

IN THE SUPREME COURT OF THE STATE OF NEVADA

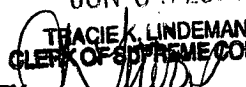
KAREN SHULMAN,
Appellant,

vs.

THE TUSCAN CLIFFS, LP, A NEVADA
LIMITED PARTNERSHIP; PACIFIC
SOUTHWEST INVESTMENTS, A
NEVADA CORPORATION; PACIFIC
SOUTHWEST HOLDING COMPANY;
INSURANCE COMPANY OF THE WEST,
IN RELATION TO CONTRACTOR'S
LICENSE BOND NO. 2134328; RONALD R.
EVANS, AN INDIVIDUAL; AND
GERALDINE A. EVANS, AN INDIVIDUAL,
Respondents.

No. 50211

FILED

JUN 03 2009
THACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER OF AFFIRMANCE

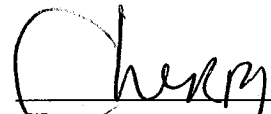
This is an appeal from a district court order imposing sanctions in a breach of contract action. Eighth Judicial District Court, Clark County; Valorie Vega, Judge.

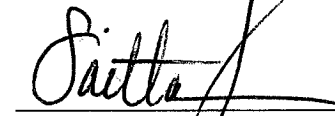
Appellant Karen Shulman argues that the district court improperly imposed sanctions against her pursuant to NRCP 11. Ms. Shulman maintains that her claim for declaratory relief challenging the enforceability of the arbitration provision in the contract between the parties was not frivolous, and thus, did not warrant the imposition of sanctions because that claim was well-grounded in fact, and her attorney made a reasonable and competent inquiry.


The district court's decision to award NRCP 11 sanctions is reviewed under an abuse of discretion standard. Bergmann v. Boyce, 109 Nev. 670, 676, 856 P.2d 560, 564 (1993). A frivolous claim is one that is "both baseless, and made without a reasonable and competent inquiry."

Id. We apply a two-tiered test in determining whether a claim is frivolous. First, we consider whether the pleading is sufficiently based in fact and is justified by current law or a “good faith argument for the extension, modification or reversal of existing law.” Id. Then, we consider whether counsel made a “reasonable and competent inquiry.” Id. Having reviewed the parties’ briefs and the record below in light of this standard, we conclude that the district court did not abuse its discretion by imposing sanctions against Ms. Shulman in this matter. Accordingly, we

ORDER the judgment of the district court AFFIRMED.¹


_____, J.
Cherry


_____, J.
Saitta


_____, J.
Gibbons

cc: Hon. Valorie Vega, District Judge
Carolyn Worrell, Settlement Judge
McCullough, Perez & Associates, Ltd.
Hutchison & Steffen, LLC
Eighth District Court Clerk

¹Having considered Ms. Shulman’s remaining arguments on appeal, we conclude that they lack merit.