

IN THE SUPREME COURT OF THE STATE OF NEVADA

LARIAN STUDIOS US INC.; ARRAKIS  
NAAMLOZE VENNOOTSCHAP A/K/A  
LARIAN STUDIOS,

Appellants,

vs.

STREAMLINE MEDIA GROUP, INC., A  
DELAWARE CORPORATION;

STREAMLINE STUDIOS MALAYSIA  
SDN BHD, A MALAYSIAN PRIVATE  
LIMITED COMPANY; AND

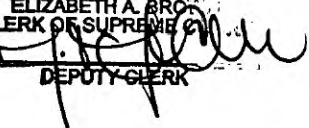
STREAMFRAME CORPORATION, A  
DELAWARE CORPORATION,

Respondents.

No. 87482

**FILED**

DEC 11 2024

ELIZABETH A. BROOKS  
CLERK OF SUPREME COURT  
BY   
DEPUTY CLERK

*ORDER OF AFFIRMANCE*

This is an appeal from a district court order denying a motion for attorney fees and costs. Eighth Judicial District Court, Clark County; Joanna Kishner, Judge.

Respondents (collectively Streamline) sued appellants Larian Studios Inc. (Larian) and Arrakis Naamloze Vennootschap a/k/a Larian Studios (Arrakis) for civil conspiracy and intentional interference with contractual relations. Appellants separately moved to dismiss for lack of personal jurisdiction. The district court denied Larian's motion, and it denied Arrakis's motion without prejudice, instead granting jurisdictional discovery. Appellants filed a writ petition in this court challenging the district court's orders. Appellants also contemporaneously moved in district court for a stay, which the district court denied.

Several months later, while their writ petition in this court was still pending, Larian and Arrakis served Streamline with separate offers of judgment for \$1,000 and \$5,000, respectively. Streamline rejected the

offers. This court later granted appellants' motion to stay the district court proceedings pending resolution of their writ petition. Six months after appellants served their offers of judgment, this court granted appellants' writ petition, concluding that the district court had improperly exercised personal jurisdiction over Larian and improperly granted jurisdictional discovery as to Arrakis. *See Choo v. Eighth Jud. Dist. Ct.*, No. 83527, 2022 WL 3336087 (Nev. Aug. 11, 2022) (Order Granting Petition for Writ of Prohibition). The district court therefore dismissed appellants from the case. Subsequently, the district court denied appellants' motion for attorney fees and costs under NRCP 68, and this appeal ensued. Reviewing for an abuse of discretion, *N. Las Vegas Infrastructure Inv. & Constr., LLC v. City of N. Las Vegas*, 139 Nev., Adv. Op. 5, 525 P.3d 836, 841 (2023), we affirm.

When evaluating a defendant's request for attorney fees pursuant to NRCP 68(f)(1)(B), the district court must consider the following factors: first, "whether the plaintiff's claim was brought in good faith," second, "whether the defendants' offer of judgment was reasonable and in good faith in both its timing and amount," third, "whether the plaintiff's decision to reject the offer and proceed to trial was grossly unreasonable or in bad faith," and fourth, "whether the fees sought by the offeror are reasonable and justified in amount." *Beattie v. Thomas*, 99 Nev. 579, 588-89, 688 P.2d 268, 274 (1983). "[T]he district court is vested with discretion to consider the adequacy of [an NRCP 68] offer and the propriety of granting attorney fees." *Certified Fire Prot., Inc. v. Precision Constr., Inc.*, 128 Nev. 371, 383, 283 P.3d 250, 258 (2012). And "[w]hen a district court properly evaluates the *Beattie* factors, its decision to grant or deny attorney fees will not be disturbed absent a clear abuse of discretion." *Frazier v. Drake*, 131

Nev. 632, 642, 357 P.3d 365, 372 (Ct. App. 2015); *see also Wynn v. Smith*, 117 Nev. 6, 13, 16 P.3d 424, 428-29 (2001) (“If the record clearly reflects that the district court properly considered the *Beattie* factors, we will defer to its discretion.”). Thus, “[u]nless the trial court’s exercise of discretion [in evaluating the *Beattie* factors] is arbitrary or capricious, this court will not disturb the lower court’s ruling on appeal.” *Yamaha Motor Co., U.S.A. v. Arnoult*, 114 Nev. 233, 251, 955 P.2d 661, 672 (1998) (internal quotation marks omitted).

Here, the district court analyzed the first three *Beattie* factors and concluded each factor favored Streamline, *i.e.*, Streamline brought its claims in good faith, appellants’ offers were unreasonable, and Streamline’s rejection of the offers was not grossly unreasonable or in bad faith. The district court then concluded that its determinations on the first three *Beattie* factors made the fourth *Beattie* factor irrelevant. Based on these findings, the district court denied attorney fees and costs.

