IN THE COURT OF APPEALS OF THE STATE OF NEVADA

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| BRADY W. KERESEY, INDIVIDUALLY,<br>Appellant,<br>vs.<br>GERTRUDE RUDIAK, INDIVIDUALLY; GERTRUDE RUDIAK SURVIVOR TRUST; JOHN M. RENTCHLER, TRUSTEE; PANAMANIAN VISTAS, LTD., AN OHIO LIMITED LIABILITY COMPANY; PANAMANIAN VISTAS, INC., A CORPORATION OF THE REPUBLIC OF PANAMA; SEASHORE VISTAS, LTD., AN OHIO LIMITED LIABILITY COMPANY; AND OPAL SEAS TRADING, S.A., A CORPORATION OF THE REPUBLIC OF PANAMA,<br>Respondents. | No. 75177-COA |
| BRADY W. KERESEY, INDIVIDUALLY,<br>Appellant,<br>vs.<br>GERTRUDE RUDIAK, INDIVIDUALLY; GERTRUDE RUDIAK SURVIVOR TRUST; JOHN M. RENTCHLER, TRUSTEE; PANAMANIAN VISTAS, LTD., AN OHIO LIMITED LIABILITY COMPANY; PANAMANIAN VISTAS, INC., A CORPORATION OF THE REPUBLIC OF PANAMA; SEASHORE VISTAS, LTD., AN OHIO LIMITED LIABILITY COMPANY; AND OPAL SEAS TRADING, S.A., A CORPORATION OF THE REPUBLIC OF PANAMA,<br>Respondents. | No. 77146-COA |

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19-34964

*ORDER AFFIRMING IN PART AND REVERSING IN PART*

Appellant Brady W. Keresey appeals from a district court order granting a permanent injunction, a final judgment granting declaratory relief, and orders awarding attorney fees and costs. Second Judicial District Court, Washoe County; Patrick Flanagan, Judge; Second Judicial District Court, Washoe County; Lidia Stiglich, Judge; Second Judicial District Court, Washoe County; Barry L. Breslow, Judge.

Keresey and respondents (collectively, the Rudiaks) entered into multiple business agreements, between 2007 and 2008, wherein Keresey's services were utilized to purchase two investment properties in Panama.[1] At the time of formation, Keresey was a Nevada-licensed attorney and realtor, and the Rudiaks were Nevada residents. Keresey's retainer, along with most of the other contracts (which Keresey drafted), contained a Nevada choice-of-law clause and a Nevada forum-selection clause. Moreover, Keresey's letterhead signaled that he had a physical presence in Nevada, as it included a Nevada mailing address and telephone number.

In 2011, after the parties' relationship had deteriorated, Keresey demanded a commission payment pursuant to their service agreements. The Rudiaks disputed Keresey's valuation, however, as it was not based on an independent appraisal. In response, Keresey threatened to cloud title on the properties, using a Panamanian legal procedure called sequestration. The Rudiaks ultimately paid Keresey a portion of his demand, but the payment failed to resolve the matter. Furthermore, in 2014, Keresey retired his Nevada licenses and permanently moved to

[1]We do not recount the facts except as necessary to our disposition.

Panama without informing the Rudiaks. In 2015, the Rudiaks filed a complaint in Nevada seeking declaratory relief and alleging various tort and contract claims. The Rudiaks also moved the district court for a temporary restraining order (TRO) and a preliminary injunction, in order to prevent Keresey from clouding title on the Panamanian properties. The district court granted the TRO, which subsequently became the preliminary injunction. In late 2017, the Rudiaks sold the properties to an independent third party.

Ultimately, the district court granted the Rudiaks' request for a permanent injunction in early 2018, and in September 2018, it entered a final judgment granting declaratory relief, declaratory judgment, and awarding the Rudiaks attorney fees and costs. Keresey appealed from both orders, and the cases were consolidated.

