

IN THE SUPREME COURT OF THE STATE OF NEVADA

REGAL PLAZA PAD D, LLC, A
NEVADA LIMITED LIABILITY
COMPANY; AND REAL ESTATE
ADVISORS, LLC, A NEVADA LIMITED
LIABILITY COMPANY,
Appellants,
vs.
DON A. O'NEIL, AS TRUSTEE OF
EVOLUTION RESTAURANTS GROUP,
LLC,
Respondent.

No. 65713

FILED

JUN 11 2015

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

ORDER OF AFFIRMANCE

This is an appeal from a district court final judgment denying attorney fees in a contract action. Eighth Judicial District Court, Clark County; Stefany Miley, Judge.


Respondent sued appellants for breach of a lease agreement, and the district court dismissed the action based on respondent erroneously suing appellants "as trustee" of Evolution Restaurants Group, LLC. The district court also denied appellants' request for attorney fees. Appellants appeal the district court's denial of their attorney fees request.

We review the district court's denial of an attorney fee request under NRS 18.010(2)(b) for an abuse of discretion.¹ *Bobby Berosini, Ltd. v.*

¹Appellants argue that our review is de novo because, according to them, we are construing NRS 18.010(2)(b) and whether, under the statutory language, an award of attorney fees was warranted. In this regard, NRS 18.010(2) provides that the district court "may make an allowance of attorney's fees to a prevailing party." (Emphasis added.) Thus, we review the district court's decision not to award attorney fees for an abuse of discretion.

PETA, 114 Nev. 1348, 1354-55, 971 P.2d 383, 387 (1998). Respondent instituted a separate action with the correct plaintiff after an agreement to allow for the substitution of parties in this case fell apart, and the district court determined that some discovery in this case would be useful in the other action. Based on these findings, the district court did not abuse its discretion in denying appellants' request for attorney fees. See *id.* Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Saitta


_____, J.
Gibbons


_____, J.
Pickering

cc: Hon. Stefany Miley, District Judge
Stephen E. Haberfeld, Settlement Judge
Michael R. Mushkin & Associates, P.C.
The Firm, P.C.
Eighth District Court Clerk