IN THE COURT OF APPEALS OF THE STATE OF NEVADA

DEBRA S. STEWART,
Appellant,
vs.
MARY VALLINE,
Respondent.

No. 88999-COA

FILED

SEP 30 2025

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY
DEPUTY CLERK

ORDER OF AFFIRMANCE

Debra S. Stewart appeals from a judgment, inclusive of attorney fees and costs, pursuant to a jury verdict in a tort matter and an order denying her motion for leave to seek reconsideration. Second Judicial District Court, Washoe County; Tammy Riggs, Judge.

In May 2019, Stewart's car struck respondent Mary Valline's car. Valline claimed that the collision worsened her preexisting spinal injuries. Before litigation commenced, State Farm, Stewart's insurer, informally and non-statutorily, offered Valline $29,933 to settle the case. Valline declined the offer, and filed her complaint. The case proceeded to trial three years later. Shortly before trial, Valline served an offer of judgment on Stewart for $500,000 pursuant to NRCP 68. Stewart did not accept the offer and never served an NRCP 68 offer on Valline. At trial, Valline requested approximately $2.8 million in total damages. Following the five-day trial, the jury awarded Valline $15,367 for past medical expenses and past pain and suffering. No future damages were awarded.

After trial, both parties filed motions for costs and attorney fees, each arguing that they were the prevailing party and were thus entitled to fees. Likewise, both parties filed motions to retax costs and oppositions to the other party's motions.

The district court granted Valline's motion pursuant to NRS 18.010(2)(a) and NRS 18.020(3) because it found that she was the prevailing party, who had received less than $20,000 at trial, and awarded her $163,050 in attorney fees and $56,533.86 in costs. It calculated the attorney fees after considering the *Brunzell*[1] factors and using the "lodestar" method.[2] The court denied Stewart's motion for attorney fees and costs.

Stewart moved for leave to file a motion for reconsideration in the district court. She argued that Valline was not entitled to recover attorney fees and costs because (1) Valline was not entitled to attorney fees pursuant to NRCP 68 for rejecting State Farm's non-statutory offer; (2) the district court should have considered Stewart's non-statutory, email offer of settlement from State Farm when considering Valline's motion for attorney fees and costs under *Cormier v. Manke*, 108 Nev. 316, 830 P.2d 1327 (1992); (3) it was Stewart, not Valline, who was the prevailing party; and (4) the attorney fees and costs awarded to Valline were not proportional to the judgment.

The district court denied the motion for leave to seek reconsideration, noting that Stewart raised several new points that she did not originally raise in opposing Valline's motion for attorney fees, including that the court should have performed a *Cormier* analysis to determine the reasonableness of the fee award in relation to the rejected non-statutory offer. Regardless of the argument not being raised previously, the court

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[1]*Brunzell v. Golden Gate Nat'l Bank*, 85 Nev. 345, 455 P.2d 31 (1969).

[2]The lodestar method involves multiplying the number of hours reasonably spent on the case by a reasonable hourly rate. *Shuette v. Beazer Homes Holdings Corp.*, 121 Nev. 837, 864 n.98, 124 P.3d 530, 549 n.98 (2005).

addressed it on the merits and stated in its denial of reconsideration that the amount of fees awarded was reasonable under *Cormier*.

The district court subsequently entered its judgment in Valline's favor for $234,950.86, which included attorney fees, costs and post-judgment interest. Stewart now appeals from the district court's judgment and denial of her motion for leave to seek reconsideration related to the attorney fees and costs.

Prevailing party and denial of reconsideration

Stewart argues that the district court abused its discretion when it determined that Valline was the prevailing party in the order regarding attorney fees and in the order denying leave to seek reconsideration because the jury verdict was less than one percent of the amount Valline requested. Further, she asserts that her insurer's non-statutory offer was reasonable, and the district court failed to consider the offer's reasonableness under *Cormier v. Manke*, 108 Nev. 316, 317-18, 830 P.2d 1327, 1328 (1992), when it initially awarded Valline attorney fees and costs. Conversely, Valline argues that the district court properly characterized her as the prevailing party and that Stewart's reliance on *Cormier* is inapplicable to this case. And because Valline recovered less than $20,000, she was entitled to attorney fees under NRS 18.010(2)(a).

