IN THE SUPREME COURT OF THE STATE OF NEVADA

SERENA ALLEN, Appellant, vs. HEATHER NELSON AND ALLIED INSURANCE COMPANY, Respondents.	No. 52632
SERENA ALLEN, Appellant, vs. HEATHER NELSON, Respondent.	No. 52926

ORDER AFFIRMING IN PART AND REVERSING IN PART (DOCKET NO. 52632) AND ORDER DISMISSING APPEAL (DOCKET NO. 52926)

These are consolidated appeals from a district court summary judgment in a tort action and an interlocutory order awarding attorney fees and costs. Eighth Judicial District Court, Clark County; Timothy C. Williams, Judge.

Jurisdiction issues

Having reviewed the documents before this court, we perceive a jurisdictional defect. Specifically, the November 7, 2008, order awarding attorney fees and costs challenged, in Docket No. 52926, is an interlocutory order and cannot be independently appealed, although it may be challenged as part of the appeal from the final judgment. Consolidated Generator v. Cummins Engine, 114 Nev. 1304, 1312, 971 P.2d 125, 1256 (1998). The November 25, 2008, summary judgment, being challenged in Docket No. 52632, operated as the final judgment in the

underlying action because it resolved all claims against all parties and leaves nothing further for the district court to determine. Lee v. GNLV Corp., 116 Nev. 424, 426, 996 P.2d 416, 417 (2000). Accordingly, we dismiss the appeal in Docket No. 52926 for lack of jurisdiction and will instead consider appellant Serena Allen's challenge to the November 7 order as part of the appeal pending in Docket No. 52632.

We note further that in Docket No. 52926, Allen challenges two November 16, 2009, orders purporting to enter findings of fact in support of a September 15, 2008, interlocutory summary judgment and the November 7, 2008, attorney fees and costs orders entered in favor of respondent Heather Nelson. These orders, however, were entered after Allen's December 23, 2008, notice of appeal from the November 25, 2008, final judgment was filed in the district court. Since both the September 15 and the November 7 orders are directly before this court in the context of Allen's appeal from the final judgment, the district court was divested of jurisdiction to act with regard to these interlocutory orders. Mack-Manley v. Manley, 122 Nev. 849, 855, 138 P.3d 525, 529-30 (2006). Therefore, both November 16, 2009, orders are void and Allen's appeal from those orders must be dismissed. Because the November 16 orders are void, we do not consider them or the findings contained therein in resolving Allen's appeal.

Summary judgment

As for Allen's challenge to the district court summary judgments in favor of respondents and the order awarding attorney fees and costs, we begin our review with the summary judgments. Summary judgment is appropriate when there is no genuine issue of material fact and the moving party is entitled to a judgment as a matter of law. Wood

v. Safeway, Inc., 121 Nev. 724, 729, 121 P.3d 1026, 1029 (2005). Here, Allen failed to respond within 30 days, as required by NRCP 36(a), to the separate requests for admission served on her by respondents Nelson and Allied Insurance Company. As a result, the items contained in the requests for admissions were deemed admitted. NRCP 36(a).

On appeal, Allen argues that her failure to comply with NRCP 36 should be excused based on the fact that her counsel had withdrawn and she was proceeding in proper person. We find this contention to be wholly without merit. The fact that a party is proceeding in proper person does not excuse that party's failure to comply with applicable court rules. See Lombardi v. Citizens National Trust & Savings Bank, 289 P.2d 823 (Cal. Ct. App. 1956). Moreover, the record indicates that Allen never informed the district court that she was having problems retaining substitute counsel and, even after respondents moved for summary judgment, Allen never sought to withdraw or amend her admissions under NRCP 36(b).

This court has held that admissions deemed admitted under these circumstances may properly serve as the basis for summary judgment against a party who failed to timely respond to the request for admissions. Wagner v. Carex Investigations & Sec., 93 Nev. 627, 631-32, 572 P.2d 921, 923-24 (1977). Based on Allen's admissions, no genuine issues of fact remained, see NRCP 36(b) (providing that "[a]ny matter admitted under this rule is conclusively established"), and thus, we find no

error in the district court's grant of summary judgment in respondents' favor.[1] Wood, 121 Nev. at 729, 121 P.3d at 1029.

