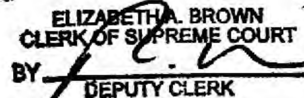
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

NOSRAT ROUHANI, Appellant, vs. REBECA ROUHANI, Respondent.	No. 75124-COA



FILED

NOV 25 2019

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY [signature] DEPUTY CLERK

ORDER OF AFFIRMANCE

Nosrat Rouhani appeals from a district court divorce decree. Eighth Judicial District Court, Family Court Division, Clark County; Jennifer Elliott, Judge.

Nosrat and Rebeca Rouhani were married in 1988, and they have three adult children. Nosrat is an electrical engineer. After marriage, Nosrat created two corporations, NRC Engineers and NUR Electric, which have a combined worth of $496,000. Rebeca was a homemaker during the marriage. Nosrat controlled the couple's finances and gave Rebeca a weekly allowance between $60 and $100. In 2014, the year before divorce proceedings started, Nosrat's gross income was $431,731, as reflected on his and Rebeca's personal federal tax return. Rebeca filed for divorce in December 2015 and moved into the couple's second home on Hollowbluff Avenue, which only had $10,000 in equity. Nosrat continued to reside at the couple's house on Coley Avenue, which had more than $435,000 in equity, and continued to earn substantial income, grossing $371,204 in 2015.

Shortly after the divorce proceedings commenced, the district court issued a joint preliminary injunction that barred the parties from

19-48026

unilaterally disposing of community assets or incurring debt. During the divorce litigation, the parties sold their jointly owned condominium on Grand Canyon Drive, which netted $97,860 in proceeds. These funds were deposited into a bank account that only Nosrat had access to, and he spent all of the funds. He claimed that they were used to pay community expenses. The district court, however, found that during the relevant time period (1) Nosrat had unilaterally given the parties' adult children approximately $160,000, and (2) he also deliberately failed to pay more than $185,000 in community debt so that Rebeca would receive less community property.

At the time of trial, Rebeca was 56 years old and did not have a substantial earning capacity. Nosrat, although 58 years old, was found to have a substantial earning capacity at a minimum of $250,000 annually because of his education and the experience he gained during the marriage. In the decree of divorce, the district court awarded Rebeca lifetime alimony at $10,000 per month, as well as the Hollowbluff home on the condition that she refinance the $327,000 outstanding mortgage in her name. Nosrat was allowed to remain in the jointly owned Coley home until it was sold. Nosrat was awarded the community businesses, but Rebeca was allocated a one-time 50 percent interest in their combined value of $496,000. Nosrat was ordered to sell the Coley home to pay Rebeca for her share in the two community businesses and to repay her for one-half of the condominium sale funds that had been misappropriated by Nosrat. As a sanction for this misconduct, Nosrat was also assigned the other community debt.

On appeal, Nosrat contends that the district court (1) erred by ordering Nosrat to make an equalization payment for Rebeca's share in the two community businesses, and also using the profits from those businesses

in calculating alimony (*i.e.,* that this constituted an impermissible double-dip award to Rebeca), (2) erred by using Nosrat's settlement offer as evidence of his income, (3) abused its discretion in ordering Nosrat to pay $10,000 per month in lifetime alimony, (4) erred by failing to consider Nosrat's contributions to the adult children's tuition and living expenses in awarding alimony, (5) erred in denying Nosrat's post-trial motion for reconsideration, (6) abused its discretion in ordering Nosrat to not pay the adult children's expenses after the divorce trial because the community had terminated, (7) abused its discretion in sanctioning Nosrat for financial misconduct by making him responsible for all community debt, (8) abused its discretion in awarding Rebeca one-half of the proceeds from the sale of the community condominium, (9) abused its discretion by ordering that two community houses be valued at the time of the sale (*i.e.,* after the decree of divorce had been entered), (10) abused its discretion in ordering Nosrat to sell his home when he was able to refinance the debt to satisfy Rebeca's community interest, and (11) abused its discretion in ordering Nosrat to pay Rebeca's attorney and expert fees and costs. We disagree.