We discern no abuse of discretion by the district court. In arguing that the district court failed to adequately account for appellants’ motions to dismiss or this court’s ultimate ruling favoring appellants, appellants unduly disregard the information available to the parties when appellants served their offers of judgment. *See Certified Fire Prot. Inc.*, 128 Nev. at 383, 283 P.3d at 258 (considering the circumstances at the time the offer was made); *Trustees of Carpenters for S. Nev. Health & Welfare Tr. v. Better Bldg. Co.*, 101 Nev. 742, 746, 710 P.2d 1379, 1382 (1985) (same). “[T]he first three factors all relate to the parties’ motives in making or rejecting the offer and continuing the litigation.” *Frazier*, 131 Nev. at 642, 357 P.3d at 372. And here, when appellants served their offers of judgment, the district court had denied appellants’ motions to dismiss and appellants’

stay motion, finding that appellants likely would not prevail on the merits of their writ petition. Further, appellants had not yet sought a stay in this court, and this court had not yet ruled on the writ petition. The record supports the district court's findings, and under our deferential review, we cannot say that the district court abused its discretion in concluding that the first three *Beattie* factors favored Streamline. *Cf., e.g., Certified Fire Prot.*, 128 Nev. at 383, 283 P.3d at 258 (“[T]here is no bright-line rule that qualifies an offer of judgment as per se reasonable in amount; instead, the district court is vested with discretion to consider the adequacy of the offer and the propriety of granting attorney fees.”); *HSBC Bank USA, Nat'l Ass'n as Tr. for Holders of Deutsche Alt-A Sec., Inc., Mortg. Loan Tr. Pass-Through Certificates Series 2007-Oa3 v. Fid. Nat'l Title Grp., Inc.*, 2024 WL 4149249, at \*2 (D. Nev. Sept. 11, 2024) (concluding that the first three *Beattie* factors favored the offeree, despite the offeror's ultimately correct conjecture that this court would rule in the offeror's favor on the dispositive legal issue in pending appeals, where the opinions favorable to the offeror had not yet been entered when the offer was served).

We also reject appellants' argument that the district court *per se* abused its discretion by declining to consider the fourth *Beattie* factor in light of its conclusions on the first three *Beattie* factors. As the court of appeals explained in *Frazier*, when “the district court determines that the three good-faith *Beattie* factors weigh in favor of the party that rejected the offer of judgment, the reasonableness of the fees requested by the offeror becomes irrelevant, and cannot, by itself, support a decision to award attorney fees to the offeror.” 131 Nev. at 644, 357 P.3d at 373; *see also N. Las Vegas Infrastructure*, 139 Nev., Adv. Op. 5, 525 P.3d at 842 & n.6 (concluding that the district court properly considered the *Beattie* factors



where it concluded that two of the first three *Beattie* factors favored the offeree and therefore declined to conduct a thorough analysis of the fourth *Beattie* factor); *Mitman v. LA 1, LLC*, Nos. 83350, 84031, 2023 WL 8270780, at \*11 (Nev. Nov. 29, 2023) (Order of Affirmance) (affirming where the district court declined to consider the fourth *Beattie* factor “since two of the three factors weighed in [the offeree’s] favor”).

Appellants’ argument that *Frazier* is not precedential because it is a court of appeals decision is unavailing. Published decisions by the court of appeals establish mandatory precedent. *Compare* NRAP 36(c)(1) with NRAP 36(c)(2), (c)(3); *see also* NRAP 40B(a) (a court of appeals decision is final and only reviewable through an NRAP 40B petition for review). Nor are we persuaded that *Frazier* conflicts with our prior caselaw. When the first three factors demonstrate that the offeror is not entitled to attorney fees, law and logic dictate that the fourth factor, which concerns the reasonableness of the requested fee amount, is irrelevant, because “the reasonableness of the fees requested cannot, by itself, outweigh the other three *Beattie* factors.” *Frazier*, 131 Nev. at 635, 357 P.3d at 367. Appellants, not *Frazier*, advocate for an outcome at odds with our prior caselaw: awarding fees based on the reasonableness of the amount where, as here, the good-faith factors all favored Streamline, would “elevate[ ] the reasonableness of the fees sought to a position of higher importance than the other *Beattie* factors in direct contravention of well-established Nevada authority.” *Id.* at 642, 643, 357 P.3d at 372 (citing *Yamaha Motor Co.*, 114 Nev. at 252 n.16, 955 P.2d at 673 n.16).

Finally, we decline to consider appellants’ argument that NRCP 68 provides a basis for appellants to seek their attorney fees. The district court did not enter any adverse decision against appellants on this issue.

To the contrary, by analyzing the *Beattie* factors, the district court implicitly agreed that appellants could request their attorney fees under NRCP 68. See NRAP 3A(a) (only an aggrieved party may appeal from an adverse decision).

Because “[t]he record clearly reflects that the district court properly considered the *Beattie* factors,” *Wynn*, 117 Nev. at 13, 16 P.3d at 428-29, and substantial evidence supports its findings, we defer to the district court’s discretion concerning the propriety of granting attorney fees and costs. We therefore

ORDER the judgment of the district court AFFIRMED.

                  Stiglich                  , J.  
Stiglich

                  Pickering                  , J.  
Pickering

                  Parraguirre                  , J.  
Parraguirre

cc: Hon. Joanna Kishner, District Judge  
Hutchison & Steffen, LLC/Reno  
Hutchison & Steffen, LLC/Las Vegas  
McDonald Carano LLP/Las Vegas  
McDonald Carano LLP/Reno  
Eighth District Court Clerk