final judgment in a contracts and legal malpractice action. Eighth Judicial District Court, Clark County; Timothy C. Williams, Judge.

Respondent HafterLaw, LLC, represented appellant Neelu Pal, M.D., in two New Jersey cases arising out of Pal's employment there. After Pal terminated HafterLaw as her counsel, HafterLaw sought its attorney fees and costs by filing a complaint for breach of contract in Nevada district court pursuant to a provision in the parties' amended contingent fee agreement.<sup>1</sup> Thereafter, Pal filed counterclaims for legal

---

<sup>1</sup>One of the New Jersey cases was resolved in Pal's favor while HafterLaw was still representing her. The other case was decided against Pal and is currently on appeal before the United States Court of Appeals for the Third Circuit. In this court, Pal filed a motion on December 17, 2015, asking us stay the appeal of this case until the Third Circuit resolves the appeal pending before that court. Having considered the motion, HafterLaw's opposition, and the documents before us, we conclude that a stay is not warranted and we deny that request.

malpractice. Ultimately, the district court granted summary judgment to HafterLaw on its claims, awarding HafterLaw all of its requested fees and costs. The court also dismissed Pal's counterclaims. This appeal followed.

Pal first argues that the district court erred in finding that an agreement purportedly superseding the parties' amended contingent fee agreement was not valid and enforceable. The record conclusively demonstrates, however, that the agreement put forth by Pal was never executed, nor agreed to, by HafterLaw. Thus, the district court correctly determined that this agreement did not create an enforceable contract. *See May v. Anderson*, 121 Nev. 668, 672, 119 P.3d 1254, 1257 (2005) (providing that an enforceable contract requires an offer and acceptance).

Moreover, the district court also did not err in finding that HafterLaw was the successor-in-interest to the amended contingent fee agreement as that agreement included a provision that it was binding on the firm's "heirs, successors, and assigns," and Pal's case was assigned to HafterLaw by the predecessor-in-interest.<sup>2</sup> *See id.* ("Contract interpretation is subject to a de novo standard of review."). Thus, the district court correctly determined that no genuine issues of fact remained and HafterLaw was entitled to judgment as a matter of law as to the amended contingent fee agreement being the controlling agreement. *See Wood v. Safeway, Inc.*, 121 Nev. 724, 729, 121 P.3d 1026, 1029 (2005) (providing that summary judgment is proper when there are no genuine

---

<sup>2</sup>Pal does not object to her case being assigned from one law firm to the other, but instead, focuses her arguments on which agreement should be the controlling agreement with HafterLaw.

issues as to any material fact and the moving party is entitled to judgment as a matter of law). We therefore affirm that ruling.

Pal next argues that the district court erred in finding that it, rather than a New Jersey court, had jurisdiction over the matter. We disagree. Parties may negotiate and contract for the forum that will hear any disputes arising from the underlying agreement, so long as the agreement is reasonable and just. *See generally Tandy Comput. Leasing, a Div. of Tandy Elecs., Inc. v. Terina's Pizza, Inc.*, 105 Nev. 841, 843, 784 P.2d 7, 8 (1989) (discussing when a forum selection clause will be upheld). Beyond the facts of the underlying dispute occurring in New Jersey, Pal fails to allege that the agreement is not reasonable or just. As Pal was aware HafterLaw and her specific attorney were based out of Nevada when she hired them and the parties' amended agreement clearly and specifically stated that the parties consented to Nevada courts having exclusive jurisdiction over any contract disputes, the district court did not err in finding the forum selection clause to be enforceable. *See Am. First Fed. Credit Union v. Soro*, 131 Nev. \_\_\_, \_\_\_, 359 P.3d 105, 106 (2015) (providing that appellate courts look to the contract's language and the surrounding circumstances when interpreting a contract and will enforce a contract's clear and unambiguous language). We therefore affirm this ruling as well.

Pal's final argument regarding the grant of summary judgment is that the district court erred in the amount of fees it awarded. On this point, we agree with Pal. In its reply in support of the motion for summary judgment, HafterLaw asserted that it was only seeking partial summary judgment as to liability and that "[t]he amount of the breach

will be determined at a later time through further proceedings.” Because HafterLaw conceded that it was not seeking summary judgment as to the amount it was owed under the parties’ contract, the district court erred in granting summary judgment as to that issue without giving notice to Pal. *See Renown Reg’l Med. Ctr. v. Second Judicial Dist. Court*, 130 Nev. \_\_\_, \_\_\_, 335 P.3d 199, 202 (2014) (providing that a district court can only grant summary judgment sua sponte on an issue if it has given the losing party notice and an opportunity to defend the claim). Therefore, we reverse the grant of summary judgment insofar as it purports to determine the amount of fees owed to HafterLaw.

Lastly, Pal argues the district court erred in dismissing her legal malpractice counterclaims because her attorney’s failure to take certain actions in the New Jersey cases caused her irreparable harm.<sup>3</sup> The district court dismissed those claims because only the law firm, rather than her attorney Jacob L. Hafter, individually, was a party to the lawsuit. Under NRCP 13(a), however, a party must raise in response to a complaint any claim “the pleader has against any opposing party, if it arises out of the transaction or occurrence that is the subject matter of the

---

<sup>3</sup>HafterLaw argues that we should review the dismissal under a summary judgment standard because the court decided the motion to dismiss at the same time it decided the motion for summary judgment and therefore necessarily considered documents outside the pleadings in dismissing Pal’s claims. *See* NRCP 12(b) (providing that if a court considers documents outside of the pleadings when granting a motion to dismiss for failure to state a claim, it shall be treated as a summary judgment disposition). We decline to do so as neither HafterLaw’s motion to dismiss, nor the district court’s dismissal of Pal’s claims, purported to rely on any documents outside of the pleadings.

opposing party's claim and does not require for its adjudication the presence of third parties of whom the court cannot acquire jurisdiction." Here, HafterLaw sought payment under the amended contingent fee agreement for its services, and Pal was required, under NRCP 13(a), to raise any claims related to that transaction, which would include a claim that Hafter's services, as an employee of HafterLaw, fell below professional standards, thus possibly negating payment by Pal.


We further conclude that, although vague, Pal alleged enough facts against HafterLaw in her counterclaims to avoid dismissal by asserting that HafterLaw breached the fiduciary duties it owed to her by failing to present settlement offers and refusing to turn over settlement proceeds, causing her damages. *See Semenza v. Nev. Med. Liab. Ins. Co.*, 104 Nev. 666, 667-68, 765 P.2d 184, 185 (1988) (providing that legal malpractice requires an attorney-client relationship, a duty owed to the client, a breach of that duty, and the breach being a proximate cause of the client's damages); *see also Buzz Stew, LLC v. City of N. Las Vegas*, 124 Nev. 224, 227-28, 181 P.3d 670, 672 (2008) (stating that a dismissal for failure to state a claim is subject to a rigorous standard of review on appeal where the appellate court accepts all the factual allegations in the complaint as true and draws all inferences in favor of the nonmoving party). As a result, we reverse the dismissal of Pal's counterclaims.

In sum, we affirm the district court's determinations as to the controlling agreement and Nevada being the proper forum for the dispute, reverse those portions of the district court's orders determining the amount of fees to be awarded to HafterLaw and dismissing Pal's

counterclaims, and remand this matter to the district court for further proceedings consistent with this order.

It is so ORDERED.<sup>4</sup>

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

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

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

cc: Hon. Timothy C. Williams, District Judge  
Neelu Pal, M.D.  
Hafter Law  
Eighth District Court Clerk

---

<sup>4</sup>We have considered Pal's remaining claims and conclude that they are without merit.