

IN THE SUPREME COURT OF THE STATE OF NEVADA

N. RAO YERRAMSETTI, M.D.,
Appellant,
vs.
RANDLE P. "DUKE" PHELPS; PHELPS
FAMILY DEVELOPMENT, INC.; AND
MORNINGSIDE HOMES, INC.,
Respondents.

No. 42218

FILED

JUL 11 2005

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. Richard*
CHIEF DEPUTY CLERK

ORDER AFFIRMING IN PART, REVERSING IN PART AND
REMANDING

This is an appeal from a post-remand judgment awarding attorney fees in a real property dispute. Eighth Judicial District Court, Clark County; Sally L. Loehrer, Judge.

In 2000, a bench trial was held on appellant N. Rao Yerramsetti, M.D.'s consolidated complaints and respondent Randle P. Phelps's counterclaim. The district court found in favor of Phelps on his abuse of process counterclaim, and awarded substantial attorney fees under NRS 18.010(2)(b) for bad faith litigation. Yerramsetti appealed the matter, and this court remanded the case to allow him to review the attorney fee submission. Following several hearings in 2003, the district court "confirmed" the original award of \$379,345.60, less an approximate \$12,000.00 deduction. Phelps was also awarded \$10,000.00 for fees incurred during remand and interest from the date of the 2000 judgment in the amount of \$64,614.54. Yerramsetti appeals the attorney fees award, the award of fees incurred on remand, and the award of interest from the date of the original judgment.

A trial court's award of attorney fees will not be disturbed unless there is a manifest abuse of discretion.¹ The award of fees in this instance was based on the trial court's application of NRS 18.010(2)(b), which permits an award of fees for claims brought without reasonable ground or to harass the prevailing party. In determining whether attorney fees are reasonable, the trial court should consider the quality of the advocate, type of work, work actually performed and the result.²

We note at the outset that the basic validity of the original fees award is not at issue in this appeal. Our original remand order simply allowed Yerramsetti an opportunity to object to documentation of the attorney fees submission. This court's remand order ruled in favor of Phelps on all other issues. After carefully reviewing the record in this matter, we are not persuaded that the district court abused its discretion on remand in confirming the original fees award (less the deduction). Therefore, Yerramsetti's argument lacks merit and the October 14, 2003, award will stand.


However, because the district court erred in its initial fees award by not allowing Yerramsetti to challenge the fee's documentation, and because the parties fully litigated the fees award for the first time on remand, the district court erred in its award of remand fees and interest from the initial order.


¹Bobby Berosini, Ltd. v. PETA, 114 Nev. 1348, 1353-54, 971 P.2d 383, 386 (1998).

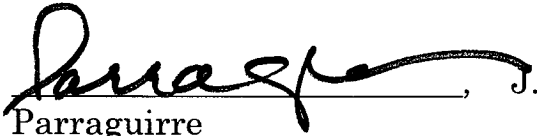
²Hornwood v. Smith's Food King No. 1, 107 Nev. 80, 87, 807 P.2d 208, 213 (1991).

Accordingly, we affirm that portion of the district court's judgment pertaining to the initial attorney fees award, reverse that portion relating to the \$10,000.00 additional award on remand and the interest award, and remand this matter to the district court. On remand, the district court shall award interest from October 14, 2003, the date of the court's attorney fees judgment.

It is so ORDERED.


_____, J.
Maupin


_____, J.
Douglas


_____, J.
Parraguirre

cc: Hon. Sally L. Loehrer, District Judge
Law Offices of Richard McKnight, P.C.
Lewis & Roca
Clark County Clerk