



IN THE COURT OF APPEALS OF THE STATE OF NEVADA

TIMOTHY WILLIAMS,
Appellant,
vs.
CIRCA HOSPITALITY GROUP III, LLC,
D/B/A CIRCA RESORT & CASINO,
Respondent.

No. 91127-COA

ORDER OF AFFIRMANCE WITH INSTRUCTIONS

Timothy Williams appeals from a district court order dismissing the complaint in a contract and tort action. Eighth Judicial District Court, Clark County; Erika L. Mendoza, Judge.

Williams commenced the underlying proceeding against respondent Circa Hospitality Group III, LLC, D/B/A Circa Resort & Casino, alleging that he placed wagers with Circa on a boxing match and that the match was ruled a draw resulting in the refund of his wagers. However, Williams further alleged that his favored boxer's opponent should have been disqualified from the match and that he therefore should have won his wagers. Based on those allegations, Williams asserted claims for breach of contract, fraudulent inducement, and intentional or negligent infliction of emotional distress. Shortly thereafter, Williams filed an amended complaint to adjust his claims, and he separately moved for leave to amend his complaint.

Responding to Williams' original complaint, Circa moved to dismiss his case, arguing, as relevant here, that the district court lacked subject matter jurisdiction because the Nevada Gaming Control Board (GCB) has exclusive jurisdiction over this type of gaming dispute, and

Williams failed to exhaust his administrative remedies before the GCB. Circa also opposed Williams' motion to amend, asserting that amendment would be futile in light of the jurisdictional defect. Williams opposed Circa's motion to dismiss and countermoved to compel discovery.

Without conducting a hearing, the district court entered a written order dismissing Williams' case with prejudice on grounds that its subject matter was within the exclusive jurisdiction of the GCB. For the same reason, the district court denied Williams' motion for leave to amend. This appeal followed.

On appeal, Williams does not challenge the district court's basis for dismissal, and we therefore affirm the district court's decision in this respect.¹ However, Williams contends that the district court should have dismissed his complaint without prejudice because a dismissal for failure to exhaust administrative remedies is not an adjudication on the merits.

Dismissal with prejudice is generally inappropriate absent an adjudication on the merits. *See Greene v. St. Nicholas Med. Grp.*, No. 88360-

¹To the extent that the district court treated Williams' original complaint as the operative pleading in this matter, we note it was superseded by Williams' amended complaint since he timely filed it within 21 days after serving his original complaint, such that he was not required to seek leave to amend. *See* NRCP 15(a)(1) (setting forth the timing requirements for amending a pleading as a matter of course); *see also Rondono v. Ballou*, 100 Nev. 142, 143, 676 P.2d 807, 808 (1984) (providing that an amended complaint is a complete pleading that entirely supersedes the original complaint). However, because the district court's basis for dismissal applies equally to both pleadings, and Williams does not challenge it, we conclude that any error in this respect was harmless. *See Wyeth v. Rowatt*, 126 Nev. 446, 465, 244 P.3d 765, 778 (2010) (explaining that "[a]n error is harmless when it does not affect a party's substantial rights"); *cf.* NRCP 61 ("At every stage of the proceeding, the court must disregard all errors and defects that do not affect any party's substantial rights.").

COA, 2025 WL 1122346, at *2 (Nev. Ct. App. Apr. 15, 2025) (Order of Affirmance with Instructions) (directing the district court to strike the words “with prejudice” from its dismissal order since the underlying dismissal did not operate as an adjudication on the merits). And an involuntary dismissal for lack of jurisdiction does not operate as an adjudication on the merits. NRCP 41(b) (identifying types of involuntary dismissals that do not constitute an adjudication on the merits).

Here, the district court dismissed Williams’ case with prejudice after concluding that his claims fell within the exclusive jurisdiction of the GCB, which reflects a determination that the court lacked subject matter jurisdiction over the claims.² *See Vaile v. Porsboll*, 128 Nev. 27, 30, 268 P.3d 1272, 1274 (2012) (recognizing that although a statute did not “speak[] explicitly of ‘subject matter jurisdiction,’ the terms that it does use—‘jurisdiction’ and ‘continuing exclusive jurisdiction’—are simply alternate ways of referring to subject matter jurisdiction”). As a result, the dismissal did not operate as an adjudication on the merits. *See* NRCP 41(b); *Stalley v. Orlando Reg’l Healthcare Sys., Inc.*, 524 F.3d 1229, 1232 (11th Cir. 2008) (“A dismissal for lack of subject matter jurisdiction is not a judgment on the merits and is entered without prejudice.”). Under these circumstances, the dismissal of Williams’ case, with prejudice, was improper. Thus, upon

²Although the district court did not go a step further by addressing Williams’ undisputed failure to exhaust his administrative remedies before the GCB, that too is an issue of subject matter jurisdiction. *See Deja Vu Showgirls of Las Vegas, LLC v. Nev. Dep’t of Tax’n*, 130 Nev. 719, 725, 334 P.3d 392, 397 (2014) (explaining, in the context of a taxpayer’s claims for judicial relief, that the district court lacks subject matter jurisdiction over such claims if the taxpayer fails to exhaust administrative remedies).

issuance of the remittitur, we direct the district court to strike the words “with prejudice” from its dismissal order.³ Accordingly, we

ORDER the judgment of the district court AFFIRMED.⁴



Bulla, C.J.



Gibbons, J.



Westbrook, J.

cc: Hon. Erika L. Mendoza, District Judge
Timothy Williams
McDonald Carano LLP/Reno
McDonald Carano LLP/Las Vegas
Eighth District Court Clerk

³Although this court generally will not grant a pro se appellant relief without first providing respondents an opportunity to file an answering brief, NRAP 46A(c), in light of our basis for ordering “with prejudice” stricken from the challenged order, the filing of an answering brief would not aid this court’s resolution of this issue, and thus, no such brief has been ordered.

⁴Having considered Circa’s notice of supplemental authorities, we conclude that it does not affect the outcome of our disposition. Further, insofar as Williams raises arguments that are not specifically addressed in this order, we have considered the same and conclude they do not present a basis for relief or need not be addressed in light of our disposition of this appeal.