On appeal, Keresey asks this court to dissolve the permanent injunction, arguing that (1) the district court lacked subject-matter and personal jurisdiction, (2) service of process was ineffective, (3) the injunction was improper because the Rudiaks failed to establish irreparable harm, (4) the district court erred when it sanctioned him for violating the TRO and preliminary injunction, (5) the court erred in striking his answer, and (6) the district court abused its discretion when it awarded the Rudiaks attorney fees and costs.[2]

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[2]The Rudiaks contend that this court lacks jurisdiction to hear a number of the issues raised in Keresey's appeal, as they are not authorized under NRAP 3A(b). We conclude, however, that this argument lacks merit. Because Keresey is appealing from a final judgment, the interlocutory orders that were entered prior to the final judgment may properly be considered by this court. *See, e.g., Consol. Generator-Nev., Inc. v. Cummins Engine Co.*, 114 Nev. 1304, 1312, 971 P.2d 1251, 1256 (1998) ("Since [the

*The district court had both subject-matter and personal jurisdiction*

Keresey argues that the district court erred in issuing the injunction because it lacked subject-matter jurisdiction over the issues related to Panamanian properties. Keresey argues further that the district court lacked personal jurisdiction over him. We address each argument in turn.

*Subject-matter jurisdiction*

After reviewing the record, we conclude that the district court had subject-matter jurisdiction over the dispute. Whether a court lacks subject matter jurisdiction "can be raised by the parties at any time, or sua sponte by a court of review, and cannot be conferred by the parties." *Swan v. Swan*, 106 Nev. 464, 469, 796 P.2d 221, 224 (1990). "Subject matter jurisdiction is a question of law subject to de novo review." *Ogawa v. Ogawa*, 125 Nev. 660, 667, 221 P.3d 699, 704 (2009).

Nevada district courts, like most state trial courts, are courts of general jurisdiction vested with authority to adjudicate a variety of claims, whether sounded in law or equity. *See* Nev. Const. art. 6, § 6 (pronouncing that district courts have original jurisdiction over *all cases*, except where justice court has original jurisdiction); *John v. Douglas Cty. Sch. Dist.*, 125 Nev. 746, 756, 219 P.3d 1276, 1283 (2009) (providing that Nevada district courts are courts of general jurisdiction), *superseded by statute on other grounds as stated in Delucchi v. Songer*, 133 Nev. 290, 296, 396 P.3d 826, 831 (2017); *Am. Sterling Bank v. Johnny Mgmt. LV, Inc.*, 126 Nev. 423, 428, 245 P.3d 535, 538 (2010) (noting that trial courts have broad discretion to

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appellant] is appealing from a final judgment the interlocutory orders entered prior to the final judgment may properly be heard by this court."). Therefore, this court has jurisdiction pursuant to NRAP 3A(b)(1).

fashion equitable remedies); *see also* 21 C.J.S. *Courts* § 6 (2019) ("Most state courts are courts of general jurisdiction, vested with expansive authority to resolve myriad controversies brought before them." (footnote omitted)).

Here, the Rudiaks' complaint included tort and contract claims, as well as requests for injunctive and declaratory relief. Thus, the pleading incorporated both legal and equitable claims that fell within the scope of the district court's general jurisdiction. Moreover, contrary to Keresey's assertion, the instant matter was neither in rem nor quasi in rem, as the claims were taken directly against Keresey, a party to the suit, rather than the Panamanian properties. *See Chapman v. Deutsche Bank Nat'l Tr. Co.*, 129 Nev. 314, 318, 302 P.3d 1103, 1106 (2013) (distinguishing in rem, quasi in rem, and in personam proceedings). Indeed, the properties were collateral to the dispute itself, which arose from a disagreement about the parties' contractual rights and obligation.

Finally, a district court, sitting in equity, is not divested of subject-matter jurisdiction simply because the situs of real property, which is collateral to the dispute, is extra-territorial. *See, e.g., Chevron Corp. v. Donziger*, 974 F. Supp. 2d 362, 556 (S.D.N.Y. 2014) (providing that courts sitting in equity "may command persons properly before it to cease or perform acts outside its territorial jurisdiction" (quotation marks omitted)); *see also* 30A C.J.S *Equity* § 89 (2019) ("Indirect control [of the property] may be exercised by injunctions *restraining a litigating party from interfering with the possession of, or rights in,* real property outside the jurisdiction . . . ." (emphasis added)).