"The decision whether to award attorney's fees is within the sound discretion of the district court." *Thomas v. City of North Las Vegas*, 122 Nev. 82, 90, 127 P.3d 1057, 1063 (2006) (internal quotation marks omitted). This court reviews decisions awarding or denying attorney fees for a manifest abuse of discretion. *Id.* But when the attorney fees matter implicates questions of law, the district court's determination is reviewed de novo. *Id.* Additionally, this court generally reviews the denial of a motion for reconsideration for abuse of discretion. *Engelson v. Dignity Health*, 139 Nev. 578, 589, 542 P.3d 430, 441 (Ct. App. 2023)

A district court's finding of a prevailing party is a factual issue based on a variety of factors, and this court defers to a district court's factual findings. *See Glenbrook Homeowners Ass'n v. Glenbrook Co.*, 111 Nev. 909, 922, 901 P.2d 132, 141 (1995). "A party prevails if it succeeds on *any significant issue* in litigation which achieves some of the benefit it sought in bringing suit." *LVMPD v. Blackjack Bonding, Inc.*, 131 Nev. 80, 90, 343 P.3d 608, 615 (2015) (internal quotation marks omitted).

Here, the jury found in Valline's favor and awarded her $15,367 on her negligence claim against Stewart arising out of the car accident. Thus, the district court could reasonably determine that Valline, who received a positive verdict, was the prevailing party. *See id.* And Stewart's argument regarding *Cormier*, 108 Nev. at 317-18, 830 P.2d at 1328, is unpersuasive.[3]

The *Cormier* case involved determining whether attorney fees were properly denied when a party rejected a non-statutory offer, not who

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[3]Stewart failed to argue *Cormier* in her original opposition to Valline's motion for attorney fees and costs. She raised it later in her motions for attorney fees and for leave to seek reconsideration. The district court denied each motion. We note that because leave to file the motion for reconsideration was not granted, the motion itself was never filed. *See* DCR 13(7) (stating no motion once decided shall be renewed or reheard unless leave of court is granted); WDCR 12(8) (same). Thus, it appears that the district court considered the *Cormier* argument only to determine whether it would grant leave to file. Because leave was denied, and the denial of *leave* is not challenged on appeal, we only address *Cormier* in a limited fashion. *See Engelson*, 139 Nev. at 589, 542 P.3d at 440-41 ("Where, as here, the district court's reconsideration order and motion are properly part of the record on appeal from the final judgment, and . . . the district court elected to entertain the motion on its merits, then we may consider the arguments asserted in the reconsideration motion in deciding an appeal from the final judgment.") (internal quotation marks omitted); *Powell v. Liberty Mut. Fire Ins. Co.*, 127 Nev. 156, 161 n.3, 252 P.3d 668, 672 n.3 (2011) (providing that issues not raised on appeal are deemed waived).

the prevailing party was. *See Cormier*, 108 Nev. at 317-18, 830 P.2d at 1328. The supreme court held that a district court must consider the reasonableness of the offeree's rejection of a non-statutory offer when deciding to award attorney fees. *Id.* Reasonableness is determined by examining certain factors, including "whether the offeree eventually recovered more than the rejected offer and whether the offeree's rejection unreasonably delayed the litigation with no hope of greater recovery." *Id.* at 318, 830 P.2d at 1328.

Thus, *Cormier* is not used to identify a prevailing party; rather it is used to determine the reasonableness of a rejection of an informal offer. *See id.* at 317-18, 830 P.2d at 1328. Here, the district court, in a detailed order denying Stewart's motion for leave to seek reconsideration, considered the reasonableness of Valline's rejection of State Farm's non-statutory offer—using the *Cormier* factors—and it still found Stewart's arguments unpersuasive and the finding of prevailing party and award of attorney fees and costs under NRS 18.010(2)(a) was proper. Specifically, it found Valline's rejection of the informal settlement offer was reasonable due to her medical experts' opinions, and the rejection was not made with no hope of a greater recovery.[4] Thus, Stewart's argument that the district court failed to employ the *Cormier* analysis to determine the prevailing party is incorrect and provides no basis for reconsideration. Additionally, Stewart did not meet her burden showing why the denial of the motion for leave to

[4]*See, e.g.*, *Franco v. Real*, No. 87761-COA, 2024 WL 5151762, at *3 (Nev. Ct. App. Dec. 17, 2024) (Order of Affirmance) (stating the trial court's finding that although Real did not recover more than the rejected $12,000 informal offer, his rejection did not unreasonably delay the litigation with no hope of greater recovery, was supported by substantial evidence, and the award of fees was affirmed).

seek reconsideration was an abuse of discretion, and the denial likewise provides no basis for relief.

Application of NRS 18.010(2)(a)

Stewart argues that the district court erred when it awarded Valline attorney fees pursuant to NRS 18.010(2)(a) because she requested dramatically more damages at trial than the $20,000 statutory limit for attorney fees under NRS 18.010(2)(a). She argues the legislative intent for NRS 18.010(2)(a) was for recovery of attorney fees only in small civil suits. Valline responds that the plain language of the NRS 18.010(2)(a) allows for attorney fees for a party that recovers under $20,000, and thus, the district court properly awarded her attorney fees.

