

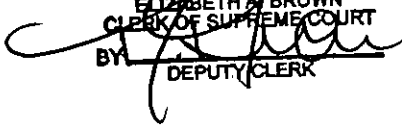
IN THE SUPREME COURT OF THE STATE OF NEVADA

FORTUNET, INC., A NEVADA
CORPORATION,
Appellant,
vs.
JACK CORONEL,
Respondent.

No. 87801

FILED

NOV 04 2025

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

*ORDER AFFIRMING IN PART, REVERSING IN PART, VACATING IN
PART, AND REMANDING*

This is an appeal from a district court order awarding attorney fees and costs, as modified under NRCP 59(e), in a contract and tort action. Eighth Judicial District Court, Clark County; Timothy C. Williams, Judge.

Appellant Fortunet, Inc.¹ sued multiple defendants, including a former Fortunet employee, respondent Jack Coronel; Coronel's related entities (the Playbook entities); and later Coronel's wife, Juli Rosten, for misappropriation of trade secrets and other tort and contract-based claims. Coronel and the Playbook entities countersued Fortunet. Three trials occurred. Before the first trial, Coronel and Rosten filed for bankruptcy, thereby staying the proceedings on Fortunet's claims against them. Fortunet's case proceeded against the other defendants, including the Playbook entities. Coronel's and the Playbook entities' counterclaims were also adjudicated. Following the trial, the district court awarded attorney

¹To maintain consistency with the conventions used in our prior orders in related cases, we refer to FortuNet as "Fortunet" in this order.

fees to defendants Bruce Himelfarb and Himelfarb & Associates (collectively, Himelfarb) as a sanction against Fortunet, but denied Coronel and the Playbook entities their fees connected to the first trial (the 2013 order).

After the bankruptcy stay was lifted, Fortunet's claims against Coronel and Rosten were adjudicated in a second trial, which Fortunet lost. On appeal, we affirmed the judgment after the first trial but reversed the judgment after the second trial and remanded for a new trial on the claims against Coronel and Rosten. *Fortunet, Inc. v. Playbook Publ'g, LLC (Fortunet I)*, No. 72930, 2019 WL 2725664 (Nev. June 25, 2019) (Order Affirming in Part, Reversing in Part and Remanding). On remand, the district court granted summary judgment for Rosten and awarded Rosten attorney fees, costs, and interest. On appeal, we concluded that attorney fees were appropriate under NRS 18.010(2)(b), but that the district court abused its discretion in awarding certain fees, costs, and interest, and in failing to attempt to apportion the fees and costs among the defendants. *Fortunet, Inc. v. Rosten (Fortunet II)*, No. 85618, 2024 WL 390133, at *4-6 (Nev. Jan. 31, 2024) (Order Affirming in Part, Reversing in Part, Vacating in Part, and Remanding).

Fortunet's remaining claims against Coronel were adjudicated as follows: the district court granted partial summary judgment for Coronel on Fortunet's conspiracy and conversion claims, and summary judgment for Coronel on Fortunet's deceptive trade practices claim. Following a third trial, the district court granted judgment as a matter of law to Coronel on Fortunet's remaining claims. We affirmed. *Fortunet, Inc. v. Coronel (Fortunet III)*, No. 86542, 2024 WL 3841864 (Nev. Aug. 14, 2024) (Order of Affirmance). Meanwhile, the district court awarded Coronel attorney fees

under NRS 18.010(2)(b), costs, and prejudgment interest. Fortunet appeals from this award.

We review awards of attorney fees, costs, and interest for abuse of discretion. *Logan v. Abe*, 131 Nev. 260, 267, 350 P.3d 1139, 1144 (2015) (costs); *M.C. Multi-Fam. Dev., L.L.C. v. Crestdale Assocs., Ltd.*, 124 Nev. 901, 916, 193 P.3d 536, 546 (2008) (prejudgment interest); *Bobby Berosini, Ltd. v. People for the Ethical Treatment of Animals*, 114 Nev. 1348, 1353-54, 971 P.2d 383, 386 (1998) (attorney fees). “We review a district court’s conclusions of law, including whether claim or issue preclusion applies, de novo.” *Alcantara v. Wal-Mart Stores, Inc.*, 130 Nev. 252, 256, 321 P.3d 912, 914 (2014).