Here, the district court personally enjoined Keresey from interfering with the Rudiaks' properties in Panama. Since the district court determined that it could rightfully exercise personal jurisdiction over

Keresey, discussed *infra*, it was within its authority to enjoin Keresey from acting abroad. Because the district court is one of general jurisdiction, and because the matter was in personam, we conclude that the district court correctly determined it had subject-matter jurisdiction over the dispute.

*Personal Jurisdiction*

Keresey also argues that the district court lacked personal jurisdiction. We disagree. When reviewing a district court's exercise of jurisdiction, we review legal issues de novo but defer to the district court's findings of fact if they are supported by substantial evidence. *Catholic Diocese of Green Bay, Inc. v. John Doe 119*, 131 Nev. 246, 249, 349 P.3d 518, 520 (2015).

In order for a Nevada court to exercise personal jurisdiction over a nonresident defendant, a plaintiff must show that Nevada's long-arm statute, NRS 14.065, has been satisfied, and that the exercise of jurisdiction would not offend due process. *Id.* Since Nevada's long-arm statute reaches the limits of due process established by the United States Constitution, the requirements are the same for both (i.e., the long-arm statute and due process). *Id.*; *see also Baker v. Eighth Judicial Dist. Court*, 116 Nev. 527, 531-32, 999 P.2d 1020, 1023 (2000). There are two species of personal jurisdiction: general and specific. *Baker*, 116 Nev. at 532, 999 P.2d at 1023. Nevertheless, we need not address the former, as the latter is sufficient to resolve the instant matter.[3]

A court may exercise specific personal jurisdiction over a nonresident defendant if the defendant has certain "minimum contacts" with the forum and "maintenance of the suit [would] not offend traditional

[3]The district court concluded it had personal jurisdiction via specific jurisdiction.

notions of fair play and substantial justice." *Id.* (internal quotations omitted). To determine whether a court may exercise specific jurisdiction, this court utilizes a three-part test. *Catholic Diocese*, 131 Nev. at 249-50, 349 P.3d at 520. Accordingly, a court may exercise specific jurisdiction over a nonresident defendant where (1) the defendant purposefully and affirmatively directs his conduct toward the forum (known as purposeful availment); (2) the plaintiff's claims arise from the defendant's contact with the forum; and (3) exercise of the court's jurisdiction would be reasonable. *Id.* We address each requirement in order.

First, the record supports the district court's finding of purposeful availment. Specifically, the record reveals that Keresey was a Nevada-licensed attorney and realtor, who conducted business in Nevada, had a Nevada mailing address and telephone number, and contracted for services with Nevada residents. Furthermore, Keresey's retainer agreement, as well as other documents he prepared, contained a Nevada choice-of-law clause and a Nevada forum-selection clause. Thus, Keresey purposely availed himself of the forum of Nevada.

Second, the Rudiaks' causes of action arise from Keresey's contacts with Nevada. For example, the Rudiaks' first amended complaint contained claims for (1) breach of duty arising from a special relationship, (2) breach of fiduciary duty, (3) breach of contract, (4) breach of the covenant of good faith and fair dealing, (5) injunctive relief, (6) declaratory relief, (7) abuse of process, (8) slander of title, and (9) fraud.[4] All of these claims flow

[4]Keresey argued below that the slander of title claim was beyond the court's jurisdiction because "[a] Nevada court simply does not have jurisdiction to determine title issues in a foreign country." This argument fails, however, because slander of title is a tort action that "exists separate

directly from the agreements that the parties negotiated in Nevada, while Keresey was a Nevada-licensed attorney and realtor.

