

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEVADA

Neil C. Krutz v. The City of Sparks, et al.

Case No. 3:25-cv-00159-MMD-CLB · No. 3:25-cv-00159-MMD-CLB · Decided January 22, 2026

SUMMARY

The United States District Court for the District of Nevada addresses Defendants’ motions to dismiss and to disqualify counsel in Neil C. Krutz’s action arising from his termination as City Manager of Sparks. The court grants the motion to dismiss in part and denies it in part, allowing the federal procedural due process and First Amendment claims to proceed while dismissing several other claims under Rule 12(b)(6). The court denies the motion to disqualify counsel.

CASE DETAILS

COURT	United States District Court for the District of Nevada
WRITING FOR THE COURT	Miranda M. Du
JURISDICTION	United States District Court for the District of Nevada
DECIDED	January 22, 2026
DOCKET	3:25-cv-00159-MMD-CLB
DISPOSITION	other
PROCEDURAL POSTURE	Defendants moved under Federal Rule of Civil Procedure 12(b)(6) to dismiss the complaint and separately moved to disqualify plaintiff's counsel based on alleged disclosure and use of privileged attorney-client communications.
STANDARD OF REVIEW	On a Rule 12(b)(6) motion, the court accepts well-pleaded factual allegations as true, construes them in the light most favorable to the plaintiff, and determines whether the complaint plausibly states a claim for relief. For qualified immunity, the court considers whether the official violated a constitutional right and whether that right was clearly established.
PRECEDENTIAL VALUE	unpublished district court order

TOPICS

- wrongful termination
- employment contracts
- section 1983
- qualified immunity
- motions to dismiss

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the individual defendants were entitled to qualified immunity on Krutz's claims that his termination violated Fourteenth Amendment procedural due process and First Amendment free-speech rights.
2. Whether Krutz stated a claim for procedural due process under Article I, Section 8 of the Nevada Constitution.
3. Whether Krutz plausibly pleaded breach of contract and breach of the contractual implied covenant of good faith and fair dealing.
4. Whether Krutz's Nevada age-discrimination claim was barred for failure to exhaust administrative remedies or failed to state a plausible claim.
5. Whether Krutz stated a claim for retaliation under NRS § 613.340.
6. Whether Nevada's statutory anti-discrimination remedy barred his tortious-discharge claim.
7. Whether Krutz adequately pleaded civil conspiracy.
8. Whether disclosure and use of the City's attorney-client communications required dismissal of the complaint or disqualification of counsel.

HOLDINGS

1. At the motion-to-dismiss stage, the defendants were not entitled to dismissal on the ground that the employment contract's termination provisions supplied all process to which Krutz was entitled. Contractual terms cannot supersede or substitute for constitutionally adequate procedural due process.
2. Dismissal of Krutz's First Amendment claim was unwarranted at the pleading stage because the complaint and incorporated materials did not establish whether his video statement was made pursuant to his official duties or as a citizen.
3. Nevada recognizes procedural due process protections under Article I, Section 8 of the Nevada Constitution, so the court denied dismissal of Krutz's state constitutional due process claim.
4. Krutz failed to plausibly plead breach of his employment contract because the complaint did not allege sufficient facts establishing a material breach by the City.
5. Krutz failed to state a claim for breach of the contractual implied covenant of good faith and fair dealing because he did not plausibly allege that the City performed the contract in a manner unfaithful to its purpose or in conscious disregard of the contract's purpose.
6. Krutz's age-discrimination claim was not procedurally barred for failure to exhaust administrative remedies, but it failed to state a plausible claim because the alleged age-related remark did not sufficiently support an inference that age was the but-for cause of termination.
7. Krutz failed to state a retaliation claim because his internal Human Resources complaints, as pleaded, did not constitute protected activity under the applicable federal analogues, and his later NERC filing occurred after the alleged retaliatory termination.

8. Nevada's anti-discrimination statutes provide an adequate and comprehensive remedy for the alleged discriminatory discharge, so Krutz's tortious-discharge claim was dismissed.
9. Krutz failed to state a civil conspiracy claim because he alleged only conclusory assertions of a plan and scheme and did not plead concerted action or an intent to accomplish an unlawful objective with sufficient specificity.
10. The City waived attorney-client privilege as to the particular communications it placed at issue by publicly relying on Krutz's handling of the Fire Chief matter as a reason for termination; dismissal and disqualification were therefore unwarranted.

KEY QUOTATIONS

"private, contractually agreed-upon terms cannot supersede or substitute constitutional protections."
(III.A.1)

"fairness demands that the opposing party be allowed to examine the whole picture." (III.C)

FACTUAL BACKGROUND

Krutz was hired in 2019 as City Manager of Sparks under an employment contract extending through June 30, 2025, with a for-cause termination provision. After a video statement concerning the resignation of the Sparks Fire Chief, the City Council raised concerns about Krutz's performance and leadership, placed him on administrative leave, and voted to terminate him for cause on September 5, 2023. Before termination, Krutz filed internal Human Resources complaints alleging age discrimination and retaliation; he later filed a complaint with the Nevada Equal Rights Commission and received a right-to-sue letter.

PROCEDURAL HISTORY

Krutz filed suit against the City of Sparks and individual city officials arising from the termination of his employment as City Manager. The district court granted the motion to dismiss as to claims for breach of contract, breach of the implied covenant of good faith and fair dealing, age discrimination, retaliation, tortious discharge, and civil conspiracy, but denied dismissal of the federal constitutional claim to the extent it alleged Fourteenth Amendment procedural due process and First Amendment violations and denied dismissal of the Nevada constitutional due process claim. The dismissed claims were dismissed without prejudice with leave to amend, and the motion to disqualify counsel was denied.