The district court did not abuse its discretion in both requiring an equalization payment and awarding alimony

Nosrat avers that the district court abused its discretion by giving Rebeca an equalization payment for her share in two community property corporations and also awarding Rebeca alimony based on the income that Nosrat earns from those businesses' profits (*i.e.,* Nosrat contends that Rebeca received a "double-dip" benefit).

"The decision of whether to award alimony is within the discretion of the district court." *Kogod v. Cioffi-Kogod,* 135 Nev., Adv. Op. 9, at *5, 439 P.3d 397, 400 (2019). "[A] court must award such alimony as appears 'just and equitable,' having regard to the conditions in which the

parties will be left by the divorce." *Sprenger v. Sprenger*, 110 Nev. 855, 859, 878 P.2d 284, 287 (1994). In awarding alimony, the district court must consider the income of each spouse. NRS 125.150(9)(e). "As property and alimony awards differ in purpose and effect, the post-divorce property equalization payments payable to [the spouse] in this case do not serve as a substitute for any necessary spousal support." *Shydler v. Shydler*, 114 Nev. 192, 198, 954 P.2d 37, 40 (1998) (holding that the district court incorrectly found that property equalizing payments "obviated the need for any post-divorce spousal support"); *see also Kogod*, 135 Nev., Adv. Op. 9, at *18, 439 P.3d at 406 ("'[T]he need for post-divorce alimony can be reduced or obviated' by awarding certain income-producing assets to a spouse who might otherwise receive alimony." (quoting *Billion v. Billion*, 553 N.W.2d 226, 231 (S.D. 1996))).

Nosrat's argument is without merit under *Shydler*, which held that the district court abused its discretion in concluding that community property equalization payments acted as a substitute for alimony. 114 Nev. at 198, 954 P.2d at 41. The *Shydler* court concluded that the wife would receive a lesser share of community property if community property served as a substitute for alimony, which was improper. *Id.* Conversely, the *Kogod* court held that it was an abuse of discretion for the district court not to consider income-producing assets when awarding alimony. 135 Nev., Adv. Op. 9, at *17-18, 439 P.3d at 406. Rebeca was not awarded income-producing property (*i.e.*, a share of the businesses that generates revenue). Rather, she received a one-time payment, and Nosrat retained 100 percent of the businesses with the ability to generate substantial revenues and earnings. Thus, the district court did not abuse its discretion in concluding that (1) an equalization payment was necessary to satisfy Rebeca's

community interest in the two corporations, and (2) the income that Nosrat solely earns from those businesses' profits justified an alimony award for Rebeca, who was necessitous. Therefore, we conclude that this argument is without merit, and we affirm the district court's order.

The district court abused its discretion in using Nosrat's settlement offer as an admission of his income, but this error was harmless

Nosrat argues that the district court erred in using his pretrial settlement offer as an admission that Nosrat's income was upwards of $23,000 per month. He further contends that his settlement offer was never admitted into evidence at trial, but the district court still took this as an admission of his income for the purposes of alimony and attorney fees.

"This court reviews a district court's decision to admit or exclude evidence for abuse of discretion, and we will not interfere with the district court's exercise of its discretion absent a showing of palpable abuse." *Klabacka v. Nelson,* 133 Nev. 164, 174, 394 P.3d 940, 949 (2017) (internal quotation marks omitted). "It is harmless error if a court incorrectly admits evidence which does not affect the substantial rights of the parties." *McMonigle v. McMonigle,* 110 Nev. 1407, 1409, 887 P.2d 742, 744 (1994) (citing NRCP 61), *overruled on other grounds by Castle v. Simmons,* 120 Nev. 98, 105, 86 P.3d 1042, 1047 (2004); *see also Wyeth v. Rowatt,* 126 Nev. 446, 465, 244 P.3d 765, 778 (2010) (noting that an error is not harmless if the movant shows "that the error affects the party's substantial rights so that, but for the alleged error, a different result might reasonably have been reached"). "NRS 48.105(1) requires the exclusion of evidence of offers of compromise when such evidence is introduced to prove liability or the amount of a claim." *Davis v. Beling,* 128 Nev. 301, 312, 278 P.3d 501, 509 (2012).