Fortunet argues that (1) issue preclusion barred the district court from awarding Coronel attorney fees under NRS 18.010(2)(b); (2) the district court otherwise abused its discretion in awarding Coronel attorney fees; (3) the law-of-the-case established by *Fortunet II* requires reversal of multiple categories of fees, costs, and interest; and (4) the award of attorney fees was unreasonable and excessive.²

As to Fortunet’s argument that the 2013 order prohibited the district court from awarding Coronel any attorney fees under the doctrine of issue preclusion, we disagree. When the district court entered the 2013 order, Fortunet’s claims against Coronel were still subject to the bankruptcy stay. Thus, whether Fortunet’s claims against Coronel were “brought or maintained without reasonable ground or to harass the prevailing party”—

²We decline to consider Fortunet’s assertion that the district court required an excessive security bond to stay enforcement of the attorney fee order, as Fortunet does not present meaningful argument on this point. *Edwards v. Emperor’s Garden Rest.*, 122 Nev. 317, 330 n.38, 130 P.3d 1280, 1288 n.38 (2006).

or even who would be the prevailing party on the claims, such that fees could be considered—was not yet actually or necessarily litigated, a factor necessary for issue preclusion to apply. NRS 18.010(2)(b); *Five Star Cap. Corp. v. Ruby*, 124 Nev. 1048, 1055, 194 P.3d 709, 713 (2008) (listing factors that must be present for issue preclusion to apply), *holding modified by Weddell v. Sharp*, 131 Nev. 233, 350 P.3d 80 (2015). Issue preclusion therefore did not bar the district court from later awarding Coronel attorney fees under NRS 18.010(2)(b) for having to defend against Fortunet’s claims once the stay was lifted. Other courts have observed that a case may not be readily identifiable as frivolous, and here, Fortunet’s claims against Coronel were stayed when the district court entered the 2013 order. *See Introcaso v. Cunningham*, 857 F.2d 965, 967 (4th Cir. 1988) (“Although in some instances a frivolous case will be quickly revealed as such, it may sometimes be necessary for defendants to blow away the smoke screens the plaintiffs had thrown up before the defendants may prevail.” (internal quotation marks omitted)). Nor does any prior finding relating to the inapplicability of the Himelfarb fee award preclude the district court’s award of fees to Coronel, as the district court found that Coronel was entitled to attorney fees under NRS 18.010(2)(b) “separately” from any findings about Himelfarb.

We also reject Fortunet’s argument that it produced sufficient evidence to preclude attorney fees under NRS 18.010(2)(b). NRS 18.010(2)(b) must be “liberally construe[d] . . . in favor of awarding attorney’s fees in all appropriate situations.” “For purposes of NRS 18.010(2)(b), a claim is frivolous or groundless if there is no credible evidence to support it.” *Capanna v. Orth*, 134 Nev. 888, 895, 432 P.3d 726, 734 (2018) (internal quotation marks omitted). In applying NRS

18.010(2)(b), the district court detailed Fortunet's failure to produce "anything remotely resembling sufficient evidence" to support its claims against Coronel. Substantial evidence supports the district court's conclusion, which is also consistent with our conclusions in *Fortunet III*, 2024 WL 3841864, at *4-5. We therefore discern no abuse of discretion in the district court's decision to award fees under NRS 18.010(2)(b). Fortunet's argument regarding fees under NRS 600A.060(1) is similarly meritless, as the district court did not rely on NRS 600A.060(1).

While we conclude that the district court was within its discretion in awarding of fees under NRS 18.010(2)(b), we partially reverse as to the amount of fees awarded. We agree with Fortunet that *Fortunet II* serves as the law of the case barring certain attorney fees, costs, and interest awarded to Coronel. *See Dictor v. Creative Mgmt. Servs., LLC*, 126 Nev. 41, 44, 223 P.3d 332, 334 (2010) ("The law-of-the-case doctrine provides that when an appellate court decides a principle or rule of law, that decision governs the same issues in subsequent proceedings in that case."). In *Fortunet II*, we concluded that the district court abused its discretion in awarding Rosten: (1) attorney fees and costs incurred in Rosten's joint bankruptcy with Coronel; (2) attorney fees incurred on appeal in Docket No. 72930; (3) costs based on inadequate documentation; and (4) interest charged by attorneys for unpaid fees. *Fortunet II*, 2024 WL 390133, at *4-5. We also concluded that the district court abused its discretion by awarding fees and costs without attempting to apportion which fees and costs were incurred in Rosten's defense specifically and without finding that apportionment was impracticable. *Id.* at *5. We vacated and remanded the award for the district court to make apportionment findings. *Id.*

