IN THE COURT OF APPEALS OF THE STATE OF NEVADA

ROBERT H. DEBARDELEBEN,
Appellant,
vs.
DARRYL ROBERTS; ANN ROBERTS; AND ONEPUTTPRO, LLC,
Respondents.

No. 89302-COA

FILED

MAY 16 2025

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY
DEPUTY CLERK

ORDER OF AFFIRMANCE

Robert H. Debardeleben appeals from a district court order granting a motion to dismiss in a civil action. Eighth Judicial District Court, Clark County; Jacob A. Reynolds, Judge.

DeBardeleben initiated a civil action against respondents Darryl Roberts, Ann Roberts, and OnePuttPro, LLC (respondents). In the operative complaint, DeBardeleben alleged that he owned and operated two businesses entities, Evocativo Product Design (Evocativo) and Ignite Product Design (Ignite). DeBardeleben stated that respondents contacted him through Ignite's website concerning a potential project. DeBardeleben further alleged that he introduced respondents to an independent contractor and they agreed for the independent contractor to begin work on the project. DeBardeleben also alleged that problems with the project arose and one of the respondents posted a negative review of Evocativo/Ignite on a business review website named Clutch.co. The review discussed respondents' business dealings with Evocativo/Ignite, stating they hired

Evocativo and Ignite to design a golf-related application and software but the work was not completed and they experienced communication difficulties with those businesses. The review further stated that Evocativo was a "[s]hifty organization."

DeBardeleben further alleged that the negative review contained inaccuracies, harmed the business reputations of Evocativo and Ignite, and may cause clients or potential clients to decline to engage in business with either entity. DeBardeleben also alleged that Evocativo had not received inquiries from potential new clients since respondents posted the negative review. In addition, DeBardeleben contended that respondents filed a civil action in Arizona concerning the business matters and that action was ongoing. As a result of the aforementioned allegations, DeBardeleben sought monetary and punitive damages.

Respondents thereafter filed a motion to dismiss the operative complaint pursuant to NRCP 12(b)(5). Respondents contended that dismissal was warranted because DeBardeleben failed to state a valid claim upon which relief can be granted, DeBardeleben's claim was waived under Arizona's rules of civil procedure because it was a compulsory counterclaim and should have been raised in the Arizona civil action, Debardeleben had previously raised the underlying allegations in an action in front of the justice court and the dismissal of that matter should have barred him from raising the same allegations in a new action, and because DeBardeleben was not able to pursue claims on behalf of Evocativo and Ignite.

DeBardeleben opposed the motion to dismiss, generally contending that he stated a valid defamation claim and opposing

respondents' additional arguments. DeBardeleben also filed a motion for summary judgment, asserting that he was entitled to summary judgment in his favor based on respondents' failure to file a timely answer to his amended complaint. In addition, DeBardeleben filed a demand for a jury trial, in which he asserted that the issues in this matter should be resolved through a jury trial. Respondents filed a reply in support of their motion to dismiss.

The district court ultimately entered an order granting respondents' motion to dismiss. In its order, the court did not specifically identify DeBardeleben's cause of action but found that dismissal was warranted as DeBardeleben failed to state a claim for which relief can be granted. The court also concluded dismissal was warranted as DeBardeleben failed to identify damages stemming from the allegations contained within the complaint. The district court accordingly dismissed his amended complaint. This appeal followed.

On appeal, DeBardeleben challenges the district court's decision to grant respondents' motion to dismiss. We rigorously review a district court order granting an NRCP 12(b)(5) motion to dismiss, accepting all of the plaintiff's factual allegations as true and drawing every reasonable inference in the plaintiff's favor to determine whether the allegations are sufficient to state a claim for relief. *Buzz Stew, LLC v. City of N. Las Vegas*, 124 Nev. 224, 227-28, 181 P.3d 670, 672 (2008). A complaint should be dismissed for failure to state a claim "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." *Id.* at 228, 181 P.3d at 672.

Because Nevada is a "notice-pleading" jurisdiction, *see* NRCP 8(a), a complaint need only set forth a short and plain statement with sufficient facts to demonstrate the necessary elements of a claim for relief so that the opposing party "has adequate notice of the nature of the claim and relief sought." *W. States Constr., Inc. v. Michoff*, 108 Nev. 931, 936, 840 P.2d 1220, 1223 (1992); *see also Droge v. AAAA Two Star Towing, Inc.*, 136 Nev. 291, 308-09, 468 P.3d 862, 878-79 (Ct. App. 2020) (discussing Nevada's liberal notice pleading standard). "[W]e liberally construe pleadings to place matters into issue which are fairly noticed to an adverse party." *Hall v. SSF, Inc.*, 112 Nev. 1384, 1391, 930 P.2d 94, 98 (1996) (internal quotation marks omitted).