Here, the district court used Nosrat's settlement offer—in addition to other evidence—in its amended findings of fact and conclusions of law to conclude that it was reasonable to award Rebeca monthly alimony of $10,000 and to award her attorney fees. In regard to awarding Rebeca alimony, the district court made findings under each subsection of NRS 125.150(9)(a)-(k). In considering the specific element of the income of the parties under NRS 125.150(9)(e), the district court utilized (1) Rebeca's financial disclosure form, (2) two of Nosrat's financial disclosure forms, (3) the settlement offer that Nosrat made, (4) an expert report from Anthem Forensics, and (5) Nosrat and Rebeca's personal income tax returns from 2014 and 2015. In awarding attorney fees to Rebeca, the district court considered facts beyond the settlement offer, including the disparity in income between the spouses (using the same documents to show income), Nosrat's initial failure to pay Rebeca's expert fees, Nosrat's premature post-trial motions, and Rebeca's affidavit of expenses.

We conclude that the district court abused its discretion in utilizing Nosrat's settlement offer to support Rebeca's alimony and attorney fee awards because this evidence pertained to the "amount of the claim," which NRS 48.105 forbids (*i.e.,* the district court used this evidence to determine whether the amounts of attorney fees and alimony were reasonable). We conclude, however, that this error was harmless because the district court relied upon other evidence, as noted above, and this error did not affect Nosrat's substantial rights because the result would not have been different had the court not considered the settlement offer. *Cf.* NRCP 61; *see generally Wyeth,* 126 Nev. at 465, 244 P.3d at 778. Specifically, Nosrat submitted a financial disclosure form wherein he reported his

income at $29,056 per month. Thus, we conclude that the district court's use of Nosrat's settlement offer was harmless error.

The district court did not abuse its discretion in awarding lifetime alimony

Nosrat contends that the district court abused its discretion in awarding Rebeca alimony of $10,000 per month because its analysis used Nosrat's peak incomes in 2014 and 2015—approximately $350,000 per year—rather than an average reasonable salary (*i.e.*, from 2011 to 2016, Nosrat's average income was allegedly $238,433 per year). Nosrat further avers that the district court abused its discretion by failing to consider that (1) Nosrat would receive all community debt, (2) Rebeca would receive a house that would alleviate her need to pay a mortgage, and (3) Rebeca would be able to obtain a job to alleviate the need for Nosrat to pay alimony.

NRS 125.190 allows an award of permanent alimony. An award of alimony is reviewed for an abuse of discretion. *Kogod*, 135 Nev., Adv. Op. 9, at *5, 439 P.3d at 400; *see also Schwartz v. Schwartz*, 126 Nev. 87, 90, 225 P.3d 1273, 1275 (2010). We will not reverse a district court's decision if it is supported by substantial evidence. *Williams v. Williams*, 120 Nev. 559, 566, 97 P.3d 1124, 1129 (2004). Substantial evidence is that which a reasonable person may accept as adequate to sustain a judgment, and on appeal we do not reweigh evidence. *Id.*

Here, the district court applied NRS 125.150(9)(a)-(k) and used Rebeca's financial disclosure form, the expert report of Anthem Forensics, Nosrat's financial disclosure form, and Nosrat's 2014 and 2015 tax returns to calculate Nosrat's income. The district court, therefore, had substantial evidence to conclude that Nosrat's income averaged roughly $350,000 per year, and we will not reweigh this evidence on appeal. *Williams*, 120 Nev. at 566, 97 P.3d at 1129. Nosrat also cites no relevant authority to show that the district court impermissibly calculated his earning capacity based upon

his 2014 and 2015 salaries, as reflected by his and Rebeca's joint income tax returns. *See, e.g.*, *Vaile v. Vaile,* 133 Nev. 213, 217, 396 P.3d 791, 795 (2017) (stating that arguments not cogently argued or supported by relevant authority do not need to be considered).

