

IN THE SUPREME COURT OF THE STATE OF NEVADA

ROY KAZE, II, AND MURIEL KAZE,
Appellants,
vs.
ROUND MOUNTAIN GOLD
CORPORATION; AND ECHO BAY
MINERALS COMPANY,
Respondents.

No. 38344

FILED

FEB 12 2004

JANETIE W. BLOOM
CLERK OF SUPREME COURT
BY 
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a proper person appeal from a district court order granting summary judgment in favor of respondents in an employment dispute. The district court found that appellants' claims were preempted by the Employment Retirement Income Security Act (ERISA), and either barred by the statute of limitations or unsupported by the evidence. The district court further found that amendment of the complaint in order to state a cause of action under ERISA would be futile, as any possible ERISA claims would remain barred by the statute of limitations or unsupported by sufficient evidence.

This court reviews an order granting summary judgment de novo.¹ Summary judgment is appropriate when there are no genuine issues of material fact and the moving party is entitled to judgment as a matter of law.² This court construes the pleadings in the light most favorable to the non-moving party. To successfully oppose a summary judgment motion, however, there must exist a genuine issue of material


¹Evans v. Samuels, 119 Nev. ___, 75 P.3d 361 (2003).


²NRCP 56(c); Evans, 119 Nev. at ___, 75 P.3d at 363.

fact for trial.³ The non-moving party may not build a case on speculation and conjecture.⁴ ERISA preempts all state law claims that relate to an ERISA plan.⁵ Having reviewed the trial court record, we conclude that the district court did not err in granting summary judgment for respondents based on ERISA preemption of appellants' state law claims.

The district court's denial of a motion for leave to amend the complaint is discretionary and will not be disturbed absent a clear abuse of discretion. Having reviewed the trial court record, we conclude that the district court did not abuse its discretion in determining that amending the complaint would be futile. Accordingly, we

ORDER the judgment of the district court AFFIRMED.⁶

 _____, J.
Becker

 _____, J.
Agosti

 _____, J.
Gibbons

³Id.

⁴Collins v. Union Fed. Savings & Loan, 99 Nev. 284, 302, 662 P.2d 610, 621 (1983).

⁵29 U.S.C. § 1144(a).

⁶Although appellants were not granted leave to appear in proper person under NRAP 46(b), we have reviewed and considered their proper person documents.

cc: Hon. Nancy M. Saitta, District Judge
Hale Lane Peek Dennison & Howard/Las Vegas
Roy Kaze II
Muriel Kaze
Clark County Clerk