To the extent Coronel sought and was awarded the other half of the fees, costs, and interest listed above, *Fortunet II* “address[ed] and decide[d]” Coronel’s entitlement to such fees and costs “explicitly or by necessary implication.” *Dictor*, 126 Nev. at 44, 223 P.3d at 334. Coronel, who primarily reiterates the policy-based arguments and caselaw interpretations asserted by Rosten and rejected by this court in *Fortunet II*, does not convince us to depart from our holdings in *Fortunet II*. See *Hall v. State*, 91 Nev. 314, 316, 535 P.2d 797, 799 (1975) (“The doctrine of the law of the case cannot be avoided by a more detailed and precisely focused argument subsequently made after reflection upon the previous proceedings.”). We therefore reverse the award as to any fees, costs, and interest barred under *Fortunet II*.

For the fees and costs sought by Coronel that were not addressed in *Fortunet II*, we further conclude that Coronel cannot recover fees incurred by Coronel or the Playbook entities for claims and counterclaims that were actually and necessarily litigated in the first trial and denied by the 2013 order. See *Kirsch v. Traber*, 134 Nev. 163, 167, 414 P.3d 818, 821-22 (2011) (a judgment may be final for issue preclusion “as to a part of an action although the litigation continues as to the rest” (internal quotation marks omitted)). We also vacate the award of Reisman Sorokac’s attorney fees and remand to the district court to determine whether Coronel provided adequate supporting documentation for those fees. Cf. NRCP 54(d)(2)(B)(v) (requiring a motion for attorney fees to be supported by documentation concerning the amount of fees claimed). For the costs sought by Coronel that were not addressed in *Fortunet II*, we vacate that portion of the order and remand to the district court to determine which costs were supported by evidence that the costs were reasonable, necessary, and

actually incurred. *See Gibellini v. Klindt*, 110 Nev. 1201, 1206, 885 P.2d 540, 543 (1994) (reversing award of costs and remanding for determination of actual reasonable costs incurred).

Finally, we conclude that the district court erred in applying NRS 17.130 prejudgment interest to the attorney fees awarded to Coronel under NRS 18.010(2)(b). “Prejudgment interest is viewed as compensation for use by defendant of money to which plaintiff is entitled from the time the cause of action accrues until the time of judgment; it is not designed as a penalty.” *Ramada Inns, Inc. v. Sharp*, 101 Nev. 824, 826, 711 P.2d 1, 2 (1985). Prejudgment interest therefore does not apply to attorney fees awarded under NRS 18.010(2)(b), given that the purpose of such an award is to “punish for . . . frivolous or vexatious claims.” We have also prohibited application of prejudgment interest to awards not ascertainable or calculable until entry of judgment. *See, e.g., Jeaness v. Besnilian*, 101 Nev. 536, 541, 706 P.2d 143, 147 (1985). Coronel’s entitlement to any attorney fees under NRS 18.010(2)(b), and the amount or reasonableness thereof, was not ascertainable before the entry of judgment. *See, e.g., NRS 18.010(2)* (stating that a district court “may make an allowance” of such attorney fees to a prevailing party). The district court erred in applying NRS 17.130 prejudgment interest to the attorney fees awarded to Coronel under NRS 18.010(2)(b). As to the part of the order applying prejudgment interest on the cost award, it is not clear whether Coronel proved when those costs were incurred. Thus, we vacate the award and remand for the district court to determine whether Coronel proved when the costs were incurred, and to recalculate prejudgment interest on the costs accordingly. *See generally Albios v. Horizon Cmtys., Inc.*, 122 Nev. 409, 429, 132 P.3d 1022, 1035 (2006).

Accordingly, we

ORDER the judgment of the district court AFFIRMED IN PART, REVERSED IN PART and VACATED IN PART, and we REMAND this matter to the district court for proceedings consistent with this order.³

Pickering, J.
Pickering

Cadish, J.
Cadish

Lee, J.
Lee

cc: Hon. Timothy C. Williams, District Judge
Eleissa C. Lavelle, Settlement Judge
Hartwell Thalacker, Ltd.
Lex Domus Law
Eighth District Court Clerk

³Insofar as the parties raised arguments not specifically addressed in this order, we have considered them and conclude that they either do not warrant relief or need not be reached given the disposition.