In addition, Nosrat's factual arguments are not supported by the record. First, the record shows that Rebeca will still be paying the mortgage on the Hollowbluff Avenue home, as that property has an outstanding mortgage exceeding $325,000. Second, the record supports the district court's conclusion that Rebeca—a homemaker who was 56 years old at the time of trial—has limited ability to earn significant future income. Third, Nosrat received the other community debt because of financial misconduct, and not as part of the court's alimony analysis. The district court further analyzed each factor under NRS 125.150(9)(a)-(k) and concluded that alimony was proper. Thus, we conclude that the district court had substantial evidence to award Rebeca alimony of $10,000 per month and did not abuse its discretion.

The district court did not abuse its discretion in refusing to consider contributions made to the adult children's college expenses in setting alimony

Nosrat argues that the district court should have considered—pursuant to NRS 125.150(9)'s language that the court may consider "other factors the court considers relevant" in determining alimony—the payments he made to cover the tuition and living expenses of the adult children. Nosrat cites to *Kogod*, 135 Nev., Adv. Op. 9, at *19-20, 439 P.3d at 406-07, to support his argument that the payments to the children should not be viewed as a dissipation when calculating Nosrat's ability to pay Rebeca alimony.

The parents of a child have a duty to provide the child with necessary health care, education, and support. NRS 125B.020(1). A child

is a person under the age of 18. NRS 125B.200(2)(a). This court reviews the district court's division of property and alimony awards for an abuse of discretion. *Schwartz*, 126 Nev. at 90, 225 P.3d at 1275.

Nosrat's argument is without merit because there is no dispute that the children are adults, and he provides no authority that supports his position that the district court must consider voluntary payments made to adult children and then determine a spouse has less available income for alimony. *See, e.g., Vaile,* 133 Nev. at 217, 396 P.3d at 795 (noting that the appellant must cite relevant authority with cogent argument for this court to consider an argument on appeal). In addition, *Kogod* analyzed dissipation in the context of an unequal disposition of community property, rather than in the context of alimony. 135 Nev., Adv. Op. 9, at *19, 439 P.3d at 406 ("Dissipation, or waste, can provide a compelling reason for the unequal disposition of community property."). Thus, we conclude that the district court did not abuse its discretion.

The district court did not abuse its discretion in ordering Nosrat not to pay his adult children's expenses after the divorce trial

Nosrat asserts that the district court abused its discretion in ordering him to withhold paying his adult children's expenses after the divorce trial, but before the decree was entered, because it no longer had jurisdiction to issue an order regarding how Nosrat could spend and dispose of his separate property.

"Whenever a decree of divorce . . . is granted in this State by a court of competent authority, the decree fully and completely dissolves the marriage contract as to both parties." NRS 125.130(2). "The date of the divorce decree . . . determines the accrual and termination of community property." *McClintock v. McClintock*, 122 Nev. 842, 845, 138 P.3d 513, 516 (2006); *see also Kogod*, 135 Nev., Adv. Op. 9, at *25-26, 439 P.3d at 409

(noting that "the actual termination" of the community is when the written decree is entered).

Nevada law contradicts Nosrat's appellate contention that the end of the community occurs immediately following trial. Furthermore, in another part of Nosrat's reply brief, he states "the district court's oral pronouncement of divorce does not terminate the community." The district court already concluded that Nosrat unilaterally sent approximately $160,000 in community property to the adult children and neglected to pay community debt, and thus, the district court did not abuse its discretion in ordering Nosrat not to spend community assets following trial until the decree was filed because the community still existed. In addition, the decree did not restrict his ability to spend separate property funds following the entry of the judgment.

