

IN THE SUPREME COURT OF THE STATE OF NEVADA

KEMAL FEDIL,  
Appellant,  
vs.  
ASKELE AYALEW,  
Respondent.

No. 54259

**FILED**

DEC 09 2010

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY [Signature]  
DEPUTY CLERK

ORDER AFFIRMING IN PART,  
REVERSING IN PART, AND REMANDING

This is an appeal from a district court order denying appellant's motion to modify his child support obligation and awarding attorney fees.<sup>1</sup> Eighth Judicial District Court, Family Court Division, Clark County; William G. Henderson, Judge.

Following a hearing on appellant's motion to modify child support, the district court denied appellant's motion and granted respondent's countermotion for attorney fees. This appeal followed.

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<sup>1</sup>We do not consider appellant's challenge to the denial of his motion to modify child support, as appellant failed to make his appellate arguments first in the district court. See Diamond Enters., Inc. v. Lau, 113 Nev. 1376, 1378, 951 P.2d 73, 74 (1997) (stating that an argument made for the first time on appeal is waived). We note that the arguments made by appellant in the district court were not renewed on appeal, and thus, we do not consider those arguments. Cf. Edwards v. Emperor's Garden Rest., 122 Nev. 317, 330 n.38, 130 P.3d 1280, 1288 n.38 (2006) (providing that this court need not address arguments raised on appeal when the party fails to provide supporting authority).

Appellant contends that the district court abused its discretion by awarding attorney fees because it failed to state a basis for the attorney fees award, and even if the award is based on NRS 18.010, such an award is improper without recovering a money judgment. Respondent argues that NRS 18.010 is an appropriate basis to award attorney fees for frivolous motions. Having considered the parties' arguments, we conclude that the district court did not abuse its discretion in awarding attorney fees. Miller v. Wilfong, 121 Nev. 619, 622, 119 P.3d 727, 729 (2005) (providing that an award of attorney fees is reviewed for an abuse of discretion). Here, while the district court did not state a basis for the attorney fees award, respondent requested attorney fees only under NRS 18.010(2)(b), and the district court made findings to support an award of attorney fees under that statute. Therefore, we affirm the district court's decision to award attorney fees.

While the district court appropriately exercised its discretion in awarding attorney fees, we conclude that the district court abused its discretion in the amount of attorney fees that it awarded. See Miller, 121 Nev. at 623, 119 P.3d at 730 (requiring the district courts to determine whether the amount of attorney fees is reasonable by evaluating the Brunzell factors); Brunzell v. Golden Gate Nat'l Bank, 85 Nev. 345, 349-50, 455 P.2d 31, 33 (1969). Here, it does not appear from the appellate record that the district court considered the Brunzell factors in determining the fee's reasonableness. Moreover, the amount of attorney fees is questionable when at a February hearing during which the parties' negotiated and settled appellant's child support obligation, which allowed entry of the district court's divorce decree, the district court awarded respondent \$750 in attorney fees. At the April hearing addressing

appellant's motion to modify child support, the district court then awarded respondent \$2,000 in attorney fees. The district court's basis for its decision that the award of attorney fees was reasonable is, thus, unclear from the district court's order or the record on appeal. Therefore, we reverse and remand the portion of the district court's order as it relates to the award of attorney fees to determine a reasonable amount of attorney fees.

Accordingly, as we determine that no abuse of discretion occurred when the district court awarded attorney fees and that the district court abused its discretion in the amount of attorney fees awarded, we

ORDER the judgment of the district court AFFIRMED IN PART AND REVERSED IN PART AND REMAND this matter to the district court for proceedings consistent with this order.

Cherry, J.  
Cherry

Saitta, J.  
Saitta

Gibbons, J.  
Gibbons

cc: Hon. William G. Henderson, District Judge, Family Court Division  
Carolyn Worrell, Settlement Judge  
Cuthbert E.A. Mack  
Carol A. Menninger  
Eighth District Court Clerk