IN THE COURT OF APPEALS OF THE STATE OF NEVADA

ERIC SCHWEDT, D/B/A ERIC SCHWEDT STONE & MASONRY; AND ERIC SCHWEDT CONSTRUCTION, INC,
Appellants,
vs.
961 MATLEY PROPERTIES, LLC, A NEVADA LIMITED LIABILITY COMPANY,
Respondent.

No. 88931-COA

ORDER OF AFFIRMANCE

Eric Schwedt, d/b/a Eric Schwedt Stone & Masonry, and Eric Schwedt Construction, Inc., appeal from post-judgment orders granting attorney fees and denying a motion for reconsideration. Second Judicial District Court, Washoe County; Kathleen A. Sigurdson, Judge.

Respondent 961 Matley Properties, LLC (Matley), sued Eric Schwedt for breach of a personal guaranty of a lease. Judgment was entered against Schwedt personally in July 2019 in the amount of $70,578.59. However, the judgment remained unsatisfied. In July 2020, Matley filed the underlying complaint for declaratory relief seeking to obtain a judicial declaration that Schwedt's two business entities, Eric Schwedt Stone & Masonry and Eric Schwedt Construction, Inc. (collectively appellants), are alter egos of Eric Schwedt. The complaint included a request for attorney fees pursuant to an attorney fees clause contained in the Guaranty of Lease, which stated "[i]n the event of any action by said landlord against Guarantor, hereunder, to enforce the obligation of the Guarantor,

25-42810

hereunder, the unsuccessful party in such action shall pay the prevailing party therein a reasonable attorney's fee which can be fixed by the Court."

Thereafter, the district court held a bench trial in the matter and subsequently entered its findings of fact, conclusions of law, and judgment in January 2023. The court ultimately determined that "Matley Properties is entitled to a judgment for declaratory relief that Mr. Schwedt is the alter ego of the Defendants" and rendered judgment in favor of Matley.[1]

Subsequently, Matley filed a motion for attorney fees, under NRS 18.010(1), which provides for the recovery of attorney fees pursuant to an agreement. Matley argued that it was entitled to an award of fees based on the attorney fees provision contained in the Guaranty of Lease and asserted that it prevailed on its claim for declaratory relief. Appellants opposed the motion and argued that Matley's action did not assist in the enforcement of the outstanding judgment against Schwedt and that the court's grant of declaratory relief did not attach liability for Matley's judgment to appellants. Accordingly, appellants argued that Matley was unsuccessful in the action and thus could not be the prevailing party. The district court later entered an order granting Matley's motion for attorney fees. In so doing, the court found that it was indisputable that Matley was the prevailing party in the action, as noted in the district court's findings of

[1]In a prior appeal, this court concluded that substantial evidence supported the district court's determination that Matley was entitled to declaratory relief providing that Schwedt and appellants were alter egos of each other. *See Schwedt v. 961 Matley Props., LLC*, Nos. 86178-COA, 86791-COA, 2025 WL 365821, *4 (Nev. Ct. App. Jan. 31, 2025) (Order of Affirmance).

fact, conclusions of law, and judgment. The court separately issued an order awarding Matley attorney fees in the amount of $28,797.50. Appellants filed a motion for reconsideration, which the district court denied. This appeal followed.

On appeal, appellants assert that the district court abused its discretion in awarding Matley attorney fees. Appellants assert that Matley failed to obtain a judgment that would allow Matley to enforce the obligation of Eric Schwedt, individually, against them, and thus, Matley could not be the prevailing party. Conversely, Matley asserts the district court properly awarded it fees under NRS 18.010(1) as the prevailing party because it succeeded in obtaining a declaratory judgment that appellants and Schwedt are alter egos of each other.

The district court may only award attorney fees where a statute, rule, or contract allows it, and we review such an award for an abuse of discretion. *Albios v. Horizon Cmtys., Inc.*, 122 Nev. 409, 417, 132 P.3d 1022, 1027-28 (2006); *see also* NRS 18.010(1) ("The compensation of an attorney and counselor for his or her services is governed by agreement, express or implied, which is not restrained by law."). "An abuse of discretion occurs when the district court's decision is not supported by substantial evidence," *Otak Nev., LLC v. Eighth Jud. Dist. Ct.*, 129 Nev. 799, 805, 312 P.3d 491, 496 (2013), "which is evidence that a reasonable person may accept as adequate to sustain a judgment," *Ellis v. Carucci*, 123 Nev. 145, 149, 161 P.3d 239, 242 (2007). Moreover, "[t]he objective in interpreting an attorney fees provision, as with all contracts, is to discern the intent of the contracting parties," and "the contract will be enforced as written" if its language is "clear and unambiguous." *Barbara Ann Hollier Tr. v. Shack*, 131 Nev. 582, 593, 356 P.3d 1085, 1092 (2015) (quoting *Davis v. Beling*, 128