The district court did not abuse its discretion in unequally dividing the community property and debt because of Nosrat's financial misconduct

Nosrat next argues that the district court abused its discretion by awarding Rebeca more than one-half of the community property—in violation of NRS 125.150(1)(b)—after it (1) found that after the parties sold their condominium, Nosrat unilaterally transferred the proceeds to community businesses and their children, contrary to the district court's instruction at trial, and (2) then assigned Nosrat all community debt.

This court reviews the district court's division of property for an abuse of discretion. *Schwartz*, 126 Nev. at 90, 225 P.3d at 1275. In granting a divorce, the court "[s]hall, to the extent practicable, make an equal disposition of the community property of the parties, . . . except that the court may make an unequal disposition of the community property . . . if the court finds a compelling reason to do so . . . ." NRS 125.150(1)(b). The supreme court has explained that the district court "may consider

[financial] misconduct as a compelling reason for making an unequal disposition of community property and may appropriately augment the other spouse's share of the remaining community property." *Lofgren v. Lofgren*, 112 Nev. 1282, 1283, 926 P.2d 296, 297 (1996). The supreme court has further explained that "unauthorized gifts of community property" would constitute a compelling reason for an unequal distribution of community property. *Putterman v. Putterman*, 113 Nev. 606, 608, 939 P.2d 1047, 1048 (1997).

Here, the district court explained that it assigned Nosrat the community debt as a sanction after Nosrat unilaterally sent the adult children $160,000, while also refusing to pay community debts exceeding $185,000. The district court explicitly found that Nosrat "purposefully sent the money to the adult children to saddle Rebeca with as much debt as possible to significantly diminish any property or funds she would receive in the divorce." The district court did not abuse its discretion in concluding that Rebeca should receive reimbursement for the community funds that Nosrat unilaterally spent in violation of the joint preliminary injunction and the district court's orders, particularly because the district court found that the parties sold their community property condominium—netting proceeds of $97,860—and Nosrat unilaterally spent these funds without Rebeca's knowledge.

On our review, we conclude that the district court did not abuse its discretion in finding that Nosrat's acts were financial misconduct, and thus, the district court had a compelling reason to order Nosrat to assume the community debt other than for the home on Hollowbluff. In addition, Nosrat has provided no mathematical computation to show that the order to assume the community debt resulted in him receiving less than half of

the community estate. Therefore, we conclude that the district court did not abuse its discretion because the district court properly set forth these findings of fact in the decree of divorce and acted as allowed by law.

The district court did not abuse its discretion in awarding Rebeca one-half of the condominium sale proceeds

Nosrat separately contends that awarding Rebeca one-half of the condominium sale proceeds was an abuse of discretion because the district court's factual finding regarding Nosrat's financial misconduct was clearly erroneous. He also argues that the couple stipulated to giving the children money, and that he only used the funds for those expenses.

We review the district court's division of property for an abuse of discretion. *Schwartz*, 126 Nev. at 90, 225 P.3d at 1275. The district court "[s]hall, to the extent practicable, make an equal disposition of the community property of the parties . . . ." NRS 125.150(1)(b). "[W]e review a district court's factual findings deferentially and will not set them aside unless they are clearly erroneous or not supported by substantial evidence." *Kilgore v. Kilgore*, 135 Nev., Adv. Op. 47, at *5, 449 P.3d 843, 846 (2019) (citing *Ogawa v. Ogawa*, 125 Nev. 660, 668, 221 P.3d 699, 704 (2009)).

At trial, Nosrat explained that he used the proceeds from the condominium sale to fund community expenses. He specifically stated that he spent $20,000 to fund payroll for one of his corporations, but he never stated how many workers his corporation employed, if any, or otherwise provided an accounting of how these funds were spent on the business. Nosrat further admitted on the record that Rebeca did not approve of spending $20,000 on the business expenses. Nosrat's argument—that he only paid the adult children after he paid all community expenses—is not supported by the record, as well as Nosrat's brief, because the fact that taxes went unpaid shows that he did not pay all the community bills.

