

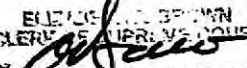
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

LINDA BROWN-OSBORNE,  
Appellant,  
vs.  
MICHAEL JACKSON,  
Respondent.

No. 81653-COA

FILED

MAY 27 2021

ELLEN BROWN  
CLERK OF SUPREME COURT  
BY:   
DEPUTY CLERK

*ORDER OF AFFIRMANCE*

Linda Brown-Osborne appeals from a district court order awarding attorney fees and costs to respondent. Eighth Judicial District Court, Clark County; Adriana Escobar, Judge.

Brown-Osborne brought the underlying civil rights and tort action against various parties, including respondent Michael Jackson, based on circumstances related to her arrest on allegations that she committed acts of elder abuse. Jackson later filed a special motion to dismiss the complaint against him under NRS 41.660, Nevada's anti-SLAPP statute, and the district court subsequently granted that motion. Brown-Osborne appealed that decision to the Nevada Supreme Court, which subsequently affirmed it. *See Brown-Osborne v. Jackson*, Docket No. 79272 (Order of Affirmance, April 16, 2020). Jackson also sought an award of attorney fees and costs, which the district court granted, awarding him a total of \$11,781.34 in attorney fees and costs. Brown-Osborne now appeals from this decision.

Under NRS 41.670(1)(a), if the district court grants a special motion to dismiss filed under NRS 41.660, the court "shall award reasonable

costs and attorney's fees to the person against whom the action was brought." This court reviews the district court's decision to award attorney fees and costs requested under NRS 41.670(1)(a) for an abuse of discretion. *Smith v. Silverberg*, 137 Nev., Adv. Op. 7, 481 P.3d 1222, 1230 (2021).

In determining the reasonableness of requested attorney fees, the district court must consider the factors set forth in *Brunzell v. Golden Gate National Bank*, 85 Nev. 345, 455 P.2d 31 (1969). The *Brunzell* factors are: 1) the qualities of the advocate; 2) the character of the work to be done; 3) the work actually performed; and 4) the results achieved. *Id.* at 349, 455 P.2d at 33. For an award of costs to be upheld, the requested costs "must be reasonable, necessary, and actually incurred." *Cadle Co. v. Woods & Erickson, LLP*, 131 Nev. 114, 120, 345 P.3d 1049, 1054 (2015).

On appeal, Brown-Osborne primarily challenges the award of attorney fees and costs by challenging the district court's decision to dismiss her underlying case.<sup>1</sup> But these arguments do not provide a basis for relief from the award of attorney fees and costs, as the district court's dismissal orders are not properly before us in this matter, and regardless, the supreme court's determination that Brown-Osborne's claims were properly dismissed is the law of the case on this issue. *See Recontrust Co., N.A. v. Zhang*, 130 Nev. 1, 7-8, 317 P.3d 814, 818 (2014) (explaining that the law of

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<sup>1</sup>In addition to presenting arguments regarding the grant of Jackson's special motion to dismiss, Brown-Osborne also challenges the dismissal of defendants Karen Mishler and Brianna Lamanna from the underlying case. Mishler and Lamanna are not parties to this appeal. Nonetheless, we note that the supreme court upheld the district court's dismissal of these parties from the underlying case in the same Order of Affirmance that resolved Brown-Osborne's appeal from the grant of Jackson's special motion to dismiss. *See Brown-Osborne v. Jackson*, Docket No. 79272 (Order of Affirmance, April 16, 2020).

the case doctrine prohibits reopening questions that have been previously decided “explicitly or by necessary implication”). Brown-Osborne also asserts that attorney fees were unwarranted under the second and third *Brunzell* factors relating to the character of the work done and the work actually performed, arguing that Jackson’s counsel performed “no work” aside from presenting a “false anti-SLAPP claim as a retaliatory defense.” But this argument fails for the reasons articulated above, as the district court granted the special motion to dismiss, and that decision was upheld on appeal by our supreme court.


Regardless, a review of the record demonstrates that the district court considered and made findings regarding each of the *Brunzell* factors, finding that each factor supported the award of attorney fees. Moreover, the award is supported by substantial evidence in the record. As a result, we conclude the district court did not abuse its discretion in awarding attorney fees to Jackson. *See Logan v. Abe*, 131 Nev. 260, 266-67, 350 P.3d 1139, 1143 (2015) (affirming an award of attorney fees where the district court properly considered each of the *Brunzell* factors and its award was supported by substantial evidence in the record). With regard to the award of costs, the district court found that the \$643.84 in requested costs were reasonable and necessarily incurred, and that decision is likewise supported by substantial evidence in the record. Thus, the district court did not abuse its discretion in making the costs award. *Cadle*, 131 Nev. at 120, 345 P.3d at 1054.

Accordingly, for the reasons set forth above, we affirm the district court’s award of attorney fees and cost to Jackson. *Smith*, 137 Nev., Adv. Op. 7, 481 P.3d at 1230-31 (affirming an award of attorney fees and

costs sought in conjunction with the grant of an anti-SLAPP special motion to dismiss under 41.670(1)).

It is so ORDERED.<sup>2</sup>

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

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

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

cc: Hon. Adriana Escobar, District Judge  
Linda Brown-Osborne  
Campbell & Williams  
Eighth District Court Clerk

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<sup>2</sup>To the extent any of Brown-Osborne's arguments are not expressly addressed in this order, we have considered these arguments and conclude they either do not provide a basis for relief or need not be reached given our resolution of this appeal.