

IN THE SUPREME COURT OF THE STATE OF NEVADA

D. V. & G. CORPORATION, INC., A
NEVADA CORPORATION, AND
VIOLET KELLER,
Appellants,
vs.
JOHN E. TAYLOR, JR.,
Respondent.

No. 37002

FILED

SEP 10 2002

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

ORDER OF REVERSAL

Appellants D.V. & G. Corporation, Inc. and Violet Keller appeal from an order granting respondent John E. Taylor a post-trial attorney-fee award in a dispute over a purported real property lease.¹ After Taylor prevailed on his claim for specific performance, the district court awarded him attorney fees as damages based on our decision in Summa Corp. v. Greenspun.²

Appellants argue that the district court abused its discretion in awarding Taylor attorney fees.³ We agree. We recently clarified the difference between attorney fees as a cost of litigation and attorney fees as

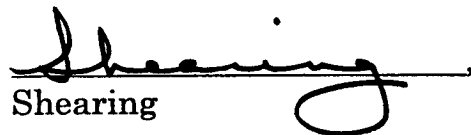
¹We reject Taylor's contention that Appellants failed to preserve their arguments on appeal.

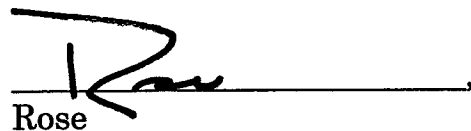
²96 Nev. 247, 607 P.2d 569 (1980), modified on other grounds on reh'g, 98 Nev. 528, 655 P.2d 513 (1982).

³See Nelson v. Peckham Plaza Partnerships, 110 Nev. 23, 26, 866 P.2d 1138, 1139-40 (1994) (reviewing a district court's award of attorney fees under an abuse-of-discretion standard).

damages in Sandy Valley Assoc. v. Sky Ranch Estates.⁴ We explained that attorney fees as damages must be pleaded as special damages in the complaint and “proved by competent evidence just as any other element of damages.”⁵ Here, Taylor did not present any evidence at trial or to the district court regarding attorney fees as damages. In fact, Taylor expressly abandoned his claims for damages and attorney fees at trial. Therefore, we conclude that Taylor waived any claim to attorney fees as damages. Thus, we conclude that the district court manifestly abused its discretion in awarding Taylor attorney fees. Accordingly we,

ORDER the judgment of the district court REVERSED.

 J.
Shearing

 J.
Rose

 J.
Becker

cc: Hon. Steven P. Elliott, District Judge
Jenkins & Carter
Hale Lane Peek Dennison Howard & Anderson/Reno
Washoe District Court Clerk

⁴117 Nev. ___, ___, 35 P.3d 964, 968-69 (2001).

⁵Id. at ___, 35 P.3d at 969 (citations omitted).