Finally, when determining whether the exercise of personal jurisdiction is appropriate, we must consider whether it is reasonable for a defendant to defend a particular suit here. *See Trump v. Eighth Judicial Dist. Court*, 109 Nev. 687, 701, 857 P.2d 740, 749 (1993). Factors relevant to this inquiry include, among others, the forum state's interest in adjudicating the dispute and a plaintiff's interest in obtaining convenient and effective relief. *Id.*

Here, we conclude that it was reasonable for the district court to exercise jurisdiction over Keresey and require him to litigate this matter in Nevada. First, Nevada has an interest in resolving claims arising from injuries to Nevada residents, especially where, as here, those injuries were caused by a Nevada-licensed professional. Second, the Rudiaks were Nevada residents who contracted with a Nevada-licensed attorney and realtor. Therefore, Nevada provides the most convenient forum to effectuate adequate relief.

Accordingly, because Keresey purposely directed his conduct toward Nevada, which gave rise to the Rudiaks' claims, and because the exercise of jurisdiction over Keresey was reasonable, we conclude that the district court properly exercised specific jurisdiction over Keresey.

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from the title to land." *McKnight Family, LLP v. Adept Mgmt. Serv., Inc.*, 129 Nev. 610, 616, 310 P.3d 555, 559 (2013); *see also Higgins v. Higgins*, 103 Nev. 443, 445, 744 P.2d 530, 531 (1987) (recognizing plaintiff's slander of title as a tort claim).

*Service of process was properly effectuated*

Keresey also argues that service of process was ineffective because he was served via substituted service, which is not permitted under the Inter-American Convention on Letters Rogatory and prohibited by Panamanian law. The Rudiaks counter that the district court correctly determined that service was valid pursuant to NRCP 4(f). We agree with the Rudiaks.[5]

Under NRCP 4, substituted service is permitted where (1) the summons and complaint are left at the defendant's usual place of abode; (2) with a person of suitable age and discretion residing therein; and (3) served by a person who is at least 18 years of age and not a party to the lawsuit. NRCP 4(a)-(d). NRCP 4(f) states, "[a]ll process, including subpoenas, may be served anywhere within the territorial limits of the State and, when a statute or rule provides, beyond the territorial limits of the State." Furthermore, NRS 14.065(2) permits service abroad so long as "the party [is] served in [a] manner provided by statute or rule of court for service upon a person of like kind within this state." *See Orme v. Eighth Judicial Dist. Court*, 105 Nev. 712, 715-17, 782 P.2d 1325, 1327-28 (1989) (holding that NRS 14.065 permits substituted service, via NRCP 4(d)(6), on an out-of-state defendant); *see also* NRCP 4(e)(2).

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[5]NRCP 4 was amended effective March 1, 2019. *See In re Creating a Comm. to Update & Revise the Nev. Rules of Civil Procedure*, ADKT 0522 (Order Amending the Rules of Civil Procedure, the Rules of Appellate Procedure, and the Nevada Electronic Filing and Conversion Rules, December 31, 2018). Accordingly, we cite the prior version of the rule herein.

Here, the record demonstrates that a Panamanian process server, who was over 18-years old, left the summons and complaint at Keresey's abode with a resident of suitable age and discretion. Thus, Keresey was served pursuant to NRCP 4(d)(6) (substituted service) and NRCP 4(f) (out-of-state service). Moreover, unlike the Hague Convention, the Inter-American Convention's service of process provisions "are neither mandatory nor exclusive." *Jon D. Derrevere, P.A. v. Mirabella Found.*, No. 6:10-cv-925-Orl-28DAB, 2011 WL 1983352, at *2 (M.D. Fla. Apr. 26, 2011), *report and recommendation adopted*, No. 6:10-cv-925-Orl-28DAB, 2011 WL 1983338 (M.D. Fla. May 20, 2011); *see also See Paiz v. Castellanos*, 2006 WL 2578807, *1 (S.D. Fla. Aug.28, 2006) (collecting cases applying the Convention and concluding that it is not mandatory). Therefore, service may be effected by other applicable means, including another method set forth in Rule 4. *See Derrevere*, 2011 WL 1983352, at *2.

