



IN THE COURT OF APPEALS OF THE STATE OF NEVADA

CHRISTINA ZEDDIES AND WILLIAM
ZEDDIES,
Appellants,
vs.
THE CROSSING HOMEOWNERS
ASSOCIATION, INC.
Respondent.

No. 90233-COA

ORDER OF AFFIRMANCE

This is an appeal from a district court judgment in a homeowners' association dispute. Eighth Judicial District Court, Clark County; Hon. Maria A. Gall, Judge.

In April 2021, respondent The Crossing Homeowners Association, Inc. (the HOA), filed a complaint that generally alleged appellants Christina and William Zeddies violated the anti-harassment policy in its covenants, conditions, and restrictions (CC&Rs) by threatening, stalking, and defaming various community members. The Zeddieses then filed a countercomplaint alleging the HOA violated its own procedures by bringing the litigation and that the HOA president was using the litigation as part of a personal vendetta against the Zeddieses.

Ultimately, the HOA filed a motion for summary judgment seeking judgment in its favor on all claims and requesting a permanent injunction preventing the Zeddieses from harassing or threatening community members. In support of its motion, the HOA attached copies of filings from a criminal proceeding involving Christina, demonstrating she was convicted of violating a temporary restraining order (TRO) prohibiting

her from contacting the HOA president's wife, as well as other declarations or documents demonstrating the Zeddieses harassed community members by standing outside their homes and screaming, throwing a drink at a member, and driving in a dangerous manner in an effort to intimidate members. The HOA additionally requested attorney fees pursuant to the CC&Rs and NRS 116.4117.

In response, the Zeddieses filed an opposition which generally asserted the HOA should not be involved in the "neighborhood's petty dispute" and that the HOA president was using the litigation to harass them. The Zeddieses did not dispute that Christina was prosecuted for violating the TRO but argued those actions were irrelevant to the alleged CC&Rs violations. Further, the Zeddieses maintained they had a First Amendment right to criticize the HOA and community members and that the community members who had accused them of harassment were biased against them. In support of their opposition, the Zeddieses provided a declaration from Christina which stated she never followed any homeowner, if she criticized the board she was "only exercise[ing] my freedom of speech," and that she had never trespassed or intruded on a board member's home.

Following a hearing, the district court granted summary judgment in the HOA's favor on all claims. The court found that the HOA incorporated NRS 116.31184, which prohibits harassment against a board member or another community member, into its CC&Rs through its anti-harassment policy. Further, the court found the Zeddieses "have not produced any evidence, beyond conclusory statements, to dispute the evidence that has been presented against them" and thus there was no genuine dispute as to any material fact regarding the claims. Regarding nuisance, the court found the Zeddieses' conduct, which included repeatedly

stalking, harassing, and verbally abusing members, constituted a nuisance. The court then entered a permanent injunction prohibiting the Zeddieses from further harassing or threatening members and additionally ordered the HOA to submit a *Brunzell*¹ memorandum to support its fee award. Following motion practice, the district court found the HOA was entitled to attorney fees and costs pursuant to the CC&Rs as well as NRS 116.4117(6) and that the fees sought were reasonable and necessary. The Zeddieses now appeal.²

The Zeddieses first argue that the district court erred in granting summary judgment on the nuisance claim because the alleged behavior does not meet the legal requirement for nuisance. Furthermore, the Zeddieses contend the court erred by entering a permanent injunction based upon the nuisance claim and that the permanent injunction is overly broad or ambiguous.³ “This court reviews an order granting summary

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

²Following the order awarding the HOA attorney fees and costs, the parties stipulated to dismiss the HOA’s request for special and general monetary damages. This order constituted the final judgment in this matter as the award of damages was the only outstanding issue following summary judgment. And although the Zeddieses’ notice of appeal identified the order adopting the stipulation as a challenged order on appeal, they present no argument regarding the stipulated order and thus have forfeited their challenge. *See Palmieri v. Clark County*, 131 Nev. 1028, 1033 n.2, 367 P.3d 442, 446 n.2 (Ct. App. 2015) (providing that arguments not raised on appeal are deemed forfeited).

³The Zeddieses additionally argue that the HOA violated its own CC&Rs by initiating litigation. Having reviewed the opening brief, we conclude the Zeddieses do not provide cogent argument or legal authorities to support this position and thus we reject it. *See Edwards v. Emperor’s Garden Rest.*, 122 Nev. 317, 330 n.38, 130 P.3d 1280, 1288 n.38 (2006)

judgment de novo.” *Cuzze v. Univ. & Cmty. Coll. Sys. of Nev.*, 123 Nev. 598, 602, 172 P.3d 131, 134 (2007). “[S]ummary judgment is appropriate ‘when the pleadings, depositions, answers to interrogatories, admissions, and affidavits, if any, that are properly before the court demonstrate that no genuine [dispute] of material fact exists.’” *Id.* (quoting *Wood v. Safeway, Inc.*, 121 Nev. 724, 731, 121 P.3d 1026, 1031 (2005)).

