

IN THE SUPREME COURT OF THE STATE OF NEVADA

INTERNATIONAL RECOVERY SYSTEMS,
LTD., D/B/A NATIONAL RECOVERY
SYSTEMS, A FOREIGN CORPORATION,

Appellant,

vs.

DAVID SHEINFELD,

Respondent.

No. 35184

FILED

MAY 21 2001

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. Reback*
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a final judgment in an action for the breach of an assignment agreement.

On appeal, appellant, International Recovery Systems, contends that the district court order should be reversed because the district court judge was biased against International Recovery Systems and because the district court erred in: (1) excluding parol evidence relevant to the contracting parties' intent, (2) awarding respondent, David Sheinfeld, excessive photocopying and travel costs and interest on these costs, (3) awarding Sheinfeld fees incurred in attempting to enforce a default judgment, and (4) awarding Sheinfeld consequential damages that were neither foreseeable nor reasonable. Because we conclude that all of these contentions lack merit, we affirm the district court's judgment.

First, International Recovery Systems argues that District Judge Valorie Vega was personally biased against International Recovery Systems because she was pressured by another judge to rule in Sheinfeld's favor. A claim is groundless if it contains allegations unsupported by credible

discovery.⁶ Prejudgment interest on damages accrues from the time the damages are actually sustained.⁷

Sheinfeld submitted a detailed accounting of all his expenses, including photocopying and travel, to the district court. We conclude that the district court did not abuse its discretion in awarding these costs because they were reasonable, appropriate, and not excessive. We also note that the record shows that the district court appropriately awarded interest on damages, and not on costs as International Recovery Systems alleged.

Fourth, International Recovery Systems contends that its assignment contract with Sheinfeld expressly shifted all expenses related to enforcing the default judgment after the assignment on to Sheinfeld. Therefore, International Recovery Systems argues that the district court erred by awarding Sheinfeld fees incurred in attempting to enforce the default judgment.

Any promise made by the seller to the buyer that relates to the goods and becomes part of the basis of the bargain creates an express warranty that the goods shall conform to that promise.⁸ In construing a clause of a contract, the contract must be considered in its entirety so that all clauses harmonize with one another.⁹ The district court may grant consequential damages for breach of an express warranty.¹⁰

⁶NRS 18.005(12), (15).

⁷See *Gibellini v. Klindt*, 110 Nev. 1201, 1209, 885 P.2d 540, 545 (1994).

⁸NRS 104.2313(1)(a).

⁹See *National Union Fire Ins. v. Reno's Exec. Air*, 100 Nev. 360, 364, 682 P.2d 1380, 1383 (1984).

¹⁰See *Central Bit Supply v. Waldrop Drilling*, 102 Nev. 139, 141, 717 P.2d 35, 37 (1986).

The assignment contract contained an express warranty that International Recovery Systems assigned a valid default judgment to Sheinfeld. The warranty clause, when considered in conjunction with the expense-shifting clause of the assignment contract, limited expense shifting to costs associated with enforcing a valid default judgment. However, because International Recovery Systems breached the express warranty as to the validity of the default judgment, costs incurred by Sheinfeld in attempting to enforce the invalid default judgment were excluded from the expense-shifting clause. Moreover, such enforcement costs were foreseeable consequential damages of assigning an invalid default judgment under the parties' assignment contract. Thus, the district court did not abuse its discretion in awarding Sheinfeld fees that he incurred in attempting to enforce the default judgment.

Finally, International Recovery Systems argues that the district court erred by awarding Sheinfeld attorney fees after the default judgment was declared invalid in California because these fees were not consequential or foreseeable damages. Contract damages are intended to place the nonbreaching party in as good a position as if the contract had been performed as promised.¹¹


We conclude that the district court did not abuse its discretion in awarding attorney fees to Sheinfeld after the default judgment was declared invalid because the district court properly determined that International Recovery Systems had made an express warranty that the default judgment was valid. Thus, the district court also properly determined that

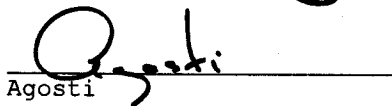
¹¹Colorado Environments v. Valley Grading, 105 Nev. 464, 470, 779 P.2d 80, 84 (1989).

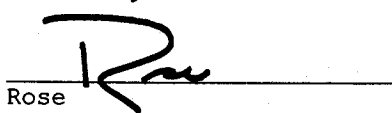
any expenses that Sheinfeld incurred as a result of the default judgment being invalid were consequential or foreseeable damages because they put Sheinfeld in as good a position as if the contract had been performed as warranted.

Having considered International Recovery Systems' arguments on appeal and concluded that they lack merit, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Shearing


_____, J.
Agosti


_____, J.
Rose

cc: Hon. Valorie Vega, District Judge
Robert K. Dorsey
Pyatt & Silvestri
Clark County Clerk