


IN THE SUPREME COURT OF THE STATE OF NEVADA

EDGEWORTH FAMILY TRUST; AND
AMERICAN GRATING, LLC,
Appellants,
vs.
DANIEL S. SIMON; AND THE LAW
OFFICE OF DANIEL S. SIMON, A
PROFESSIONAL CORPORATION,
D/B/A SIMON LAW,
Respondents.

No. 86676

FILED

FEB 25 2025

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY: 
DEPUTY CLERK

ORDER VACATING JUDGMENT AND REMANDING

This is an appeal from a district court order awarding attorney fees as quantum meruit damages in a contract dispute after remand. Eighth Judicial District Court, Clark County; Tierra Danielle Jones, Judge.

We have previously issued two orders in this matter addressing whether the district court's award of \$200,000 in quantum meruit fees to respondent Daniel Simon was reasonable. *See Edgeworth Family Tr. v. Simon (Edgeworth I)*, Nos. 77678/78176, 2020 WL 7828800 (Nev. Dec. 30, 2020) (Order Affirming in Part, Vacating in Part and Remanding); *Edgeworth Family Tr. v. Simon (Edgeworth II)*, Nos. 83258/83260, 2022 WL 4298625 (Nev. Sept. 16, 2022) (Order Vacating Judgment and Remanding).

In *Edgeworth I*, we vacated the district court's award, finding that it was unclear whether the district court properly limited the quantum meruit award to work that Simon completed after he was constructively discharged by appellants Edgeworth Family Trust and American Grating, LLC (collectively, the Edgeworths). *Edgeworth I*, 2020 WL 7828800, at *2.

We remanded the issue to the district court to make specific factual findings regarding the work Simon completed post-discharge and to limit the damages accordingly. *Id.* Post-remand, the district court again awarded Simon \$200,000 in quantum meruit fees.

In *Edgeworth II*, we again vacated the district court's award, concluding that the district court had still failed to make specific findings demonstrating that its award was based *only* on Simon's post-discharge work. *Edgeworth II*, 2022 WL 4298625, at *1. Specifically, we found that the district court's references to work performed by Simon on settlement agreements failed to differentiate between work spent on these settlements before discharge and work spent after discharge, and that the district court failed to make any other findings of fact regarding post-discharge work which would support its award. *Id.* We again remanded to the district court with instructions that it make specific and express findings as to Simon's post-discharge work and to limit its award to those findings. *Id.* at *2. Post-remand, the district court once more awarded Simon \$200,000 in quantum meruit fees.

The Edgeworths argue that the district court has once again failed to comply with our previous order. They argue that the district court, on remand, failed to make express and specific findings regarding how Simon's post-discharge work could warrant an award of \$200,000 in quantum meruit fees. We agree.

Although we review an award of attorney fees for an abuse of discretion, *MB Am., Inc. v. Alaksa Pac. Leasing*, 132 Nev. 78, 88, 367 P.3d 1286, 1292 (2016), we review de novo whether a district court has complied

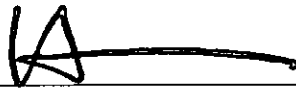
with this court's prior mandate on remand. *State Eng'r v. Eureka County*, 133 Nev. 557, 559, 402 P.3d 1249, 1251 (2017). This is because the principles or rules necessary to this court's prior decisions become "the law of the case and must be adhered to throughout its subsequent progress both in the lower court and upon subsequent appeal." *Id.* (internal quotation marks omitted).

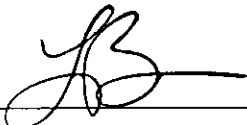
After reviewing the district court's most recent order on remand, we again conclude that the district court does not make specific and express findings that clearly reflect that the quantum meruit award is limited to services that Simon performed post-discharge. The district court's most recent order uses identical language to prior orders, that this court has twice found insufficient, and continues to reference Simon's pre-discharge work.

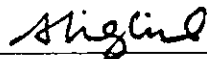
The record does clearly reflect that the district court identified, with specificity, three post-discharge tasks performed by Simon: settling the Lange claim; sending an email to Brian Edgeworth and counsel at Vannah regarding the settlement; and opening a trust account to deposit the Viking settlement proceeds. However, the district court again fails to explain how Simon's efforts to communicate with a former client and that client's new counsel or setting up a trust account could reasonably form the basis for an award of \$200,000 in quantum meruit fees. Because of this, and based on the totality of the record before us, it appears that the award is not limited *only* to services that Simon performed after being constructively discharged. Therefore, we again vacate the district court's award of \$200,000 in quantum meruit fees and remand.

The Edgeworths ask us to order on remand an award to Simon of no more than \$33,811.25 in fees for the 71.10 hours of work presented in Simon's post-discharge superbill. Simon asks this court to make its own factual findings that the record supports an award of \$200,000 in quantum meruit fees. As we have previously expressed, an appellate court is not particularly well-suited to make factual determinations in the first instance. *See Ryan's Express Transp. Servs., Inc. v. Amador Stage Lines, Inc.*, 128 Nev. 289, 299, 279 P.3d 166, 172 (2012). However, in the instant case, a clear record has been developed on this issue over the lengthy history of the case, including the multiple prior appeals and writ petition proceedings in this court. The district court has specifically identified the three items of post-discharge work that Simon performed, and the parties have had ample opportunity to address, legally and factually, the proper amount of any quantum meruit award that should result from Simon's post-discharge work. As such, at this point in this litigation, this court is not engaging in factual determinations in the first instance, rather, it is faced with two competing, and numerically specific, quantum meruit fee requests and is asked to opine on the appropriate amount of fees to be awarded after review of a record that has been fully, legally and factually, developed. Based on our review of the record, we conclude that, post-discharge, Simon performed 51.85 hours of work and an associate in Simon's office completed 19.25 hours of work. At the implied contract rate of \$550/hour for Simon's work and \$275/hour for that of his associate, we agree that Simon should receive \$33,811.25 in quantum meruit fees for his post-discharge work.

Accordingly, we ORDER the judgment of the district court VACATED AND REMAND to the district court with direction to award Simon \$33, 811.25 in quantum meruit fees for his post-discharge work.¹


_____, C.J.
Herndon


_____, J.
Bell


_____, J.
Stiglich

cc: Hon. Tierra Danielle Jones, District Judge
Morris Law Group
Law Office of James R. Christensen PC
Eighth District Court Clerk

¹Considering our decision, we deny the Edgeworth's request to reassign the case to a different district court judge on remand.