

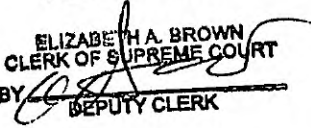
IN THE SUPREME COURT OF THE STATE OF NEVADA

DAVID WEEKS,
Appellant,
vs.
ADAM STEIN-SAPIR,
Respondent.

No. 88963

FILED

FEB 12 2026

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a pro se appeal from a district court order dismissing a defamation action. Eighth Judicial District Court, Clark County; Veronica Barisich, Judge.

Appellant David Weeks is a co-manager of non-party Essex Real Estate Partners, LLC (Essex). In 2019, Essex filed for Chapter 11 bankruptcy reorganization. In approximately 2020, respondent Adam Stein-Sapir acquired shares in Essex through his company, non-party Pioneer Funding Group. To increase Pioneer's interest in the bankruptcy proceeds, Stein-Sapir contacted other Essex shareholders seeking to purchase their shares. Weeks sued Stein-Sapir for defamation, arguing that Stein-Sapir made defamatory statements about Weeks to two Essex shareholders. The district court dismissed the case because it found the statements were covered by the absolute litigation privilege. Weeks now appeals.

We review the district court's decision de novo and affirm. See *Jacobs v. Adelson*, 130 Nev. 408, 412, 325 P.3d 1282, 1285 (2014) (reviewing an order granting a motion to dismiss under NRCP 12(b)(5) based on

application of the absolute litigation privilege de novo). In reviewing an order granting an NRCP 12(b)(5) motion to dismiss, we “accept[] all of the plaintiff[']s factual allegations as true and draw[] every reasonable inference in the plaintiff’s favor to determine whether the allegations are sufficient to state a claim for relief.” *Jacobs*, 130 Nev. at 412, 325 P.3d at 1285.

Weeks first argues that the district court was required to convert the motion to one for summary judgment rather than dismissal. We disagree given that the record does not indicate the district court considered any matters outside of the pleadings. See NRCP 12(d) (providing that “[i]f, on a motion under Rule 12(b)(5) . . . , matters outside the pleadings are presented to and not excluded by the court, the motion must be treated as one for summary judgment”); see also *Gallen v. Eighth Jud. Dist. Ct.*, 112 Nev. 209, 212, 911 P.2d 858, 859-60 (1996) (explaining that an NRCP 12(b)(5) motion to dismiss converts to a motion for summary judgment “only when the district court . . . actually considers materials outside the pleadings in resolving the motion”). Because the motion did not convert to one for summary judgment and because the district court was required to accept all factual assertions in Weeks’ complaint as true, see *Jacobs*, 130 Nev. at 412, 325 P.3d at 1285, we also reject Weeks’ argument that the district court erred by dismissing his case because there were unresolved issues of fact.

Next, Weeks argues that the district court erred by applying the absolute litigation privilege. This argument lacks merit.

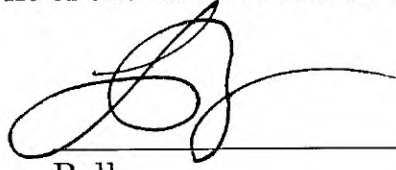
The absolute litigation privilege “acts as a complete bar to defamation claims based on privileged statements” that are “made during the course of judicial and quasi-judicial proceedings.” *Id.* at 412-13, 325

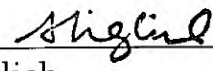
P.3d at 1285. For the privilege to apply, “(1) a judicial proceeding must be contemplated in good faith and under serious consideration, and (2) the communication must be related to the litigation.” *Id.* at 413, 325 P.3d at 1285 (quoting *Clark Cnty. Sch. Dist. v. Virtual Educ. Software, Inc.*, 125 Nev. 374, 383, 213 P.3d 496, 503 (2009)). “The defamatory communication need not be strictly relevant to any issue involved in the proposed or pending litigation, it only need be in some way pertinent to the subject of controversy.” *Fink v. Oshins*, 118 Nev. 428, 433, 49 P.3d 640, 644 (2002).

The parties do not dispute that there was pending litigation—the Essex bankruptcy—when the challenged statements were made. Additionally, Weeks’ complaint alleged that Stein-Sapir made the challenged statements when seeking to purchase Essex shares from shareholders during the pendency of the bankruptcy. Although the statements go toward Weeks’ character, the statements are also relevant to Weeks’ competence to successfully navigate Essex through bankruptcy and to negotiate a fair payout to Essex shareholders. Thus, we conclude the statements were “in some way pertinent to the subject of the controversy.” *Jacobs*, 130 Nev. at 413, 325 P.3d at 1285. And even though the recipients were not parties to the Essex bankruptcy, they nonetheless had “a relevant interest in, or a connection to, the outcome of the proceeding,” as both individuals stood to receive funds from the bankruptcy for their Essex shares. *Id.* at 416, 325 P.3d at 1287 (holding that whether the recipient of a communication has a significant interest “requires review of the recipient’s legal relationship to the litigation”). Accordingly, we conclude the district court did not err in applying the absolute litigation privilege to bar Weeks’ claims and granting Stein-Sapir’s motion to dismiss.

Having considered Weeks' arguments and concluding that they do not warrant relief, we

ORDER the judgment of the district court AFFIRMED.¹


_____, J.
Bell


_____, J.
Stiglich


_____, J.
Cadish

cc: Hon. Veronica Barisich, District Judge
David J. Weeks
Fox Rothschild, LLP/Las Vegas
Eighth District Court Clerk

¹In light of this order, we decline Weeks' request to order the case be remanded to a different district court judge for further proceedings.