Nev. 301, 321, 278 P.3d 501, 515 (2012)). Furthermore, "[a] party prevails if it succeeds on any significant issue in litigation which achieves some of the benefit it sought in bringing suit." *Las Vegas Metro. Police Dep't v. Blackjack Bonding, Inc.*, 131 Nev. 80, 90, 343 P.3d 608, 615 (2015) (internal quotation marks and emphasis omitted) (reviewing a district court's determination of who is the prevailing party for an abuse of discretion). "To be a prevailing party, a party need not succeed on every issue." *Id.*

Here, appellants challenge the district court's determination that Matley prevailed in the action pursuant to the Guaranty of Lease. The attorney fees provision contained in the Guaranty of Lease stated "[i]n the event of any action by said landlord against Guarantor, hereunder, to enforce the obligation of the Guarantor, hereunder, the unsuccessful party in such action shall pay the prevailing party therein a reasonable attorney's fee which can be fixed by the Court." Contrary to appellants' argument, Matley prevailed in the action. Notably, Matley initiated the complaint due to Schwedt's breach of the Guaranty of Lease and sought enforcement of Schwedt's obligation by obtaining a declaration that appellants were alter egos of Schwedt. Matley ultimately prevailed on this issue as the district court determined that appellants and Schwedt were legally one and the same, and thus, were alter egos of each other. *See id.* Thus, Matley succeeded on a significant issue in the litigation which achieved the benefit it sought in the lawsuit to be deemed the prevailing party in the matter. *See id.*

While appellants assert that Matley was not the prevailing party in the underlying action pursuant to the Guaranty of Lease because the district court's alter ego declaration did not ultimately attach liability to appellants for Matley's outstanding judgment against Schwedt

personally, and thereby make them responsible for a monetary judgment, we are not persuaded by this argument. As written, the attorney fees provision does not require that Matley be awarded any monetary judgment from the enforcement action to be deemed the prevailing party, but rather, the plain language of the provision broadly refers to any action to enforce the obligation. *See Edelstein v. Bank of N.Y. Mellon,* 128 Nev. 505, 518, 286 P.3d 249, 258 (2012) ("When interpreting a written agreement between parties, this court is not at liberty, either to disregard words used by the parties . . . or to insert words which the parties have not made use of." (internal quotation marks omitted)). Matley commenced an action for a declaration that appellants were alter egos of Schwedt, which was related to Matley enforcing its judgment against Schwedt and went towards potential recovery of the existing judgment debt owed, regardless of whether or not the action resulted in the ability for Matley to directly obtain recovery against the companies at the time the court granted relief in its favor. Thus, Matley succeeded in enforcing the obligation by obtaining a declaration that Schwedt and appellants were alter egos, which was ultimately sufficient to satisfy the terms of the attorney fees provision in the Guaranty of Lease. *See Canfora v. Coast Hotels & Casinos, Inc.*, 121 Nev. 771, 776, 121 P.3d 599, 603 (2005) (noting that the appellate court interprets unambiguous contracts according to the plain language of their written terms); *see also LFC Mktg. Grp., Inc. v. Loomis*, 116 Nev. 896, 898, 8 P.3d 841, 843 (2000) (explaining that "the alter ego doctrine may be applied to recover an individual debt from the assets of a corporation determined to be the alter ego of the individual debtor").

Accordingly, the district court did not abuse its discretion in finding Matley to be the prevailing party and granting Matley's motion for

attorney fees pursuant to NRS 18.010(1). Although appellants also challenge the district court's order denying their motion for reconsideration, appellants likewise fail to demonstrate that relief is warranted with respect to that decision. *See Arnold v. Kip*, 123 Nev. 410, 417, 168 P.3d 1050, 1054 (2007) (holding that appellate courts may consider arguments asserted in a motion for reconsideration if the district court chose to entertain the motion on its merits and it is properly part of the appellate record).

Therefore, we

ORDER the judgment of the district court AFFIRMED.[2]

_____, C.J.
Bulla

_____, J.
Gibbons

_____, J.
Westbrook

cc: Hon. Kathleen A. Sigurdson, District Judge
O'Mara Law Firm, P.C.
Law Offices of Mark Wray
Washoe District Court Clerk

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