

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

MICAMP SOLUTIONS, LLC, A  
LIMITED LIABILITY COMPANY; AND  
MICAMP HOLDINGS, LLC, A LIMITED  
LIABILITY COMPANY,  
Appellants,  
vs.  
CAPFUND ENTERPRISES, INC., A  
CORPORATION,  
Respondent.

No. 84968-COA

FILED  
JAN 17 2025  
ELIZABETH A. BROOKS  
CLERK OF SUPREME COURT  
BY *[Signature]*  
DEPUTY CLERK

*ORDER DISMISSING APPEAL*

MiCamp Solutions, LLC and MiCamp Holdings, LLC (MiCamp) appeal from a district court order regarding attorney fees. Eighth Judicial District Court, Clark County; Susan Johnson, Judge.

MiCamp appeals from a district court order awarding them attorney fees and costs in the amount of \$156,818.75 under NRS 18.010(2)(b), but denying their request for attorney fees and costs under NRCP 68. In the underlying litigation, respondents CapFund Enterprises, Inc., and Brian Sciara<sup>1</sup> (individually and derivatively on behalf of CapFund) brought a civil action against MiCamp for conversion, civil conspiracy, unjust enrichment, and violation of Nevada RICO statutes, among other things. During the litigation, MiCamp made an unapportioned offer of judgment wherein it offered to settle the dispute for \$40,000, inclusive of fees and costs, which was not accepted. The district court later granted summary judgment in favor of MiCamp and ordered CapFund to pay

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<sup>1</sup>The supreme court dismissed this appeal, without prejudice, as to Sciara on April 26, 2024, due to Sciara's bankruptcy filing.

MiCamp \$156,818.75 in attorney fees as sanctions under NRS 18.010(2)(b), denying MiCamp's request for fees under NRCP 68 in the process. Subsequently, CapFund filed separate appeals from the summary judgment (Docket No. 84458) and attorney fee (Docket No. 84968) orders, and MiCamp filed the instant cross-appeal in the attorney fee case.

CapFund, however, failed to obtain a stay of enforcement of the judgment for attorney fees and, as a result, MiCamp subsequently obtained a writ of execution obtaining the rights to all of CapFund's claims for relief in Nevada state and federal courts. Upon MiCamp's motion, the supreme court later substituted MiCamp in as the real parties in interest in place of CapFund and dismissed CapFund's appeals in Docket Nos. 84458 and 84968. Thus, MiCamp's cross-appeal was the only appeal that remained pending, and that matter was subsequently transferred to this court.

On appeal, MiCamp presents a limited challenge to the district court's award of attorney fees and costs, arguing that the district court abused its discretion when it denied them relief under NRCP 68. Importantly MiCamp asserts that that, while "[t]he trial court cut the amount of attorneys' fees sought by MiCamp[, t]he trial court may have made the same reduction had it ruled correctly and permitted collection under the [Offer of Judgment] OoJ Standards. That reduction is not the basis for the cross-appeal nor is the amount of the award in the trial court currently being challenged by MiCamp." Thus, while MiCamp presents several discrete arguments related to the district court's NRCP 68 ruling, their ultimate request for relief is reversal of the district court's determination that fees were not available under NRCP 68 for purposes of obtaining appellate attorney fees and costs on remand. MiCamp further argues it should be awarded appellate attorney fees under NRAP 38 and 39.

In general, "attorney's fees are not recoverable absent a statute, rule or contractual provision to the contrary." *Rowland v. Lepire*, 99 Nev.

308, 315, 662 P.2d 1332, 1336 (1983). “The decision to award attorney’s fees is within the sound discretion of the trial court, whose decision will not be disturbed on appeal absent a manifest abuse of that discretion.” *Bobby Berosini, Ltd. v. People for the Ethical Treatment of Animals*, 114 Nev. 1348, 1356, 971 P.2d 383, 388 (1998). A defendants’ right to recover fees and costs under NRCP 68 generally extends to fees and costs incurred after appeal. *In re Estate & Living Tr. of Miller*, 125 Nev. 550, 555-56, 216 P.3d 239, 243 (2009).

On appeal, and in its later motion to dismiss, MiCamp argues that it is aggrieved by the district court’s order denying its request for fees under NRCP 68 as that denial prevents them from obtaining appellate attorney fees on remand. However, MiCamp’s own actions preclude this result, rendering this appeal moot. As noted above, during these proceedings, MiCamp obtained “all [of CapFund’s] claims for relief, causes of action, things in action, and choses in action in the state of Nevada, including, but not limited to, [the state district court case and appeal].” Consequently, MiCamp successfully moved the supreme court to substitute in as the real party in interest in place of CapFund and voluntarily dismissed CapFund’s appeals.


Here, MiCamp cannot demonstrate how they are entitled to attorney fees and costs for their own voluntarily dismissed appeals, such that they would be able to recover fees under NRCP 68. *See, e.g., 145 E. Harmon II Tr. v. Residences at MGM Grand-Tower A Owners’ Ass’n*, 136 Nev. 115, 120, 460 P.3d 455, 459 (2020) (holding “that a voluntary dismissal with prejudice generally equates to a judgment on the merits sufficient to confer prevailing party status upon the defendant,” but recognizing that “[t]his rule is not absolute, as there may be circumstances in which a party agrees to dismiss its case but the other party should not be considered a prevailing party”). In a situation such as this, where the party that filed


the appeal is not the one that voluntarily dismissed it, and instead the one seeking prevailing party status dismissed the action, there is not a basis for construing the dismissal as sufficient to confer prevailing party status. Moreover, MiCamp's voluntary dismissal of these appeals prevents this court from evaluating the merits of those appeals for the purposes of determining whether the appeals were frivolous, such that fees could be warranted under NRAP 38 and 39. Ultimately, because MiCamp's only request for relief on appeal is the reversal of the district court's decision that an award of fees and costs under NRCP 68 was unwarranted, so as to allow them to seek appellate attorney fees and costs on remand, their inability to obtain such relief renders this portion of MiCamp's appeal moot. *See Personhood Nev. v. Bristol*, 126 Nev. 599, 602, 245 P.3d 572, 574 (2010) (noting that a case may be dismissed as moot when this court is not able to afford appellants any relief, even if successful on appeal).

And, because MiCamp cannot recover attorney fees and costs in the dismissed appeals and admits that they are not challenging the amount of the fee award below, we further conclude that MiCamp lacks standing to prosecute its cross-appeal as it is no longer an aggrieved party. *See* NRAP 3A(a) ("A party who is aggrieved by an appealable judgment or order may appeal from that judgment or order, with or without first moving for a new trial.").

Accordingly, for the reasons set forth above, we,  
ORDER this appeal DISMISSED.

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

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

  
\_\_\_\_\_, J.  
Westbrook

cc: Hon. Susan Johnson, District Judge  
Stephen E. Haberfield, Settlement Judge  
Farhang & Medcoff  
Prince Law Group  
Enenstein Pham & Glass/Las Vegas  
Enenstein Ribakoff La Vina & Pham/Los Angeles  
Eighth District Court Clerk