

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

MARY-ANNE COLT,
Appellant,
vs.
RHONDA FORSBERG ATTORNEY,
INC.,
Respondent.

No. 83459-COA

FILED

MAY 27 2022

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY *S. J. J. J.*
DEPUTY CLERK

ORDER OF AFFIRMANCE

Mary-Anne Colt appeals from an order granting summary judgment in a defamation case. Eighth Judicial District Court, Clark County; Michael A. Cherry, Senior Justice.

Colt filed suit against respondent Rhonda Forsberg alleging defamation arising out of Forsberg's statements about Colt and her deceased son during an unrelated custody action, in which Forsberg had been the attorney representing the opposing party. Forsberg filed a motion for summary judgment, asserting that Colt could not demonstrate defamation and, regardless, all of the alleged defamatory statements were made in the context of a judicial proceeding, such that the absolute privilege applied. The district court granted Forsberg's motion, over Colt's opposition, concluding that Colt could not demonstrate defamation and that the absolute privilege applied to bar Colt's claims. This appeal followed.

On appeal, Colt challenges the district court's order granting summary judgment, summarily asserting that genuine issues of material fact remain, that Forsberg acted in bad faith, and that she can demonstrate defamation. This court reviews the district court's decision to grant summary judgment de novo. *Wood v. Safeway, Inc.*, 121 Nev. 724, 729, 121

P.3d 1026, 1029 (2005). Summary judgment is appropriate when there is no genuine issue of material fact, and the movant is entitled to judgment as a matter of law. *Id.* When deciding a summary judgment motion, all evidence must be viewed in a light most favorable to the nonmoving party. *Id.* But general allegations and conclusory statements do not create genuine disputes of fact. *Id.* at 731, 121 P.3d at 1030-31. We likewise review whether the absolute privilege applies de novo. *Jacobs v. Adelson*, 130 Nev. 408, 412, 325 P.3d 1282, 1285 (2014).

“Nevada has long recognized the existence of an absolute privilege for defamatory statements made during the course of judicial and quasi-judicial proceedings.” *Id.* at 412-13, 325 P.3d at 1285. The absolute privilege acts as a complete bar to defamation claims, *id.* at 413, 325 P.3d at 1285, and “precludes liability even where the defamatory statements are published with knowledge of their falsity and personal ill will toward the plaintiff.” *Fink v. Oshins*, 118 Nev. 428, 433, 49 P.3d 640, 643 (2002). The privilege applies to communications made during actual judicial proceedings and those made in contemplation of a judicial proceeding. *Fink*, 118 Nev. at 433, 49 P.3d at 644. And because the privilege has a broad scope, the defamatory communication “need not be strictly relevant to any issue involved in the proposed or pending litigation, it need only be in some way pertinent to the subject of the controversy.” *Id.* (internal quotation marks omitted). Further, courts should resolve any doubt in determining whether the privilege applies in favor of broad application. *Clark Cty. Sch. Dist. v. Virtual Educ. Software, Inc.*, 125 Nev. 374, 382, 213 P.3d 496, 502 (2009).

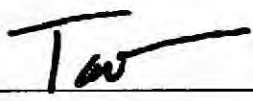
Here, Colt asserts that Forsberg is not entitled to the absolute privilege because Forsberg purportedly acted in bad faith and that the

statements were not true. But as noted above, the absolute privilege does not require a finding of good faith, nor does it require demonstrating the truthfulness of the statements. *See Fink*, 118 Nev. at 433, 49 P.3d at 643. And the record demonstrates that the purportedly defamatory statements were made during litigation, where Forsberg represented the opposing party in Colt's grandparent visitation matter, and were directly pertinent to the subject of that litigation—namely, whether Colt should be afforded custody or visitation of the minor child. Because the statements were made during a judicial proceeding and were pertinent to that matter, the absolute privilege applies as a complete bar to Colt's defamation claim. *See Jacobs*, 130 Nev. at 412-13, 325 P.3d at 1285. Thus, because Colt's defamation claim is completely barred, we discern no error in the district court's grant of summary judgment in favor of Forsberg. *See id.*; *Wood*, 121 Nev. at 729, 121 P.3d at 1029.

Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Chief Judge, Eighth Judicial District Court
Hon. Michael A. Cherry, Senior Justice
Mary-Anne Colt
Rhonda K. Forsberg, Chtd.
Eighth District Court Clerk