Attorney fees and costs

With regard to the attorney fees and costs award, we begin by addressing the portion of the district court's order that awards fees to Nelson. This court reviews a district court's award of attorney fees for an abuse of discretion. Beattie v. Thomas, 99 Nev. 579, 589, 668 P.2d 268, 274 (1983). In evaluating the reasonableness of a request for attorney fees, the district court is required to consider the factors set forth in this court's decision in Brunzell v. Golden Gate National Bank, 85 Nev. 345, 349-50, 455 P.2d 31, 33 (1969). Shuette v. Beazer Homes Holdings Corp., 121 Nev. 837, 865, 124 P.3d 530, 549 (2005).

In responding to Allen's appellate arguments, Nelson concedes, and the record reflects, that she did not present or otherwise discuss the Brunzell factors in her motion for attorney fees and costs. Moreover, in responding to Allen's appellate contentions, Nelson does not assert that the district court otherwise considered those factors. And as Allen points out, the district court's November 7 order summarily awards

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[1]We do not consider Allen's argument that Nelson's admission requests sought improper information, as she raises this argument for the first time on appeal. Canyon Villas v. State, Tax Comm'n, 124 Nev. 832, 845 n.27, 192 P.3d 746, 754-55 n.27 (2008). Similarly, although Allen's opening brief notes that NRCP 56(c) requires summary judgment orders to "set forth the undisputed material facts and legal determinations" on which summary judgment is granted, her opening brief contains no argument that the district court failed to comply with this rule. This argument is made, for the first time, in her reply brief. Because she failed to raise this argument until her reply brief, we do not consider it. Liggett v. State Indus. Ins. System, 99 Nev. 262, 264, 661 P.2d 882, 883 (1983).

attorney fees to Nelson without any discussion or analysis. Accordingly, as the district court apparently failed to consider the Brunzell factors in awarding attorney fees to Nelson, we conclude that it abused its discretion and therefore reverse the award of attorney fees.[2]

As for the award of costs, NRS 18.020 requires costs to be awarded to the prevailing party in an action for recovery of money or damages in excess of $2,500, as in this case. We review the district court's award of allowable costs for an abuse of discretion. NRS 18.005; Bobby Berosini, Ltd. v. PETA, 114 Nev. 1348, 1355, 971 P.2d 383, 387 (1998). In her opening brief, Allen baldly states, without explanation or analysis, that the award of costs was an abuse of discretion. This court has held, however, that we will not consider arguments not supported by citation to and analysis of salient authority. Edwards v. Emperor's Garden Rest., 122 Nev. 317, 330 n.38, 130 P.3d 1280, 1288 n.38 (2006). Allen then asserts that the award of costs was improper based on her argument that the grant of summary judgment was likewise improper, an argument we reject as meritless in light of our conclusion that summary judgment was properly granted in Nelson's favor. Although Allen does provide specific arguments regarding the propriety of the costs award in her reply brief,

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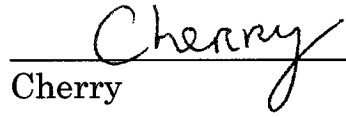
[2]We note that Allen failed to provide this court with a copy of the transcript of the October 28, 2008, hearing on Nelson's motion for attorney fees. It is appellant's duty to present a complete record on appeal, and ordinarily, we presume that matters not in the record support the district court's decision. Cuzze v. Univ. & Cmty. Coll. Sys. of Nev., 123 Nev. 598, 603, 172 P.3d 131, 135 (2007). We make no such presumption here, however, as Nelson concedes that her motion did not address the Brunzell factors and does not otherwise assert that the district court considered the appropriate factors.

we decline to consider those arguments, as they were not raised in her opening brief. Liggett v. State Indus. Ins. System, 99 Nev. 262, 264, 661 P.2d 882, 883 (1983). Accordingly, finding no abuse of discretion, we affirm the district court's award of costs to Nelson.

CONCLUSION

For the reasons set forth above, we affirm the district court's grant of summary judgment to Nelson and Allied and its award of costs to Nelson, but reverse the award of attorney fees to Nelson.

It is so ORDERED.



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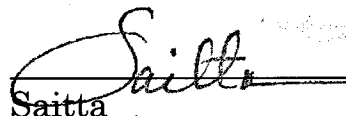

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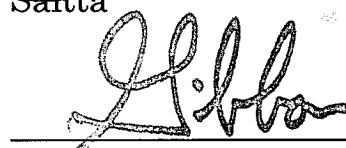

_____, J.
Gibbons

cc: Hon. Timothy C. Williams, District Judge
Janet Trost, Settlement Judge
Christiansen Law Offices
McCormick, Barstow, Sheppard, Wayte & Carruth, LLP/Las Vegas
Schuetze & McGaha, P.C.
Eighth District Court Clerk