


IN THE SUPREME COURT OF THE STATE OF NEVADA

LARRY RAY EAMES, TRUST
SETTLOR,
Appellant,
vs.
DON CAVALLO,
Respondent.

No. 47681

FILED

JAN 15 2008

TRACEE K. LINDEMAN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF REVERSAL

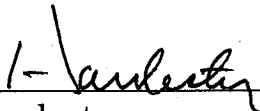
This is an appeal from a post-judgment order awarding attorney fees under NRCP 68 and NRS 17.115. Second Judicial District Court, Washoe County; Brent T. Adams, Judge.

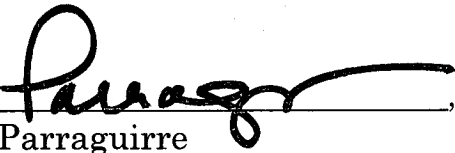
Having reviewed the parties' briefs and appendices, we conclude that the district court abused its discretion in awarding attorney fees to respondent in light of our holding in Collins v. Murphy.¹ In Collins, we vacated an attorney fee award under NRS 18.010(2)(a) because the motion for attorney fees was filed after the time to appeal had already run. We noted that the appellants' decision whether to appeal would have been impacted by the possibility of being held responsible for several thousand dollars in attorney fees. Here, while respondent filed his motion before the time to appeal ran, the motion was not served upon appellant until well after the appeal time had expired. Respondent states only that the motion was not served out of "inadvertence." The crux of Collins is that an attorney fee award is improper if the party seeking fees failed to provide notice to the other side that fees would be sought in time for that fact to be

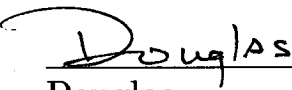
¹113 Nev. 1380, 951 P.2d 598 (1997).

considered in deciding whether to appeal from the underlying judgment. Here, appellant was not given such notice, and thus the attorney fee award cannot stand. Accordingly, we

ORDER the district court's attorney fee award REVERSED.


_____, J.
Hardesty


_____, J.
Parraguirre


_____, J.
Douglas

cc: Hon. Brent T. Adams, District Judge
Lester H. Berkson, Settlement Judge
Glade L. Hall
Michael A. Rosenauer
Washoe District Court Clerk