Furthermore, we are unpersuaded by Keresey's argument that substituted service is prohibited under Panamanian law, as it is not adequately supported by relevant authority. *See Edwards v. Emperor's Garden Rest.*, 122 Nev. 317, 330 n.38, 130 P.3d 1280, 1288 n.38 (2006) (providing that this court need not consider claims that are not cogently argued or supported by relevant authority). Accordingly, we conclude that Keresey was properly served pursuant to NRCP 4.

*The Rudiaks made a showing of irreparable harm*

Keresey argues that the district court abused its discretion in issuing the injunction because the Rudiaks failed to show that they would suffer irreparable harm absent the injunction. Specifically, he argues the Rudiaks were not the true owners of the Panamanian properties and that they knowingly misrepresented their ownership interest to the district court. We disagree.

A district court's issuance of a preliminary injunction is reviewed for an abuse of discretion. *Finkel v. Cashman Prof'l, Inc.*, 128 Nev. 68, 72, 270 P.3d 1259, 1262 (2012). "A decision that lacks support in the form of substantial evidence is arbitrary or capricious and, therefore, an abuse of discretion." *Stratosphere Gaming Corp. v. City of Las Vegas*, 120 Nev. 523, 528, 96 P.3d 756, 760 (2004) (internal quotation marks omitted). "A preliminary injunction is available when the moving party can demonstrate that the nonmoving party's conduct, if allowed to continue, will cause irreparable harm for which compensatory relief is inadequate and that the moving party has a reasonable likelihood of success on the merits." *Boulder Oaks Cmty. Ass'n v. B & J Andrews Enters., LLC*, 125 Nev. 397, 403, 215 P.3d 27, 31 (2009).

Here, the district court concluded that an injunction was necessary to prevent irreparable injury, and to preserve the status quo. *No. One Rent-A-Car v. Ramada Inns, Inc.*, 94 Nev. 779, 780-81, 587 P.2d 1329, 1330 (1978) (preserving the status quo valid reason for a preliminary injunction). In support of this finding, the court relied on, *inter alia*, a notarized letter of intent authored by Keresey, wherein he threatened to cloud title and freeze the transferability of the properties via extremely slow Panamanian litigation. Furthermore, based on the affidavits and other evidence, including the contractual agreements between the parties, the district court concluded that the Rudiaks were likely to succeed on the merits. Therefore, the district court did not abuse its discretion in issuing the preliminary injunction because its decision was supported by substantial evidence.

*The district court did not abuse its discretion in awarding attorney fees as a sanction*

Keresey argues that district court abused its discretion when it sanctioned him $5,000 for violating the TRO and the preliminary injunction. Specifically, he argues that the $5,000 fine exceeds the bounds of NRS 22.100 and that the word sequestration was stricken from the TRO.

"This court reviews a district court's award of attorney fees and costs, as a sanction, for an abuse of discretion." *Emerson v. Eighth Judicial Dist. Court*, 127 Nev. 672, 679, 263 P.3d 224, 229 (2011) (internal quotation marks omitted). A district court has "inherent power to protect the dignity and decency of its proceedings and to enforce its decrees, and thus it may issue contempt orders and sanction or dismiss an action for litigation abuses." *Halverson v. Hardcastle*, 123 Nev. 245, 261, 163 P.3d 428, 440 (2007). Furthermore, when the district court's exercise of inherent authority is part of its "day-to-day functioning or regular management of its internal affairs," the court may rely on that authority despite the existence of an applicable rule or statute. *City of Sparks v. Sparks Mun. Court*, 129 Nev. 348, 363-64, 302 P.3d 1118, 1129 (2013).

