



IN THE COURT OF APPEALS OF THE STATE OF NEVADA

NATALIE LIN HUNT,
Appellant,
vs.

DR. GARTH HARRIS; PARADISE
DENTAL, LLC D/B/A SILVERADO
FAMILY DENTAL; DR. DOUGLAS
RAKICH; AND ENDODONTIC
ASSOCIATES,
Respondents.

No. 91420-COA

ORDER OF AFFIRMANCE

Natalie Lin Hunt appeals from a district court final order dismissing a professional negligence action. Eighth Judicial District Court, Clark County; Hon. Eric Johnson, Judge.

Hunt filed a pro se complaint on January 23, 2025, alleging claims of professional negligence against respondents Dr. Garth Harris and Paradise Dental, LLC d/b/a Silverado Family Dental (Harris parties), and respondents Dr. Douglas Rakich and Endodontic Associates (Rakich parties). Hunt alleged that in 2021, the Harris parties referred her to the Rakich parties for root canal treatment on one of her lower molars. Medical records Hunt included as exhibits to her complaint indicate that Rakich performed a root canal on Hunt's molar on December 21, 2021. After completing the root canal, Rakich used a sponge sealed with a temporary sealing compound to close the area and referred Hunt back to the Harris parties for crown replacement. Hunt alleged

that when Harris performed the crown replacement in January 2022, he neglected to remove the sponge Rakich had used to close the area after the root canal, and that the molar became infected as a result of this negligence. In a written statement Hunt included as an exhibit to her complaint, Hunt alleged that she informed Silverado Family Dental on January 25, 2022, that “a personal injury [had] occurred” during the January 2022 crown replacement procedure. Hunt further alleged that when picking up medical records from Silverado Family Dental on March 30, 2022, she once again informed the dental practice that she had sustained an injury while in their care.

Hunt further alleged that she returned to Rakich in March 2022 to address pain she was experiencing with the molar and then returned again to Rakich in August 2022 to undergo another root canal on the same lower molar, with follow-up treatment continuing into September 2022. Hunt alleged the molar subsequently became reinfected and was ultimately extracted in April 2024. Hunt appeared to assert that Rakich was negligent in treating her molar because he was “inattentive to the condition of the gum tissue” around the molar and should have extracted it rather than performing the August 2022 root canal. Further, Hunt alleged she had sustained injuries to a different molar as a result of negligent treatment by Rakich when he left a piece of file in her gum while performing a different root canal. Hunt did not specify when Rakich performed the alleged root canal but alleged she discovered the file in her gum in or around September 2022.

The Harris parties and the Rakich parties filed motions to dismiss the operative complaint.¹ Both parties asserted, among other things, that dismissal of the operative complaint was warranted because the one-year period of time from discovery of the injury specified by NRS 41A.097(2)(a), the relevant statute of limitations for each of her claims, had lapsed. In her oppositions to both parties' motions to dismiss, Hunt asserted the applicable period under the statute of limitations was three years.

The district court subsequently entered written orders granting the Harris and Rakich parties' motions and dismissing Hunt's claims without prejudice.² Among other grounds for dismissing Hunt's claims, the district court determined that Hunt's claims were filed outside the one-year limitations period under NRS 41A.097(2)(a). In reaching this decision, the district court accepted as true Hunt's allegation that she reported a "personal injury" to Silverado Family Dental on January 25, 2022, and March 30, 2022. The

¹Hunt filed a first amended complaint to include Paradise Dental, LLC as the putative parent company of Silverado Family Dental. The record shows that Hunt filed a purported second amended complaint while the parties were actively litigating the motions to dismiss to add new allegations against the Rakich parties. Hunt did not, however, obtain either the consent of the respondents or leave of the district court to file her second amended complaint. *See* NRCP 15(a)(1) (permitting a party to amend their pleading once as a matter of course); NRCP 15(a)(2) (requiring a party to obtain either consent of the opposing party or leave of the court before filing a subsequent amendment). Thus, to the extent Hunt purports to raise arguments in this appeal related to her second amended complaint or any other purported amendments, we do not consider them.

²We recognize that a dismissal without prejudice is effectively a dismissal with prejudice if the applicable statute of limitations has run.

district court concluded that Hunt’s professional negligence claim concerning the Harris parties accrued on March 30, 2022, and that her January 23, 2025, complaint was therefore barred by the statute of limitations, as Hunt filed her complaint more than one year after she discovered the injuries. The court also determined that, based on Hunt’s allegations, the claim concerning the Rakich parties accrued in September 2022, and that claim was likewise filed past the one-year period provided in the relevant statute of limitations. This appeal followed.

