

SUPREME COURT OF NEVADA

Coker v. Sassone

432 P.3d 746 (Nev. 2019) · Decided January 3, 2019

SUMMARY

The Nevada Supreme Court reviewed the denial of an anti-SLAPP special motion to dismiss arising from the advertising and sale of allegedly counterfeit artwork as original lithographs. The court held that review of an anti-SLAPP motion under the 2015 version of NRS 41.660 is de novo and affirmed the denial because the appellant failed to show that the conduct was truthful or made without knowledge of its falsehood, or that it concerned an issue of public interest.

CASE DETAILS

COURT	Supreme Court of Nevada
WRITING FOR THE COURT	Parraguirre, J.; Cherry, J.; Stiglich, J.
JURISDICTION	Nevada
DECIDED	January 3, 2019
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from a district court order denying Coker's special motion to dismiss under Nevada's anti-SLAPP statute, NRS 41.660.
STANDARD OF REVIEW	De novo review applies to a district court's grant or denial of a special motion to dismiss under the 2015 version of NRS 41.660.
PRECEDENTIAL VALUE	Published opinion; precedential
PARTIES	Darrell Coker v. Marco Sassone

TOPICS

[motions to dismiss](#) [free speech](#) [first amendment](#) [appellate procedure](#) [standard of review](#)

PRACTICE AREAS

[Civil procedure](#) [Appellate procedure](#) [Constitutional law](#) [Consumer protection](#) [Intellectual property](#)

QUESTIONS PRESENTED

1. What standard of review applies to a district court's grant or denial of a special motion to dismiss under Nevada's anti-SLAPP statute after the 2015 amendment to NRS 41.660?

2. Whether Coker established that the challenged conduct was a good-faith communication that was truthful or made without knowledge of its falsehood under NRS 41.660 and NRS 41.637.
3. Whether advertising and selling counterfeit artwork as original artwork constitutes communication made in direct connection with an issue of public interest under Nevada's anti-SLAPP statute.

HOLDINGS

1. A district court's grant or denial of a special motion to dismiss under the 2015 version of NRS 41.660 is reviewed de novo.
2. Coker failed to satisfy the first prong of Nevada's anti-SLAPP analysis because he did not provide evidence that, when he advertised and sold the lithographs as originals, he believed they were original or was unaware of their falsity.
3. Advertising and selling counterfeit artwork as original artwork is not communication made in direct connection with an issue of public interest under NRS 41.660.

KEY QUOTATIONS

“In light of the 2015 legislative change to NRS 41.660, we find it appropriate to adopt California's recitation of the standard of review for a district court's denial or grant of an anti-SLAPP motion to dismiss as de novo.” (at 749)

“We further hold that advertising and selling counterfeit artwork as original work is not in direct connection with an issue of public interest.” (at 751)

FACTUAL BACKGROUND

Marco Sassone, an artist and painter, learned that copies of his artwork were being advertised online as original, signed lithographs, although he contended that he had never produced or sold the works in that medium. Sassone alleged that the works were counterfeit, that his signature was forged, and that the activity was part of a fraudulent scheme. He traced the sales to Darrell Coker and sued under Nevada's Deceptive Trade Practice and RICO statutes. Coker asserted that dissemination of artwork was expressive conduct and a matter of public interest protected by Nevada's anti-SLAPP statute.

PROCEDURAL HISTORY

Sassone sued Coker under Nevada's Deceptive Trade Practice and RICO statutes, alleging that Coker advertised and sold counterfeit lithographs as original, signed works. Coker filed a special motion to dismiss under NRS 41.660. The district court denied the motion, finding that Coker failed to show that his conduct was a truthful communication or was made without knowledge of its falsehood. The Nevada Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- Stubbs v. Strickland, 129 Nev. 146, 150, 297 P.3d 326, 329 (2013)
- John v. Douglas County School District, 125 Nev. 746, 753, 219 P.3d 1276, 1281 (2009)
- Delucchi v. Songer, 133 Nev. 290, 296, 299, 396 P.3d 826, 831, 833 (2017)
- Shapiro v. Welt, 133 Nev. 35, 37-40, 389 P.3d 262, 266-268 (2017)
- Patin v. Lee, 134 Nev. —, 429 P.3d 1248, 1250-51 (2018)
- Park v. Board of Trustees of California State University, 2 Cal. 5th 1057, 217 Cal. Rptr. 3d 130, 393 P.3d 905, 911 (2017)
- Piping Rock Partners, Inc. v. David Lerner Associates, Inc., 946 F. Supp. 2d 957, 968 (N.D. Cal. 2013)
- Maloney v. T3Media, Inc., 853 F.3d 1004, 1009-10 n.3 (9th Cir. 2017)

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