DISPOSITION

other

CASES CITED

- Mitchell v. Forsyth, 472 U.S. 511, 526 (1985)
- C.B. v. City of Sonora, 769 F.3d 1005, 1022 (9th Cir. 2014)
- Pearson v. Callahan, 555 U.S. 223, 232, 236 (2009)
- Kentucky v. Graham, 473 U.S. 159, 165 (1985)

- *Monell v. Dep't of Soc. Servs. of N.Y.C.*, 436 U.S. 658, 690 n.55 (1978)
- *Suever v. Connell*, 579 F.3d 1047, 1061-62 (9th Cir. 2009)
- *Zinerman v. Burch*, 494 U.S. 113, 125-26 (1990)
- *Vasquez v. Rackauckas*, 734 F.3d 1025, 1042 (9th Cir. 2013)
- *Sw. Gas Corp. v. Pub. Utils. Comm'n of Nev.*, 504 P.3d 503, 511 (Nev. 2022)
- *Gordon v. Geiger*, 402 P.3d 671, 674-75 (Nev. 2017)
- *Zamboanga v. Ortiz*, 542 P.3d 18 (Table), 2024 WL 225255, at *4-*5 (Nev. App. Jan. 19, 2024)
- *Mack v. Williams*, 522 P.3d 434, 451 (Nev. 2022)
- *Ellins v. City of Sierra Madre*, 710 F.3d 1049, 1056 (9th Cir. 2013)
- *Garcetti v. Ceballos*, 547 U.S. 410, 421 (2006)
- *Hal Roach Studios, Inc. v. Richard Feiner & Co.*, 896 F.2d 1542, 1555 n.19 (9th Cir. 1990)
- *In re Stac Elecs. Sec. Litig.*, 89 F.3d 1399, 1403 (9th Cir. 1996)
- *Warshaw v. Xoma Corp.*, 74 F.3d 955, 957 (9th Cir. 1996)
- *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555, 570 (2007)
- *Leach Logistics, Inc. v. CF USA, Inc.*, 751 F. Supp. 3d 1087, 1096 (D. Nev. 2024)
- *Laguerre v. Nev. Sys. of Higher Educ.*, 837 F. Supp. 2d 1176, 1180 (D. Nev. 2011)
- *Bernard v. Rockhill Dev. Co.*, 734 P.2d 1238, 1240 (Nev. 1987)
- *A.C. Shaw Const., Inc. v. Washoe Cnty.*, 784 P.2d 9, 9 (Nev. 1989)
- *Perry v. Jordan*, 900 P.2d 335, 338 (Nev. 1995)
- *Bullard v. Las Vegas Valley Water Dist.*, 2018 WL 715358, at *4-*5 (D. Nev. Feb. 5, 2018)
- *Pope v. Motel 6*, 114 P.3d 277, 280, 311-13 (Nev. 2005)
- *Palmer v. State Gaming Control Board*, 787 P.2d 803, 804 (Nev. 1990)
- *Copeland v. Desert Inn Hotel*, 673 P.2d 490 (Nev. 1983)
- *Shah v. Mt. Zion Hosp. & Med. Ctr.*, 642 F.2d 268, 271 (9th Cir. 1981)
- *Sanchez v. Standard Brands, Inc.*, 431 F.2d 455, 460-65 (5th Cir. 1970)
- *Coleman v. Barrick Goldstrike Mines, Inc.*, 2023 WL 5806457, at *3 (D. Nev. Mar. 23, 2023)
- *Vasquez v. Cnty. of L.A.*, 349 F.3d 634, 640, 646 (9th Cir. 2003)
- *McDonnell Douglas Corp. v. Green*, 411 U.S. 792 (1973)
- *Diaz v. Eagle Produce Ltd. P'ship*, 521 F.3d 1201, 1207 (9th Cir. 2008)
- *Coleman v. Quaker Oats Co.*, 232 F.3d 1271, 1281 (9th Cir. 2000)
- *Gross v. FBL Fin. Servs., Inc.*, 557 U.S. 167, 174, 177 (2009)
- *Shelley v. Geren*, 666 F.3d 599, 607 (9th Cir. 2012)
- *Slack v. United Airlines, Inc.*, WL 1446970, at *5 (D. Nev. Mar. 29, 2019)
- *Vasconcelos v. Meese*, 907 F.2d 111, 113 (9th Cir. 1990)
- *EEOC v. Total Sys. Servs.*, 221 F.3d 1171, 1174 (11th Cir. 2000)
- *Davis v. Team Elec. Co.*, 520 F.3d 1080, 1093-94 (9th Cir. 2008)
- *Pasinger v. Starbucks Corp.*, WL 11399722, at *3 (D. Nev. Sept. 30, 2008)

- Shoen v. Amerco, 896 P.2d 469, 475 (Nev. 1995)
- Sands Regent v. Valgardson, 777 P.2d 900, 901 (Nev. 1989)
- Hilton Hotels Corp. v. Butch Lewis Prods., Inc., 862 P.2d 1207, 1210 (Nev. 1993)
- Century Sur. Co. v. Prince, 265 F. Supp. 3d 1182, 1194 (D. Nev. 2017), aff'd, 782 F. App'x 553 (9th Cir. 2019)
- Arroyo v. Wheat, 591 F. Supp. 141, 144 (D. Nev. 1984)
- Las Vegas Sands v. Eighth Jud. Dist. Ct., 331 P.3d 905, 913-14 (Nev. 2014)
- Wardleigh v. Second Jud. Dist. Ct., 891 P.2d 1180, 1186 (Nev. 1995)
- Conkling v. Turner, 883 F.2d 431, 434 (5th Cir. 1989)
- Mack v. S. Bay Beer Distribs., 798 F.2d 1279, 1282 (9th Cir. 1986)

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