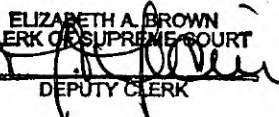


IN THE SUPREME COURT OF THE STATE OF NEVADA

OMAR MAZEGHOU, AN INDIVIDUAL;  
AND NANCY FARLEY, AN  
INDIVIDUAL,  
Appellants,  
vs.  
DESERT INN VILLAS HOMEOWNERS'  
ASSOCIATION, A NEVADA  
NONPROFIT CORPORATION; JARED  
CARLE, AN INDIVIDUAL; FIRST  
COLUMBIA COMMUNITY  
MANAGERS, INC., A NEVADA  
CORPORATION; JASON KELLY, AN  
INDIVIDUAL; AND HOA  
COLLECTIONS, LLC, A NEVADA  
LIMITED LIABILITY COMPANY,  
Respondents.

No. 84218

**FILED**  
AUG 17 2023  
ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY:   
DEPUTY CLERK

*ORDER OF REVERSAL AND REMAND*

This appeal challenges a dismissal order in a torts and breach-of-contract action. Eighth Judicial District Court, Clark County; Jerry A. Wiese, Judge.<sup>1</sup> The underlying dispute arises from appellants Omar Mazeghou's and Nancy Farley's ownership of a property located within a community governed by respondent Desert Inn Villas Homeowners' Association (the HOA). Mazeghou and Farley filed a complaint alleging fifteen claims against respondents (collectively, Desert Inn Villas) related to the HOA recording an assessment lien against their property while Mazeghou was deployed and allegations that certain HOA board members improperly addressed hazardous conditions in the community's common

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<sup>1</sup>Pursuant to NRAP 34(f)(1), we have determined that oral argument is not warranted.

areas. The district court dismissed their complaint under NRS 38.310 because Mazeghou and Farley failed to first submit the matter for mediation or arbitration before the Nevada Real Estate Division (NRED). Mazeghou and Farley now appeal.

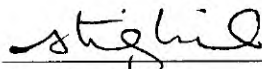
As resolution of this appeal involves analysis of NRS 38.310, our review is de novo. *See Saticoy Bay, LLC, Series 9720 Hitching Rail v. Peccole Ranch Cmty. Ass'n (Hitching Rail)*, 137 Nev. 516, 518, 495 P.3d 492, 495 (2021) (reviewing issues of statutory construction de novo). NRS 38.310 requires parties to attempt alternative dispute resolution as a prerequisite to filing a civil action “based upon a claim relating to . . . [t]he interpretation, application or enforcement of any covenants, conditions or restrictions [CC&Rs] applicable to residential property or any bylaws, rules or regulations adopted by an association”; or “[t]he procedures used for increasing, decreasing or imposing additional assessments upon residential property.” NRS 38.310(1)(a)-(b). It further provides that “if the civil action concerns real estate within a planned community,” such as here, all administrative procedures specified in the CC&Rs must first be exhausted before filing a claim in district court. *Id.*


We have clarified that, under this statute, “a claim does not relate to the CC&Rs unless deciding the claim *requires* interpreting, applying, or enforcing the CC&Rs.” *Hitching Rail*, 137 Nev. at 521, 495 P.3d at 498. “Therefore, only in disputes where the claim itself requires—not where the facts surrounding the claim merely involve—the interpretation, application, or enforcement of CC&Rs, does the claim relate to the CC&Rs for the purposes of NRS 38.310.” *Id.* at 522, 495 P.3d at 498. Claims that do not meet this test may proceed in the court. *Id.* Thus, district courts “must consider whether each claim requires the district court

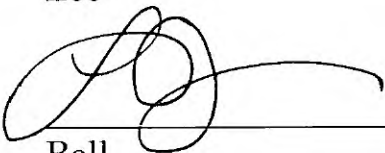
to interpret, apply, or enforce an association's CC&Rs in order to resolve the claim (and, if relevant, whether the claim falls into one of NRS 38.310's exceptions)." *Id.*

Here, the district court did not consider each claim individually to determine whether they fell under NRS 38.310. Instead, the district court broadly found that dismissal was required under NRS 38.310 because "the claims asserted by the Plaintiffs involve the interpretation, application and/or enforcement of the covenants, conditions or restrictions applicable to the residential property at issue." On remand, the district court must determine, after analyzing each claim individually, whether some claims may proceed before it in the first instance. We therefore

ORDER the judgment of the district court REVERSED AND REMAND this matter to the district court for proceedings consistent with this order.

  
\_\_\_\_\_, C.J.  
Stiglich

  
\_\_\_\_\_, J.  
Lee

  
\_\_\_\_\_, J.  
Bell

cc: Hon. Jerry A. Wiese, Chief Judge  
Charles K. Hauser, Settlement Judge  
Nancy Farley  
Omar Mazeghou  
Royal & Miles, LLP  
Leach Kern Gruchow Anderson Song/Las Vegas  
Eighth District Court Clerk