In this case, the record indicates that the sanction was not issued for contempt, but rather as reasonable attorney fees for the Rudiaks' time spent preparing and arguing their motion for an order to show cause as to why Keresey should not be held in contempt, their renewed motion for an order to show cause, and for their time related to the hearing associated with those motions. Additionally, the court noted that it had directed Keresey to appear personally, which he failed to do, and "that failure to obey a future order of this court . . . may result in a finding of contempt [pursuant to NRS 22.010]." Because the sanction was not related to a contempt finding, the $500 limit in NRS 22.100 is inapplicable, but even if it was

applicable, reasonable attorney fees are allowed under the statute. *See* NRS 22.100(3).

Although Keresey is correct in asserting that the word sequestration was eliminated from the TRO, the remaining language in the order retrained Keresey from "interference with the day-to-day operations of or *asserting any control or interest in of any kind* against Rudiak's properties . . . ." (Emphasis added.) Given the breadth of the retained language, Keresey could not plausibly believe that lien sequestration, which clouds title, was permissible. Moreover, the Rudiaks presented evidence, which the district court accepted, that Keresey had violated the TRO and injunction. In particular, the Rudiaks provided photographic evidence showing Keresey had placed for-sale signs on the properties, held himself out as the true owner to prospective buyers, and filed a sequestration action in Panama, which temporarily clouded title to the properties costing the Rudiaks thousands of dollars.

Accordingly, we conclude that the district court did not abuse its discretion because the $5,000 sanction was issued "to protect the dignity and decency of [the court's] proceedings and to enforce its decrees." *Halverson*, 123 Nev. at 261, 163 P.3d at 440.[6]

*The district court did not abuse its discretion in striking Keresey's answer*

Keresey argues that the district court abused its discretion because it did not properly apply the factors in *Young v. Johnny Ribeiro*

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[6]Keresey also argues that the $5,000 sanction was improper, alleging that the Rudiaks failed to post the required security bond, thus, rendering the TRO void. After considering this argument, we conclude it lacks merit. The record clearly demonstrates that the Rudiaks posted a security bond pursuant to the district court's order. Further, the bond comported with the requirements of NRCP 65(c). Accordingly, we affirm.

*Building, Inc.*, 106 Nev. 88, 93, 787 P.2d 777, 780 (1990). Specifically, he argues that the court failed to explain how the Rudiaks would be prejudiced by a lesser sanction. The Rudiaks counter that the district court held an evidentiary hearing, properly applied the relevant factors, and then reduced its findings to a written order. We agree with the Rudiaks.

Generally, discovery sanctions are reviewed for an abuse of discretion. *Foster v. Dingwall*, 126 Nev. 56, 65, 227 P.3d 1042, 1048 (2010). Thus, "[e]ven if [this court] would not have imposed such sanctions in the first instance, we will not substitute our judgment for that of the district court." *Young*, 106 Nev. at 92, 787 P.2d at 779. Under NRCP 37(b)(2)(C) and 37(d), a district court may strike a party's pleadings if that party fails to obey a discovery order or fails to attend his or her own deposition. *Bahena v. Goodyear Tire & Rubber Co.*, 126 Nev. 606, 610, 245 P.3d 1182, 1184 (2010). Dispositive discovery sanctions, however, "[must] be supported by an express, careful and preferably written explanation of the court's analysis of the pertinent factors." *Young*, 106 Nev. at 93, 787 P.2d at 780.[7]

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[7]The *Young* factors include:

> [T]he degree of willfulness of the offending party, the extent to which the non-offending party would be prejudiced by a lesser sanction, the severity of the sanction of dismissal relative to the severity of the discovery abuse, whether any evidence has been irreparably lost, the feasibility and fairness of alternative, less severe sanctions, such as an order deeming facts relating to improperly withheld or destroyed evidence to be admitted by the offending party, the policy favoring adjudication on the merits, whether sanctions unfairly operate to penalize a party for the misconduct of his or her

Moreover, evidentiary authority, which also applies to discovery sanctions, "allows the trial judge discretion in deciding what factors are to be considered on a case-by-case basis." *Bahena II*, 126 Nev. at 610, 245 P.3d at 1185 (quoting *Higgs v. State*, 125 Nev. 1043, 18, 222 P.3d 648, 659 (2010)).

