

## Scholarly Commons @ UNLV Boyd Law

---

Nevada Supreme Court Summaries

Law Journals

---

3-14-2024

### Clark County v. 6635 W Oquendo LLC, 140 Nev. Adv. Op. 15 (Mar. 14, 2024)

Alice Samberg

Follow this and additional works at: <https://scholars.law.unlv.edu/nvscs>

---

#### Recommended Citation

Samberg, Alice, "Clark County v. 6635 W Oquendo LLC, 140 Nev. Adv. Op. 15 (Mar. 14, 2024)" (2024).  
*Nevada Supreme Court Summaries*. 1668.  
<https://scholars.law.unlv.edu/nvscs/1668>

This Case Summary is brought to you by the Scholarly Commons @ UNLV Boyd Law, an institutional repository administered by the Wiener-Rogers Law Library at the William S. Boyd School of Law. For more information, please contact [youngwoo.ban@unlv.edu](mailto:youngwoo.ban@unlv.edu).

*Clark County v. 6635 W Oquendo LLC*, 140 Nev. Adv. Op. 15 (Mar. 14, 2024)<sup>1</sup>

A GOVERNMENTAL ENTITY IS NOT A “PERSON” FOR PURPOSES OF NEVADA’S ANTI-SLAPP STATUTE, NRS 41.660. THEREFORE, GOVERNMENTAL ENTITIES CANNOT FILE A MOTION TO DISMISS UNDER THE STATUTE.

### **Summary**

A governmental entity is not a “person” for purposes of NRS 41.660, Nevada’s anti-SLAPP statute, and, therefore, cannot file a special motion to dismiss. Accordingly, the Supreme Court of Nevada affirmed the district court’s order denying Appellant’s special motion to dismiss.

### **Background**

In 2019, Appellant Clark County received a complaint that a residential property owned by Appellee 6635 W Oquendo LLC was being operated as a short-term rental and party house. The Clark County Code Enforcement Department conducted an investigation of the property, upon the completion of which it issued seven civil penalties against Oquendo for violations of the Clark County Code. The civil penalties totaled \$38,350.

Clark County recorded a lien against Oquendo’s property for each of the seven penalties after Oquendo failed to pay. Clark County released the liens after Oquendo paid the penalties in full in early 2021.

In 2022, Oquendo filed the underlying complaint against Clark County, alleging that it lacked the authority to impose civil penalties or record liens against the property. In response, Clark County filed an anti-SLAPP motion, arguing that recording liens against property is protected speech under Nevada’s anti-SLAPP statute.

The district court held a hearing on the motion. It entered an order denying Clark County’s special motion to dismiss on the grounds that Clark County is not a “person” for purposes of the anti-SLAPP statute.

### **Discussion**

*The Supreme Court of Nevada reviews issues of statutory construction de novo.*<sup>2</sup>

NRS 41.660 requires that a “person” bring an anti-SLAPP motion. Oquendo relies on NRS 0.039 to argue that Clark County cannot be considered a “person” under NRS 41.660. NRS 0.039 provides that a “‘person’ means a natural person, any form of business or social organization and any other nongovernmental legal entity...The term does not include a government, governmental agency or political subdivision of a government.”<sup>3</sup>

---

<sup>1</sup> By Alice Samberg.

<sup>2</sup> *Young v. Nev. Gaming Control Bd.*, 136 Nev. 584, 586, 473 P.3d 1034, 1036 (2020).

<sup>3</sup> NEV. REV. STAT. § 0.039 (1985).

Clark County asserted two counterarguments. First, it argued for a waiver of sovereign immunity on behalf of the state and its political subdivisions under NRS 41.031(1). This statute provides that “[t]he State of Nevada hereby waives its immunity from liability and action and hereby consents to have its liability determined in accordance with the same rules of law as are applied to civil actions against natural persons and corporations.”<sup>4</sup>

The court conceded that Clark County’s interpretation of NRS 41.031(1) is plausible. It ultimately disagreed with the argument, however, explaining that the court remains confined to the plain language of NRS 0.039. The definition of “person” contained in NRS 0.039 will apply to the reading of another statute “[e]xcept as otherwise expressly provided in a particular statute or required by the context.”<sup>5</sup>

Here, NRS 41.440 fails to expressly provide that “person” includes governmental entities. Further, NRS 41.660’s context does not require “person” to be interpreted to include governmental entities because it is reasonable to believe that the Legislature intended to exclude governmental entities from bringing anti-SLAPP motions.<sup>6</sup> The Legislature in 1997 expressly stated that anti-SLAPP statutes were enacted to give individual citizens the ability to seek redress from the government for their grievances. Permitting governmental entities to avail themselves of anti-SLAPP protection would contradict this legislative intent.

Clark County’s second counterargument is that this court previously held that governmental entities are entitled to bring anti-SLAPP motions because it permitted a school district to bring an anti-SLAPP motion in *John v. Douglas County School District*. The court disagreed with this argument because *John* did not address the issue of whether a governmental entity is a “person” for the purposes of bringing an anti-SLAPP motion.<sup>7</sup> Instead, it answered whether internal disciplinary measures taken by a school district were communications to a government agency under NRS 41.637(1)-(3).<sup>8</sup> Because this court has not previously addressed the issue considered in the instant case, it rejected Clark County’s second counterargument.

## **Conclusion**

Clark County is not a “person” for purposes of NRS 41.660 and, therefore, is not entitled to bring an anti-SLAPP motion to dismiss. The district court correctly denied Clark County’s motion to dismiss. Accordingly, the Supreme Court of Nevada affirmed the district court’s order.

---

<sup>4</sup> NEV. REV. STAT. § 41.031(1) (2003).

<sup>5</sup> NEV. REV. STAT. § 0.039 (1985).

<sup>6</sup> *Simonian v. Univ. & Cmty. Coll. Sys. of Nev.*, 122 Nev. 187, 191, 128 P.3d 1057, 1059–60 (2006).

<sup>7</sup> *John v. Douglas County School District*, 125 Nev. 746, 760–61, 219 P.3d 1276, 1286 (2009).

<sup>8</sup> *See id.* at 761–612, 219 P.3d at 1286–87.