"Statutory interpretation is a question of law subject to de novo review." *State v. Catanio*, 120 Nev. 1030, 1033, 102 P.3d 588, 590 (2004). "When a statute is clear on its face, it is unambiguous, and the court may not go beyond it to determine legislative intent." *Sena v. State*, 138 Nev. 310, 322, 510 P.3d 731, 745 (2022).

"[T]he court may make an allowance of attorney's fees to a prevailing party: (a) When the prevailing party has not *recovered* more than $20,000 . . . ." NRS 18.010(2)(a) (emphasis added). That language is clear and unambiguous. A party may recover attorney fees if they recovered less than $20,000. Thus, this court cannot look beyond the clear language of the statute. *See Sena*, 138 Nev. at 322, 510 P.3d at 745.

Here, Valline recovered $15,367—less than the $20,000 statutory limit, which allows her, under the plain language of the statute, to recover attorney fees under NRS 18.010(2)(a). Thus, the district court did not abuse its discretion when awarding Stewart attorney fees under NRS 18.010(2)(a).

Further, Stewart's legislative history argument is inapplicable here. Nonetheless, she argues that the legislative intent of NRS

18.010(2)(a) was to make parties whole, and thus, NRS 18.010(2)(a) should be restricted to parties who do not seek substantially more than $20,000 in their lawsuit. However, because the statute is clear on its face, courts must not look beyond the plain language of the statute or use legislative history when interpreting it as previously explained.

Additionally, the supreme court noted that the legislature changed the operative word "sought" to the word "recovered" in the more recent version of NRS 18.010(2)(a), providing more support to the conclusion that a party who recovers $20,000 or less may request attorney fees pursuant to NRS 18.010(2)(a), even though the amount sought was greater than $20,000. *See Smith v. Crown Fin. Servs. of Am.*, 111 Nev. 277, 282, 890 P.2d 769, 772 (1995); *see also* 1969 Nev. Stat., ch. 396, § 2, at 667 (showing that the language of the statute was altered from "sought" to "recovered"). Therefore, the district court did not abuse its discretion when it awarded Valline attorney fees under NRS 18.010(2)(a) after she recovered $15,367 and Stewart's argument is more properly presented to the legislature.

Interplay between NRCP 68 and NRS 18.010

Next, Stewart argues that the district court erred because it failed to consider the interplay between NRCP 68 and NRS 18.010, the former of which prevents a party from recovering attorney fees if they reject a statutory offer that is more favorable than their recovery at trial. Valline responds that (1) State Farm's early offer of $29,933 was not a statutory offer under NRCP 68 or NRS 17.117 and Valline's rejection incurred no negative repercussions, and (2) that Valline's offer of $500,000, which was not accepted by Stewart, does not incur the penalties under NRCP 68 or NRS 17.117 because those penalties only apply to an offeree who rejects an offer superior to the verdict and do not apply to an offeror.

"Statutory interpretation is a question of law subject to de novo review." *Catanio*, 120 Nev. at 1033, 102 P.3d at 590. This court reviews the interpretation of the Nevada Rules of Civil Procedure de novo. *Harris v. State*, 138 Nev. 390, 410, 510 P.3d 802, 809 (2022).

Here, Stewart never made a formal offer of judgment under NRCP 68 or NRS 17.117, as the $29,933 offer was made prior to the litigation and State Farm never communicated that it was a formal offer of judgment. Thus, Valline's rejection of that non-statutory offer does not preclude her from seeking attorney fees having recovered less than $20,000 at trial.

Further, the plain language of NRCP 68 states that the offeree cannot recover attorney fees if they reject a more favorable offer than what they received by judgment. Here, Valline was the offeror of the formal offer of judgment and was never an offeree for the purposes of NRCP 68. *See* NRS 17.117.[5] And NRCP 68 does not include any language that penalizes an offeror if the offeror's offer is rejected. Thus, Stewart fails to provide cogent argument or relevant authority to support her assertion. *See Edwards v. Emperor's Garden Rest.*, 122 Nev. 317, 330 n.38, 130 P.3d 1280, 1288 n.38 (2006) (explaining that this court need not consider an appellant's argument that is not cogently argued or lacks the support of relevant authority). Therefore, the district court did not err when it did not consider

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[5]NRS 17.117 and NRCP 68 are functionally identical, and NRS 17.117(10) reads:

> If the offeree rejects an offer and fails to obtain a more favorable judgment: (a) The offeree may not recover any costs, expenses or attorney's fees and may not recover interest for the period after the service of the offer and before the judgment; and (b) The offeree must pay the offeror's post-offer costs and expenses . . . .

the preclusive effect of NRCP 68 when awarding Valline attorney fees under NRS 18.010(2)(a).

