

IN THE SUPREME COURT OF THE STATE OF NEVADA

DENNIS M. SLAVICK,
Appellant,
vs.
CRISTINE A. ANTONE,
Respondent.

No. 57255

FILED

JAN 30 2012

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *H. Angerson*
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a proper person appeal from a post-judgment district court order awarding attorney fees, costs, and interest.¹ Second Judicial District Court, Washoe County; Jerome Polaha, Judge.

When an offer of judgment is made and rejected, and the offeree fails to obtain a more favorable judgment than offered, the offeree must pay the offeror's post-offer costs, applicable interest on the judgment from the time of the offer to the time of entry of the judgment, and reasonable attorney fees, if any be allowed, actually incurred by the offeror from the time of the offer. NRCP 68(f)(2). A district court's award of

¹Appellant also sought to appeal the underlying judgment and an interlocutory order denying a motion to dismiss the district court action. The notice of entry of the judgment was filed and served on July 29, 2010, but the notice of appeal was not filed until December 2, 2010. See NRAP 4(a)(1). In the interim, a motion to set aside the order was filed on August 31, 2010, and could be construed as a tolling motion to alter or amend, but it was filed outside of the ten-day window to file a motion to alter or amend, and so, did not toll the appeal period. NRCP 59(b); NRAP 4(a)(4); AA Primo Builders v. Washington, 126 Nev. ___, 245 P.3d 1190 (2010). Thus, the December 2 notice of appeal was untimely and failed to vest this court with jurisdiction over the final judgment or the interlocutory order denying the motion to dismiss. NRAP 4(a)(1).

attorney fees and costs will not be disturbed on appeal unless the district court abused its discretion in making the award. U.S. Design & Constr. v. I.B.E.W. Local 357, 118 Nev. 458, 462, 50 P.3d 170, 173 (2002).

After reviewing the record and appellant's civil proper person appeal statement, we conclude that the district court properly awarded interest pursuant to NRCP 68 and did not abuse its discretion in awarding attorney fees and costs against appellant. NRCP 68(f)(2); U.S. Design, 118 Nev. at 462, 50 P.3d at 173.

Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Douglas


_____, J.
Gibbons


_____, J.
Parraguirre

cc: Hon. Jerome Polaha, District Judge
Dennis M. Slavick
Steven M. Hess
Washoe District Court Clerk