

IN THE SUPREME COURT OF THE STATE OF NEVADA

KENNETH SEAL,
Appellant,

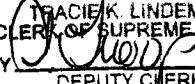
vs.

CAMPING WORLD, INC., D/B/A
CAMPING WORLD, A KENTUCKY
CORPORATION,
Respondent.

No. 53200

FILED

SEP 14 2010

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a district court judgment entered on a jury verdict in a tort action. Eighth Judicial District Court, Clark County; Jackie Glass, Judge.

This appeal involves a district court complaint filed by appellant Kenneth Seal regarding the installation of a toilet system in his recreational motor vehicle. Respondent Camping World, Inc. presented Seal with a \$25,000 offer of judgment to settle the matter. Seal turned down that offer and the matter proceeded to mandatory non binding arbitration, with the arbitrator awarding Seal \$24,267.34. Seal thereafter requested a trial de novo, and a short trial jury awarded him \$16,205.32. Camping World requested attorney fees and costs based on Seal's rejection of the offer of judgment and subsequent failure to recover at trial an amount greater than its offer. The short trial judge subsequently entered an order awarding Camping World \$13,089.68 in attorney fees and \$3,899.79 in costs. The district court thereafter entered judgment on the short trial jury verdict and attorney fees and costs award. This appealed followed.

On appeal, Seal argues that it was an abuse of discretion to enter the attorney fees and costs award without addressing the factors set

forth in Beattie v. Thomas, 99 Nev. 579, 588-89, 668 P.2d 268, 274 (1983), and that the jury verdict was not supported by substantial evidence. Camping World disagrees.¹

We reject Seal's Beattie factors argument, as the failure to enumerate those factors is not a per se abuse of discretion, Wynn v. Smith, 117 Nev. 6, 13, 16 P.3d 424, 428-29 (2001), and, from our review of the record, the Beattie factors were presented in the relevant motions and Seal has failed to demonstrate that they were not considered. Additionally, having reviewed the record, including the trial transcript, we conclude that the jury verdict is supported by substantial evidence. Prabhu v. Levine, 112 Nev. 1538, 1543, 930 P.2d 103, 107 (1996) (explaining that a jury's verdict will be upheld if it is supported by substantial evidence). Accordingly, finding Seal's appellate arguments to lack merit, we

ORDER the judgment of the district court AFFIRMED.

Hardesty, J.
Hardesty

Douglas, J.
Douglas

Pickering, J.
Pickering

¹Seal's argument that the attorney fees and costs award and motions in limine were never filed in the district court, and thus, are not properly part of the appellate record and should be construed against Camping World is utterly devoid of merit, as these documents were, in fact, filed in the district court pursuant to NRAP 10(c) and are therefore properly before this court to review on appeal.

cc: Hon. Jackie Glass, District Judge
William F. Buchanan, Settlement Judge
Ciciliano & Associates, LLC
Rocheleau Law Group, P.C.
Lincoln, Gustafson & Cercos
Eighth District Court Clerk