Here, the district court held an evidentiary hearing on the Rudiaks' motion to strike. Subsequently, the court issued a written order striking Keresey's answer, wherein it discussed and applied the relevant *Young* factors. *See id.* (affording a trial judge discretion regarding relevant factors). The court noted, specifically, that Keresey failed to (1) appear for two show cause hearings, (2) adhere to the Nevada Rules of Civil Procedure, (3) participate fully in discovery (Keresey twice failed to show for his deposition), and (4) "show any meaningful attempt to participate in this matter." Moreover, the district court concluded that a lesser sanction would be unavailing because Keresey's willful recalcitrance had "ma[d]e it impossible for this case to proceed to trial or otherwise reach finality."

On this record, we cannot say the district court abused its discretion, as the district court thoughtfully considered the pertinent factors, including the extent to which the Rudiaks might be prejudiced by a lesser sanction. Therefore, we affirm the district court's order because it was "supported by an express, careful and . . . written explanation of [its] analysis of the pertinent factors." *Young*, 106 Nev. at 93, 787 P.2d at 780.

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> attorney, and the need to deter both the parties and future litigants from similar abuses.

*Young*, 106 Nev. at 93, 787 P.2d at 780.

*The district court did not abuse its discretion when it awarded the Rudiaks attorney fees and costs*

Keresey argues that the district court erred in awarding attorney fees because there was no basis for doing so. We conclude, however, that this argument is without merit.

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). Generally, a district court may not award attorney fees unless they are authorized by a statute, rule, or contract. *Davis v. Beling*, 128 Nev. 301, 321, 278 P.3d 501, 515 (2012). Furthermore, when determining the amount of fees to award, the district court must consider the factors articulated in *Brunzell v. Golden Gate National Bank*, 85 Nev. 345, 349, 455 P.2d 31, 33 (1969).

Here, the record reveals that the 2007 agreements, which were drafted by Keresey, provided a contractual basis for an award of attorney fees. Moreover, the Rudiaks submitted a detailed *Brunzell* affidavit, and the district court expressly addressed the *Brunzell* factors in its written order granting attorney fees and costs. Accordingly, we conclude that the district court did not abuse its discretion because there was a contractual basis for awarding attorney fees, the proper factors were considered, and the award was supported by substantial evidence.

*The district court abused its discretion when it issued the permanent injunction*

Finally, Keresey argues that the permanent injunction should be dissolved. We agree. "The decision of whether to grant a permanent injunction rests in the district court's sound discretion and we will not overturn that decision unless it is an abuse of discretion." *Comm'n on Ethics v. Hardy*, 125 Nev. 285, 291, 212 P.3d 1098, 1103 (2009). "An abuse of

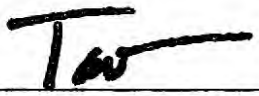
discretion occurs if the district court's decision is arbitrary or capricious or if it exceeds the bounds of law or reason." *Skender v. Brunsonbuilt Const. & Dev. Co., LLC*, 122 Nev. 1430, 1435, 148 P.3d 710, 714 (2006).

In this case, the district court issued the permanent injunction in January of 2018. The record reveals, and indeed the Rudiaks concede, that the properties were sold in late 2017 to an independent third party. Thus, when the district court issued the permanent injunction, the issue had become moot, as the Rudiaks no longer had any interest the properties. Therefore, the injunction was unnecessary and unwarranted. Accordingly, we conclude that the district court abused its discretion in issuing the permanent injunction, because doing so "exceed[ed] the bounds of law or reason." *Id.* We, therefore, dissolve the permanent injunction.

For the forgoing reasons, we

ORDER the judgment of the district court AFFIRMED IN PART AND REVERSED IN PART, and we dissolve the permanent injunction against appellant.

_____, C.J.
Gibbons



_____, J.
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_____, J.
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cc: Hon. Barry L. Breslow, District Judge
Jack I. McAuliffe, Chtd.
Kravitz, Schnitzer & Johnson, Chtd.
Washoe District Court Clerk