

IN THE SUPREME COURT OF THE STATE OF NEVADA

GREGORY O. GARMONG,
Appellant,
vs.
SILVERMAN, DECARIA &
KATTELMAN, CHTD.,
Respondent.

No. 52012

FILED

NOV 10 2010

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
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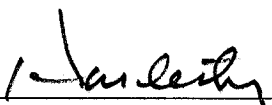
ORDER GRANTING REHEARING, VACATING PREVIOUS ORDER
IN PART, AND REVERSING AND REMANDING

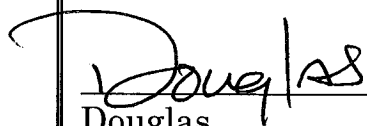
This is an appeal from a district court order adjudicating an attorney's lien. On July 20, 2010, this court affirmed the district court's order. Appellant thereafter filed a petition for rehearing. We directed respondent to file an answer to the petition for rehearing, limited to the issue of whether sufficient evidence was presented to the district court in support of the motion to adjudicate the attorney's lien. Respondent failed to file an answer. We construe respondent's failure to file an answer as a confession of error, cf. NRAP 31(d); State of Rhode Island v. Prins, 96 Nev. 565, 613 P.2d 408 (1980) (explaining that this court may treat a respondent's failure to file an answering brief as a confession of error), and determine that rehearing is warranted. Accordingly, rehearing is granted. NRAP 40(c). We conclude that additional argument or briefing is not necessary. NRAP 40(e).

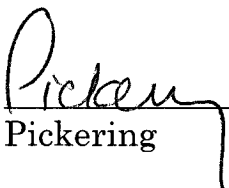
In moving for the district court to adjudicate its attorney's lien, respondent submitted only an affidavit from an attorney who represented appellant and a copy of appellant's retainer agreement with respondent. Neither the affidavit in support of the attorney's lien nor the retainer agreement contained any discussion of the qualities of appellant's attorney, the character of the work done, the work actually performed, or

the result obtained in the proceeding. Moreover, respondent did not submit to the district court any billing records or any other evidence in support of the reasonableness of the fee. Accordingly, we conclude that the district court abused its discretion because it does not appear from the appellate record that the district court considered the Brunzell factors in determining the fee's reasonableness. See Brunzell v. Golden Gate Nat'l Bank, 85 Nev. 345, 349-50, 455 P.2d 31, 33 (1969) (identifying the factors to be considered in determining the reasonableness of an attorney fee); see also Shuette v. Beazer Homes Holdings Corp., 121 Nev. 837, 865, 124 P.3d 530, 549 (2005) (reiterating that the district court must analyze attorney fee requests by considering the Brunzell factors and "provide[] sufficient reasoning and findings in support of its ultimate determination"); Collins v. Murphy, 113 Nev. 1380, 1383, 951 P.2d 598, 600 (1997) (explaining that we review an award of attorney fees for an abuse of discretion, which occurs when the district court ignores applicable legal principles without apparent justification). Accordingly, we reverse the district court's order adjudicating respondent's attorney's lien and remand this matter to the district court for further proceedings consistent with this order.

It is so ORDERED.


_____, J.
Hardesty


_____, J.
Douglas


_____, J.
Pickering

cc: Hon. Michael P. Gibbons, District Judge
Les W. Bradshaw
Lemons, Grundy & Eisenberg
Douglas County Clerk