

IN THE SUPREME COURT OF THE STATE OF NEVADA

MICHAEL BRANNAN,
Appellant,
vs.
LYNBROOK MASTER ASSOCIATION, A
NON-PROFIT CORPORATION; RMI
MANAGEMENT, LLC, A/K/A REALTY
MANAGEMENT INCORPORATED, A
NEVADA LIMITED LIABILITY COMPANY;
LISA HOLMES; AND DONNA
WHISENHUNT,
Respondents.

No. 47064

FILED

JUL 17 2007

WANNETTE M. BLOOM
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a proper person appeal from a post-judgment order denying attorney fees and costs in a dispute over homeowners' association rules. Eighth Judicial District Court, Clark County; Elizabeth Goff Gonzalez, Judge.

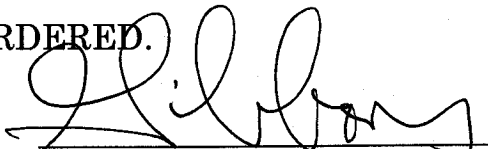
We will not disturb on appeal a district court's attorney fee order unless the court has manifestly abused its discretion.¹ Here, the district court's order denying both parties attorney fees and costs states that "neither party was the prevailing party in this case." The record shows that, while appellant prevailed on one count of his amended complaint, his other four counts and request for punitive damages were dismissed by the district court, his claims against respondents Lisa Holmes and Donna Whisenhunt were also dismissed, and he was not awarded any monetary damages.

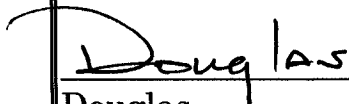
¹United Ins. Co. v. Chapman Indus., 120 Nev. 745, 748, 100 P.3d 664, 667 (2004); Glenbrook Homeowners v. Glenbrook Co., 111 Nev. 909, 922, 901 P.2d 132, 141 (1995).

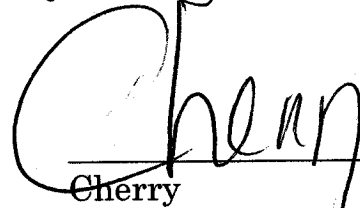
Although appellant was allowed to retain his shed, he did not prevail on most issues and received no monetary damages,² and thus, the district court did not abuse its discretion in determining that he was not a prevailing party for purposes of an award of attorney fees and costs under NRS 18.010(2) and NRS 18.020.³

Moreover, with respect to appellant's arguments that attorney fees should have been awarded to him under the homeowners' association's declaration of covenants, conditions, and restrictions and NRS 115.4117, this court will not consider the new arguments raised by appellant for the first time on appeal.⁴ Accordingly, we affirm the district court's order denying attorney fees and costs.

It is so ORDERED.


_____, J.
Gibbons


_____, J.
Douglas


_____, J.
Cherry

²See Smith v. Crown Financial Services, 111 Nev. 277, 285, 890 P.2d 769, 774 (1995) (holding that attorney fees under NRS 18.010(2) cannot be awarded when a party did not recover a money judgment); Thomas v. City of Las Vegas, 122 Nev. 82, 127 P.3d 1057 (2006) (declining to overrule Crown Financial).

³Glenbrook, 111 Nev. at 922, 901 P.2d at 141 (holding that the district court did not abuse its discretion in denying attorney fees when each party won on some issues and lost on others).

⁴Diamond Enters., Inc. v. Lau, 113 Nev. 1376, 1378, 951 P.2d 73, 74 (1997) (stating that "arguments raised for the first time on appeal need not be considered by this court"); Singer v. Chase Manhattan Bank, 111 Nev. 289, 292, 890 P.2d 1305, 1307 (1995) (rejecting an argument first raised in the reply brief and not raised before the district court).

cc: Hon. Elizabeth Goff Gonzalez, District Judge
William F. Buchanan, Settlement Judge
Michael Brannan
Wolf, Rifkin, Shapiro & Schulman, LLP
Eighth District Court Clerk