DeBardeleben argues that the district court erred by dismissing his defamation claim because he contends that he did not need to plead damages for such a claim. DeBardeleben essentially asserts that he raised a claim of defamation per se, for which damages may be presumed. Despite DeBardeleben's contentions, our review of DeBardeleben's factual allegations reveal they were insufficient to state a valid claim of defamation per se.

"[I]if the defamatory communication imputes a person's lack of fitness for trade, business, or profession, or tends to injure the plaintiff in his or her business, it is deemed defamation per se and damages are presumed." *Clark Cnty. Sch. Dist. v. Virtual Educ. Software, Inc.*, 125 Nev. 374, 385, 213 P.3d 496, 503 (2009) (internal quotation marks omitted).

"Thus, if a statement accuses an individual of personal misconduct in his or her business or attacks the individual's business reputation, the claim may be one for defamation per se." *Id.* at 385, 213 P.3d at 504. "A claim for defamation per se primarily serves to protect the personal reputation of an individual." *Id.*

However, "[u]nlike defamation per se, communications constituting business disparagement are not directed at an individual's personal reputation; rather, they are injurious falsehoods that interfere with the plaintiff's business and are aimed at the business's goods or services." *Id.* In contrast to defamation per se, "a cause of action for business disparagement requires that the plaintiff set forth evidence proving economic loss that is attributable to the defendant's disparaging remarks." *Id.* at 387, 213 P.3d at 505.

Here, accepting all of DeBardeleben's factual allegations as true and drawing every reasonable inference in his favor, we conclude he failed to state a valid claim of defamation per se. A review of the allegedly disparaging comments contained within the online review reveals they were aimed at Evocativo or Ignite and the services provided by those entities. *See id.* at 385, 213 P.3d at 504. As noted previously, the statements contained within the review consisted of the reviewer's business dealings with Evocativo/Ignite and the reviewer's impressions of those entities. The comments did not identify an individual and were not directed at an individual's personal reputation. Because DeBardeleben did not identify

allegedly disparaging comments that were directed at an individual, he thus failed to state a valid claim of defamation per se. Accordingly, we conclude that the district court did not err by dismissing this claim.

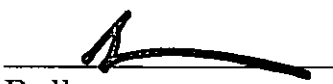
Because DeBardeleben's allegations concerned comments directed at Evocativo and Ignite, his contentions amounted to a claim of business disparagement. *See Droge*, 136 Nev. at 308, 468 P.3d at 878. However, even construing his claim as one of business disparagement, DeBardeleben failed to state a valid claim for which relief can be granted. First, the allegations are against Evocativo and Ignite, which are not parties to this action. Nothing in the complaint asserts a valid business disparagement claim or damages incurred by DeBardeleben individually that is separate and apart from his two companies. Thus, the cause of action fails on this basis. Second, DeBardeleben cannot pursue claims of business disparagement on behalf of Evocativo and Ignite, as non-lawyers cannot represent an entity and entities are not permitted to appear in pro se. *See Salman v. Newell*, 110 Nev. 1333, 1336, 885 P.2d 607, 608 (1994) (observing that no statute or rule permits a non-lawyer to represent an entity and concluding that an entity cannot proceed in proper person). Accordingly, to the extent DeBardeleben attempted to bring claims on behalf of Evocativo or Ignite, those claims were appropriately dismissed. *See Saavedra-Sandoval v. Wal-Mart Stores, Inc.*, 126 Nev. 592, 599, 245 P.3d 1198, 1202 (2010) (recognizing that this court may affirm the district court on any ground supported by the record, even if not relied upon by the district court).

DeBardeleben also argues that the district court erred by failing to address his motion for summary judgment and his demand for a

jury trial. We note that, by granting respondents' motion to dismiss, the district court effectively denied DeBardeleben's requests for relief in these documents. *See Bd. of Gallery of History, Inc. v. Datecs Corp.*, 116 Nev. 286, 289, 994 P.2d 1149, 1150 (2000) (concluding that a district court's failure to rule on a request constitutes a denial of that request). We also note DeBardeleben does not present cogent argument concerning any decision to deny his requested relief. As a result, we decline to address these issues. *See Edwards v. Emperor's Garden Rest.*, 122 Nev. 317, 330 n.38, 130 P.3d 1280, 1288 n.38 (2006) (providing that appellate courts need not consider issues that are not supported by cogent argument).

Based on the foregoing, we conclude DeBardeleben is not entitled to relief, and we

ORDER the judgment of the district court AFFIRMED.[1]



_____, C.J.
Bulla



_____, J.
Gibbons



_____, J.
Westbrook

[1]Insofar as the parties raise arguments that are not specifically addressed in this order, we have considered the same and conclude that they do not present a basis for relief.

cc: Hon. Jacob A. Reynolds, District Judge
Robert H. DeBardeleben
Huntley Law
Eighth District Court Clerk