

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

AURORO DIVINUS, LLC, A NEVADA  
LIMITED LIABILITY COMPANY,  
Appellant,  
vs.  
CHENA MOORE, INDIVIDUALLY,  
Respondent.

No. 77877-COA

**FILED**

**MAY 19 2020**

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY S. Yarnes  
DEPUTY CLERK

*ORDER OF AFFIRMANCE*

Auroro Divinus, LLC (Auroro), appeals from a district court order awarding attorney fees. Second Judicial District Court, Washoe County; David A. Hardy, Judge.

In the underlying proceeding, the district court granted summary judgment with respect to Auroro's claims against respondent Chena Moore (Moore) for breach of fiduciary duty, conversion, and civil conspiracy, reasoning that Auroro failed to present any evidence of damages and that a continuance for additional discovery was unwarranted under NRCPC 56(f) (2005). At the same time, the district court dismissed Auroro's remaining claim for misappropriation of trade secrets under NRCPC 41(a)(2) (2005), which authorizes the district court to dismiss a plaintiff's claims at the plaintiff's request on terms that the court considers proper.

Moore later moved for attorney fees under NRS 18.010(2)(b) asserting, as relevant here, that Auroro's claims were groundless. The district court granted her motion in part, over Auroro's opposition, by awarding Moore a substantial portion of the attorney fees that she sought. To support its determination that an award of attorney fees was warranted, the district court reiterated that Auroro failed to support three of its claims with evidence to show that it suffered damages. Moreover, although Auroro

requested to dismiss its misappropriation of trade secrets claim in its opposition to Moore's motion for summary judgment, the district court found that Auroro did not present any evidence prior to that time to show that Moore ever came into possession of one of its trade secrets. And the district court emphasized that its decision was based on the "profound lack of merit" in Auroro's case, which the court reasoned was evidenced by the fact that, when Moore challenged Auroro's failure to prove damages, Auroro responded with conclusory assertions that it suffered damages rather than providing an itemized list of damages or at least articulating what its damages were.

Although the district court entered a written order granting Moore's motion for attorney fees, it subsequently entered a separate amended judgment, reflecting the attorney fees award. Auroro then appealed the order granting Moore's motion for attorney fees and the amended judgment.


Prior to this matter being transferred to this court, the supreme court determined that the amended judgment was superfluous since it reproduced the attorney fees award and did not otherwise disturb the summary judgment order. *Auroro Divinus, LLC v. Moore*, Docket No. 77877 (Order Dismissing Appeal in Part, August 23, 2019). And because Auroro's time to appeal the order granting Moore's motion for summary judgment had passed, the supreme court dismissed Auroro's appeal insofar as it was directed at the summary judgment order. *Id.* The supreme court nevertheless concluded that Auroro could proceed with its appeal from the attorney fees order. *Id.*

On appeal, Auroro argues that its claims were not groundless and that the district court therefore abused its discretion by granting Moore's motion for attorney fees. See *Bobby Berosini, LTD. v. People for the Ethical Treatment of Animals*, 114 Nev. 1348, 1353-54, 971 P.2d 383, 386

(1998) (reviewing a district court order awarding attorney fees pursuant to NRS 18.010(2)(b) for an abuse of discretion). In particular, Auroro argues that it was not required to provide an itemization or calculation of its damages, that it could have proved it suffered nominal damages at the minimum, and that it should have been permitted additional time to conduct discovery on the damages issues. But while these arguments are couched as challenging the award of attorney fees, the district court determinations that Auroro challenges were made in the context of the summary judgment order, which Auroro failed to timely appeal. Nonetheless, to the extent Auroro asserts that attorney fees should not have been awarded because it could have recovered nominal damages, we have considered this argument and conclude Auroro has not demonstrated that it provides a basis for reversing the challenged order. Therefore we cannot conclude that the district court abused its discretion in awarding attorney fees. And because Auroro does not otherwise challenge the attorney fees order, we affirm that decision. *See Powell v. Liberty Mut. Fire Ins. Co.*, 127 Nev. 156, 161 n.3, 252 P.3d 668, 672 n.3 (2011) (providing that arguments not raised on appeal are deemed waived).

It is so ORDERED.

  
\_\_\_\_\_, C.J.  
Gibbons

  
\_\_\_\_\_, J.  
Tao

  
\_\_\_\_\_, J.  
Bulla

cc: Hon. David A. Hardy, District Judge  
Kalicki Collier, PLLC  
Olson, Cannon, Gormley, & Stoberski  
Washoe District Court Clerk