As an initial matter, we conclude the Zeddieses are barred by the law of the case doctrine from challenging the injunctive relief as the supreme court dismissed their prior appeal challenging this injunction as a sanction. *See Zeddies v. The Crossing Homeowners Ass’c., Inc.*, No. 86363, 2024 WL 4579157 (Nev. Oct. 24, 2024) (Order Dismissing Appeal); *see also Tien Fu Hsu v. Cnty. of Clark*, 123 Nev. 625, 629-30, 173 P.3d 724, 728 (2007) (“Under the law of the case doctrine, when an appellate court states a principle or rule of law necessary to a decision, the principle or rule becomes the law of the case and must be followed throughout its subsequent progress, both in the lower court and upon subsequent appeal.” (alteration and internal quotation marks omitted)). Accordingly, we cannot consider the Zeddieses’ challenge to the permanent injunction.

To the extent the Zeddieses allege the district court erred by granting summary judgment on the nuisance claim, we disagree and thus affirm. On appeal, the Zeddieses contend the allegations were “very minor” and that all people who live in neighborhoods “must suffer some inconvenience and annoyance from their neighbors and must submit to annoyances consequent upon the reasonable use of property by others.” In response, the HOA contends the Zeddieses’ actions rose to the level of

(providing that this court need not consider claims that are unsupported by cogent arguments).

nuisance under NRS 40.140(1)(a), as well as the CC&R's definition of a nuisance.

NRS 40.140(a)(1) defines a nuisance as “anything which is injurious to health, or indecent and offensive to the senses . . . so as to interfere with the comfortable enjoyment of life or property.” A nuisance claim is supported upon a showing of substantial and unreasonable interference with the use and enjoyment of land. *Lied v. Clark County*, 94 Nev. 275, 278, 579, P.2d 171, 173 (1978). “Interference is substantial ‘[i]f normal persons living in the community would regard the [alleged nuisance] as definitively offensive, seriously annoying or intolerable.’” *Sowers v. Forest Hills Subdivision*, 129 Nev. 99, 106, 294 P.3d 427, 432 (2013) (alterations in original) (citation omitted). “Interference is unreasonable when the gravity of the harm outweighs the social value of the activity alleged to cause the harm.” *Id.* (internal citation and quotation marks omitted). And the CC&Rs prohibit “noxious or offensive activities” and provide that the board shall determine if the activity constitutes a nuisance.

Although the Zeddieses maintain their behavior was “very minor,” substantial evidence supports the district court’s conclusion that their behavior constituted a nuisance. For example, the undisputed evidence demonstrates one community member obtained a TRO prohibiting Christina from contacting her and, despite this, Christina continued to stalk or harass the victim, which resulted in a criminal conviction. Furthermore, a community member alleged, and the Zeddieses did not deny, that Christina would “scream[] at the top of her lungs” and threaten her, which rendered her unable to enjoy her home. And yet another community member alleged that Christina physically assaulted her by throwing a drink onto her back and hair. Notably, Christina did not deny this incident in her

declaration and the opposition suggested the dispute was simply overblown. Based upon the uncontroverted evidence, we cannot say the district court abused its discretion by concluding the actions were not simple annoyances and instead unreasonably interfered with the community members' enjoyment of their homes.

The Zeddieses next challenge the award of attorney fees, maintaining that the district court erred by awarding attorney fees pursuant to NRS 18.010 because the HOA did not obtain a monetary judgment. Further, the Zeddieses maintain injunctive relief may only support an award of fees if the litigation was necessitated by the opposing party's bad faith. In response, the HOA maintains it was entitled to fees pursuant to its CC&Rs, which authorize an award of fees to the prevailing party, and NRS 116.4117.

"We review a district court's award of attorney fees for an abuse of discretion." *Miller v. Wilfong*, 121 Nev. 619, 622, 119 P.3d 727, 729 (2005). However, the question of whether a statute authorizes an award of attorney fees is a question of law we review de novo. *Logan v. Abe*, 131 Nev. 260, 264, 350 P.3d 1139, 1141 (2015). "An abuse of discretion occurs when the 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).

Here, the Zeddieses' opening brief addresses only whether NRS 18.010 permits an award of attorney fees absent a monetary damages award and fails to address whether awards were warranted under NRS 116.4117⁴

⁴We note that in the Zeddieses' reply brief they present a single sentence challenging the award of attorney fees under NRS 116.4117. However, because they raised this argument for the first time in their reply brief, we conclude they have forfeited this argument. *See Powell v. Liberty*

or the HOA's CC&Rs. Because the Zeddieses failed to challenge the district court's alternative bases for the award, we necessarily affirm.⁵ *See Hung v. Genting Berhad*, 138 Nev. 547, 547, 513 P.3d 1285, 1286 (Ct. App. 2022) (holding "when a district court provides alternative bases to support its ultimate ruling, and an appellant fails to challenge the validity of each alternative basis on appeal," this court will generally affirm the judgment). Therefore, we affirm the court's order awarding fees.

Accordingly, we

ORDER the judgment of the district court AFFIRMED.



Bulla, C.J.



Gibbons, J.



Westbrook, J.

cc: Maria A. Gall, District Judge
Law Office of Malik W. Ahmad
Gibbs Giden Locher Turner Senet & Wittbrodt LLP/Las Vegas
Eighth District Court Clerk

Mut. Fire Ins. Co., 127 Nev. 156, 161 n.3, 252 P.3d 668, 672 n.3 (2011) (holding arguments not raised in the appellant's opening brief are deemed forfeited).

⁵Although the district court's summary judgment order referenced NRS 18.010, the order awarding fees and costs were awarded "in accordance with the Association's CC&Rs Article XVIII, §18.1(b) and NRS 116.4117(b)."