On appeal, Hunt argues the district court erred in finding that her complaint was barred by the statute of limitations set by NRS 41A.097(2)(a). “A district court’s order granting a motion to dismiss under NRCP 12(b)(5) is reviewed de novo.” *Nelson v. Burr*, 138 Nev. 847, 850, 521 P.3d 1207, 1210 (2022). A “complaint should be dismissed only if it appears beyond a doubt that [the plaintiff] could prove no set of facts, which, if true, would entitle [the plaintiff] to relief.” *Buzz Stew, LLC v. City of N. Las Vegas*, 124 Nev. 224, 228, 181 P.3d 670, 672 (2008). This “rigorous standard of review” requires this court to recognize all factual allegations in the plaintiff’s complaint as true and draw all inferences in favor of the nonmoving party. *Id.* at 227-28, 181 P.3d at 672. “[A] court can dismiss a complaint under NRCP 12(b)(5) ‘if the action is barred by the statute of limitations.’” *Engelson v. Dignity Health*, 139 Nev. 578, 582, 542 P.3d 430, 436 (Ct. App. 2023) (quoting *Bemis v. Est. of Bemis*, 114 Nev. 1021, 1024, 967 P.2d 437, 439 (1998)).

NRS 41A.097(2) requires claims for professional negligence occurring on or after October 1, 2002, and before October 1, 2023, to be filed within “3 years after the date of the injury or 1 year after the plaintiff discovers

or through use of reasonable diligence should have discovered the injury, *whichever occurs first.*” (Emphasis added). The limitation period for the “discovery” of an injury begins to run when the plaintiff “knows or, through the use of reasonable diligence, should have known of facts that would put a reasonable person on inquiry notice of [her] cause of action.” *Massey v. Litton*, 99 Nev. 723, 728, 669 P.2d 248, 252 (1983). For purposes of NRS 41A.097(2), “an injury is discovered once the injured party possesses facts that would lead ‘an ordinarily prudent person to investigate further into whether [her] injury may have been caused by someone’s negligence.’” *Kushnir v. Eighth Jud. Dist. Ct.*, 137 Nev. 409, 412, 495 P.3d 137, 140 (2021) (quoting *Winn v. Sunrise Hosp. & Med. Ctr.*, 128 Nev. 246, 253, 277 P.3d 458, 462 (2012)).

On appeal, Hunt contends the district court erred in relying on the allegations in her complaint that (1) she reported her “personal injury” to the Harris parties on March 30, 2022, and (2) she discovered the file Rakich allegedly left in her gum in September 2022 in determining the accrual dates for her professional negligence claims. Hunt appears to contend the district court should have instead relied on demand letters she sent to the Harris and Rakich parties on January 21, 2025, as the correct accrual date for her claims. We disagree.

As stated above, Nevada law specifies that the limitation period for the discovery of an injury begins to run when the plaintiff “knows or, through the use of reasonable diligence, should have known of facts that would put a reasonable person on inquiry notice of his cause of action.” *Massey*, 99 Nev. at 728, 699 P.2d at 252. Based on her allegations in the operative complaint, Hunt was on inquiry notice of the injury caused by the Harris

parties on March 30, 2022, at the latest, was on inquiry notice of the alleged injury Rakich allegedly caused by performing an additional root canal on the subject molar on August 22, 2022, and was on inquiry notice of the file Rakich allegedly left in her gum in September 2022. These discovery dates occurred more than one year before Hunt filed the instant complaint on January 23, 2025. Thus, we conclude Hunt fails to demonstrate she is entitled to relief.

Under these circumstances, we conclude the district court properly dismissed Hunt's complaint due to her failure to bring her claims within the relevant one-year period provided by NRS 41A.097(2)(a). Accordingly, we

ORDER the judgment of the district court AFFIRMED.³



Bulla, C.J.



Gibbons, J.



Westbrook, J.

³Hunt also appears to argue on appeal that the district court erred by determining that her professional negligence claims did not fall within one of the NRS 41A.100 exceptions to the medical expert affidavit requirement. We need not reach this argument, however, in light of our decision to affirm the district court's decision to dismiss Hunt's claims based upon the statute of limitations.

To the extent Hunt raises other arguments that are not specifically addressed in this order, we have considered the same and conclude they do not provide a basis for relief.

cc: Hon. Eric Johnson, District Judge
Marquis Aurbach Chtd.
Wood, Smith, Henning & Berman, LLP/Las Vegas
Natalie Lin Hunt
Eighth District Court Clerk