Brunzell factors

Next, Stewart argues that the district court abused its discretion by improperly analyzing the *Brunzell* factors and awarding excessive attorney fees to Valline. Valline argues that the district court properly used its discretion and analyzed the *Brunzell* factors when it awarded her attorney fees.

An award of attorney fees is reviewed for abuse of discretion. *Brunzell v. Golden Gate Nat'l Bank*, 85 Nev. 345, 350, 455 P.2d 31, 33-34 (1969). The Nevada Supreme Court has provided four factors that district courts must consider when determining a reasonable amount of attorney fees to be awarded. *Id.* at 349, 455 P.2d at 33. "While it is preferable for a district court to expressly analyze each factor relating to an award of attorney fees, express findings on each factor are not necessary for a district court to properly exercise its discretion." *Logan v. Abe*, 131 Nev. 260, 266, 350 P.3d 1139, 1143 (2015).

Here, Stewart argues that the district court improperly analyzed the second and fourth *Brunzell* factors, specifically that the case was not overly complex and the court awarded an excessive amount of attorney fees at more than ten times the jury verdict. Further, the jury award was less than State Farm's non-statutory offer.

However, Valline submitted a memorandum of costs and fees which included an analysis of the *Brunzell* factors with appropriate affidavits and exhibits. And the district court explicitly analyzed all four *Brunzell* factors in its order awarding attorney fees finding in favor of Valline, including (1) the qualities of Valline's counsel; (2) the character and complexity of the work required of Valline's counsel; (3) the work actually performed, including examination of "voluminous medical records in this

case"; and (4) that Valline's counsel achieved a favorable jury verdict at trial. All those findings are supported by the record, despite the size of the verdict. Stewart provides no relevant authority to support the argument that the attorney fee award must be proportional to the jury verdict, *see Edwards*, 122 Nev. at 330 n.38, 130 P.3d at 1288 n.38, and does not explain how the court abused its discretion beyond granting the large awards. Therefore, Stewart has not demonstrated that the district court abused its discretion even though, concededly, many courts may not have awarded the same amount of attorney fees. *See Leavitt v. Siems*, 130 Nev. 503, 509, 330 P.3d 1, 5 (2014) (holding that a district court abuses its discretion when it reaches a decision no reasonable judge would make under the same circumstances).

Lodestar method

Lastly, Stewart argues that the district court abused its discretion when it used the lodestar method to calculate proper attorney fees because Stewart was the prevailing party and the lodestar method rewarded Valline's attorneys with fees that were more than ten times greater in their dollar amount than the amount of damages stated in the jury verdict. Conversely, Valline argues that the district court may use the lodestar method as an aid to determine appropriate attorney fees in addition to considering the *Brunzell* factors.

A district court may use the lodestar method, along with analyzing the *Brunzell* factors when determining attorney fees. *Shuette v. Beazer Homes Holding Corp.*, 121 Nev. 837, 864-65, 124 P.3d 530, 549 (2005) ("[I]n determining the amount of fees to award, the court is not limited to one specific approach; its analysis may begin with any method rationally designed to calculate a reasonable amount, including those based on a 'lodestar' amount or a contingency fee." (footnotes omitted)).

Here, the district court used the lodestar method—in addition to analyzing the *Brunzell* factors—when determining an appropriate fee award. That is not an abuse of discretion, *see id.*, and Stewart's argument provides her with no basis for relief.[6] Accordingly, we

ORDER the judgment of the district court AFFIRMED.

_____, C.J.
Bulla

_____, J.
Gibbons

_____, J.
Westbrook

cc: Hon. Tammy Riggs, District Judge
McCormick, Barstow, Sheppard, Wayte & Carruth, LLP/Las Vegas
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Washoe District Court Clerk

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[6]Stewart also challenges the award of costs, but those arguments are subsumed within her arguments on prevailing party, and she otherwise provides no relevant authority to support her argument. *See Edwards*, 122 Nev. at 330 n.38, 130 P.3d at 1288 n.38. But as previously noted, costs are allowed under NRS 18.020(3), which provides that costs must be allowed to the prevailing party "[i]n an action for the recovery of money or damages, where the plaintiff seeks to recover more than $2,500."

Insofar as Stewart has raised arguments that are not specifically addressed in this order, we have considered the same and conclude that they do not present a basis for relief.