

IN THE SUPREME COURT OF THE STATE OF NEVADA

GARY M. NASEEF, AN INDIVIDUAL,  
Appellant,  
vs.  
COUNTY OF CLARK, A POLITICAL  
SUBDIVISION OF THE STATE OF  
NEVADA, AND COUNTY OF CLARK  
DEPARTMENT OF AVIATION,  
Respondents.

No. 34947

**FILED**

**MAY 15 2002**

JANEITE M. BLOOM  
CLERK OF SUPREME COURT  
BY *J. Richards*  
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a proper person appeal from an order granting attorney fees and costs based on an offer of judgment pursuant to NRS 17.115(4) and NRCP 68(f).<sup>1</sup> Appellant Gary Naseef ("Naseef") and Las Vegas Gourmet Coffee Company, Inc. ("LVGCC") filed a third-party complaint against the respondents alleging numerous contract and tort causes of action. The respondents made a \$25,000.00 offer of judgment, which Naseef and LVGCC rejected. A jury found in favor of the respondents on all claims, and the respondents moved for attorney fees and costs based on the offer of judgment.

The district court granted the respondents' motion for attorney fees and costs. Naseef and LVGCC filed an appeal from this order. Because LVGCC failed to comply with court orders or otherwise contact the court, we dismissed its appeal as abandoned and allowed Naseef to proceed in proper person.


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<sup>1</sup>We previously dismissed all other portions of this appeal for lack of jurisdiction. The order granting attorney fees constitutes a special order made after final judgment. See NRAP 3A(b)(2). As Naseef timely appealed this order under NRAP 4(a)(1), we have jurisdiction in this limited respect.


In considering a motion for attorney fees and costs under NRS 17.115(4) and NRCP 68(f), the district court must balance the factors set forth in Beattie v. Thomas.<sup>2</sup> Because this balancing is fact-intensive, we review for an abuse of discretion.<sup>3</sup> Here, the motion for fees analyzed the claim under Beattie. Accordingly, our review of the record indicates that the district court considered all of the Beattie factors, and we conclude that it did not abuse its discretion.

We also note that Naseef did not oppose the respondents' motion. Under DCR 13(3), the district court had the option to treat Naseef's failure to oppose as consent to the district court's granting the motion.<sup>4</sup> We conclude that that the district court did not err in its order and accordingly

ORDER the judgment of the district court AFFIRMED.

  
\_\_\_\_\_, C. J.  
Maupin

  
\_\_\_\_\_, J.  
Agosti

  
\_\_\_\_\_, J.  
Leavitt

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<sup>2</sup>99 Nev. 579, 588-89, 668 P.2d 268, 274 (1983).

<sup>3</sup>Wynn v. Swith, 117 Nev. \_\_\_, \_\_\_, 16 P.3d 424, 428 (2001).

<sup>4</sup>See Walls v. Brewster, 112 Nev. 175, 178, 912 P.2d 261, 263 (1996) (quoting DCR 13(3)).

cc: Hon. Michael A. Cherry, District Judge  
Gary M. Naseef  
Clark County District Attorney  
Beckley, Singleton, Chtd./Las Vegas  
Clark County District Attorney/Civil Division  
Pyatt & Silvestri  
Clark County Clerk