

IN THE SUPREME COURT OF THE STATE OF NEVADA

JAY E. LONGSINE,
Appellant,
vs.
CHARLES MOORE AND DONNA
MOORE,
Respondents.

No. 49004

FILED

APR 25 2008

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a post-judgment district court order awarding attorney fees and costs, following a prior remand by this court.¹ Eighth Judicial District Court, Clark County; Valorie Vega, Judge.

Following a judgment on a jury verdict in the underlying personal injury action, the district court awarded attorney fees and costs to respondent Donna Moore. In a previous appeal, we vacated this award

¹Pursuant to NRAP 34(f)(1), we have determined that oral argument is not warranted in this appeal.

and remanded the matter for further consideration.² The district court entered an amended order after remand, and this appeal followed.³

A prevailing party is entitled to an award of costs under NRS 18.020, and we review the district court's award of costs for an abuse of discretion.⁴ Here, upon remand, the district court properly deducted costs attributable solely to Charles Moore. We therefore perceive no abuse of discretion in the district court's revised cost award.

Similarly, a district court's award of attorney fees, provided that such an award is permitted by contract, rule, or statute, will not be disturbed absent an abuse of discretion.⁵ Here, an attorney fee award to Donna was appropriate under NRS 18.010(2)(a), since she recovered less than \$20,000. Also, as directed in our remand order, the district court explicitly considered the Brunzell factors⁶ in modifying the attorney fees

²Moore v. Longsine, Docket No. 42651 (Order Affirming in Part, Vacating in Part, and Remanding, September 29, 2006).

³In the answering brief, respondent Charles Moore asserts that, applying our decision in McCrary v. Bianco, 122 Nev. 102, 131 P.3d 573 (2006), he obtained a more favorable recovery than appellant's offer of judgment, and thus appellant was not entitled to attorney fees and costs. But Charles did not file a notice of cross-appeal, and thus we lack jurisdiction to consider his argument.

⁴Bobby Berosini, Ltd. v. PETA, 114 Nev. 1348, 1352, 971 P.2d 383, 385 (1998).

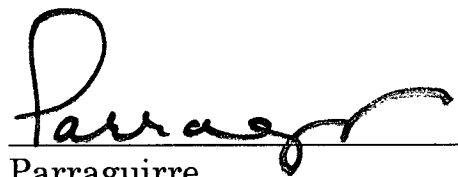
⁵Kahn v. Morse & Mowbray, 121 Nev. 464, 479, 117 P.3d 227, 238 (2005).

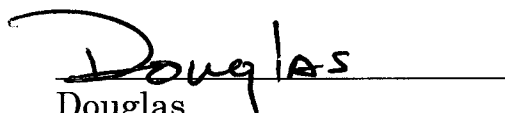
⁶See Brunzell v. Golden Gate Nat'l Bank, 85 Nev. 345, 349, 455 P.2d 31, 33 (1969).

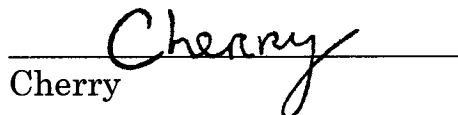
award. Thus, we are not persuaded that the district court abused its discretion.

Accordingly, as the district court's attorney fee and costs award was not an abuse of discretion, we

ORDER the district court's order awarding attorney fees and costs AFFIRMED.


Parraguirre, J.


Douglas, J.


Cherry, J.

cc: Hon. Valorie Vega, District Judge
Nathaniel J. Reed, Settlement Judge
Ellsworth Moody & Bennion Chtd
Victor Lee Miller
Eighth District Court Clerk