

IN THE SUPREME COURT OF THE STATE OF NEVADA

LUTHER A. BYRD, AN INDIVIDUAL
Appellant,
vs.
HALL JAFFE & CLAYTON, LLP,
Respondent.


No. 84827

LUTHER A. BYRD,
Appellant,
vs.
HALL JAFFE & CLAYTON, LLP,
Respondent.

No. 85422

FILED

MAY 11 2023

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER OF AFFIRMANCE

These are pro se consolidated appeals from district court orders dismissing a civil action and awarding attorney fees and costs. Eighth Judicial District Court, Clark County; Mary Kay Holthus, Judge.¹

Appellant Luther A. Byrd filed a one-page complaint against respondent Hall Jaffe & Clayton, LLP (HJC) alleging “1. Legal Malpractice[,] 2. Racial Animus/Intimidation/Defamation[,] 3. Making False Statements & Filings to Court[, and] 4. Judiciary Intimidation & Tampering.” HJC had never represented Byrd and the only interaction it had with Byrd was when it represented a party Byrd had sued. The district court dismissed Byrd’s complaint under Nevada’s anti-SLAPP statute, NRS 41.660, and under NRCP 12(b)(4) and (5). The court also awarded HJC attorney fees and costs under NRS 41.670.

¹Having considered the pro se brief filed by appellant, we conclude that a response is not necessary, NRAP 46A(c), and that oral argument is not warranted, NRAP 34(f)(3). This appeal therefore has been decided based on the pro se brief and the record.


On appeal, Byrd argues the district court abused its discretion in denying his motion for a continuance and should have permitted him to amend his complaint. However, the record on appeal does not include a specific request from Byrd to amend his complaint. Thus, because neither a proposed amended complaint nor a request to amend is in the record, the district court did not abuse its discretion in concluding that a continuance would not lead to a different result. *See Rose v. State*, 123 Nev. 194, 206, 163 P.3d 408, 416 (2007) (explaining that this court reviews a district court’s denial of a motion to continue for an abuse of discretion); *see also* NRS 41.660 (permitting dismissal of a claim “brought against a person 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”); NRS 41.637 (including as protected good faith communications, statements made in direct connection with an issue being considered by a judicial body); *Coker v. Sassone*, 135 Nev. 8, 10-11, 432 P.3d 746, 748-49 (2019) (providing that this court reviews a district court’s decision to grant a special motion to dismiss under NRS 41.660 de novo).


Additionally, to the extent Byrd argues that the district court did not give sufficient oral rulings in support of granting the motion to dismiss, no relief is warranted because the written order included sufficient findings and conclusions of law. *See, e.g., Rust v. Clark Cty. Sch. Dist.*, 103 Nev. 686, 689, 747 P.2d 1380, 1382 (1987) (explaining that “[a]n oral pronouncement of judgment is not valid for any purpose” and “only a written judgment has any effect”). We further conclude that the district court did not abuse its discretion in awarding HJC attorney fees as required by NRS 41.670(1)(a) because the district court properly considered each of the factors in *Brunzell v. Golden Gate National Bank*, 85 Nev. 345, 349-50, 455

P.2d 31, 33-34 (1969). *See Logan v. Abe*, 131 Nev. 260, 266, 350 P.3d 1139, 1143 (reviewing an attorney fee award for an abuse of discretion). Accordingly, we

ORDER the judgments of the district court AFFIRMED.²


_____, C.J.
Stiglich


_____, J.
Lee


_____, J.
Bell

cc: Hon. Mary Kay Holthus, District Judge
Luther A. Byrd
Lipson Neilson P.C.
Eighth District Court Clerk

²In light of this order, we deny as moot Byrd's request for appointment of pro bono counsel, which he had included in his informal opening brief.