

IN THE SUPREME COURT OF THE STATE OF NEVADA

ANTHONY STINZIANO,
Appellant,
vs.
BRIAN J. STEINBERG, ESQ.; AND
STEINBERG LAW GROUP,
Respondents.

No. 65124

FILED

JUN 11 2015

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

ORDER VACATING JUDGMENT AND REMANDING


This is a pro se appeal from a district court order adjudicating a retaining lien in a family law action. Eighth Judicial District Court, Family Court Division, Clark County; William S. Potter, Judge.


Respondents Brian J. Steinberg and Steinberg Law Group (Steinberg) asserted a retaining lien against appellant Anthony Stinziano for their representation of him in the underlying family law matter. Steinberg served a notice of lien and then moved to foreclose it, serving the motion upon Stinziano but not on his then-retained attorney. Although Stinziano filed a pro se opposition, the district court did not consider it, stating that no opposition was filed, and adjudicated the lien in Steinberg's favor, without expressly considering the reasonableness of Steinberg's fees under the factors listed in *Brunzell v. Golden Gate National Bank*, 85 Nev. 345, 349-50, 455 P.2d 31, 33 (1969). Stinziano appealed, and, as ordered, Steinberg filed a response to Stinziano's appeal statement.

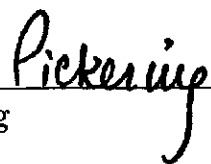
Initially, the record reveals that Stinziano had retained new counsel by the time that Steinberg moved for adjudication of the retaining lien, and thus the motion should have been served not only on Stinziano,

but on his attorney as well. NRCP 5(b)(1); NRS 18.015(3). In addition, the district court failed to consider Stinziano's February 3, 2014, opposition to Steinberg's motion or to otherwise state in its order that it refused to consider the opposition because it was late, *see* EDCR 2.20(e); EDCR 5.11(d), and the district court failed to consider the *Brunzell* factors and set forth its reasoning regarding those factors in its order. *See Argentina Consol. Mining Co. v. Jolley Urga Wirth Woodbury & Standish*, 125 Nev. 527, 540 n.2, 216 P.3d 779, 788 n.2 (2009); *Brunzell*, 85 Nev. at 349-50, 455 P.2d at 33-34. Accordingly, we conclude that the district court abused its discretion in adjudicating the retaining lien, and we

ORDER the judgment of the district court VACATED AND REMAND this matter to the district court for new proceedings on the motion to adjudicate the retaining lien consistent with this order.


_____, J.
Saitta


_____, J.
Gibbons


_____, J.
Pickering

cc: Hon. William S. Potter, District Judge, Family Court Division
Anthony Michael Stinziano
Steinberg Law Group
Eighth District Court Clerk