The district court found that Nosrat unilaterally sent the adult children $160,000, while also refusing to pay income taxes and community debts exceeding $185,000. The district court also found that the sale of the condominium netted $97,860 in August 2016, and that an accounting of these funds was not provided to the court until May 2017. Based on the foregoing, the district court did not rely on clearly erroneous factual determinations in awarding Rebeca one-half of the condominium proceeds, which was community property subject to the joint preliminary injunction, and therefore, it did not abuse its discretion.[1]

The district court did not abuse its discretion by requiring the parties to obtain new valuations for their homes

Nosrat avers that the district court abused its discretion by ordering the parties to seek new valuations for their respective homes. At trial, the court used valuations from February 2017 in calculating the division of the community, but when it issued the decree in January 2018, the district court explained that the real estate market had increased in value, and thus, it requested new valuations to make an equal distribution.

Appellate courts generally defer to the district court on decisions related to the distribution of property because that court is best situated to review the evidence when making a decision. *See Wolff*, 112 Nev. at 1359, 929 P.2d at 918-19. The property acquired by either spouse during marriage is community property, and the community terminates at

[1]To the extent that Nosrat argues that he and Rebecca stipulated to giving the children community funds, the record does not show that Rebeca stipulated to giving the children upwards of $160,000 in community funds. In addition, the district court had not granted relief from the financial preliminary injunction.

the time of the decree of divorce. *McClintock*, 122 Nev. at 845, 138 P.3d at 516; *see also* NRS 125.130(2).

Here, the district court's decree of divorce, dated January 12, 2018, noted that the Coley Avenue property would be revalued because of the delay in entering the decree of divorce, and that this delay was partially due to Nosrat filing additional motions following the conclusion of the bench trial in February 2017. The district court, therefore, concluded that the Coley and Hollowbluff properties should be revalued so that the final division of community property—following the repayment of Rebeca's interest in the condominium funds—effectuated an equal distribution of the community property, pursuant to NRS 125.150(1)(b). Nosrat provides no calculations as to how revaluing the property would prejudice his rights—*i.e.,* he does not show that Rebeca would receive more than half of the community property—and in addition, he provides no legal authority to show that this result was incorrect or unfair. The district court also had jurisdiction to order new valuations for the homes because the community had not yet terminated. In addition, Nosrat concedes that upon the sale of the residence, the proceeds would be split evenly between the parties. Therefore, we conclude that this argument does not warrant relief.

The district court did not abuse its discretion in ordering the sale of the home

Nosrat next contests the district court's order mandating that he sell the Coley property to satisfy Rebeca's community interest. Nosrat contends that the district court abused its discretion by not allowing him to change his mind after the trial, and that the district court's findings that he stipulated to the sale of the property were clearly erroneous.

This court reviews the district court's division of property and alimony awards for an abuse of discretion. *Schwartz,* 126 Nev. at 90, 225 P.3d at 1275. "This court's rationale for not substituting its own judgment

for that of the district court, absent an abuse of discretion, is that the district court has a better opportunity to observe parties and evaluate the situation." *Id.* (quoting *Wolff*, 112 Nev. at 1359, 929 P.2d at 919).

Here, the district court found that as of February 2017, the Coley Avenue home was worth $770,000 based upon an expert appraisal. The district court found that the home had $435,149 in equity, and that the proceeds from the sale of the home would be divided equally. It is crucial to note, however, that Nosrat's share of this money would first be used to fund the equalization payment of approximately $296,930 needed to satisfy Rebeca's community share in the condominium proceeds as well as the community businesses. The district court also explained that Nosrat—representing himself at trial—stipulated on the record to selling the Coley property, and this factual finding is not clearly erroneous. For these reasons, and because Nosrat cited no authority to the contrary, the district court did not abuse its discretion in determining that the Coley home should be sold to effectuate an equal distribution of the community property.[2]

The district court did not abuse its discretion in ordering Nosrat to pay Rebeca's attorney and preliminary expert fees

Nosrat avers that the district court abused its discretion in awarding Rebeca $71,917 in attorney fees and expenses without also considering the $16,301.50 payment he made to Rebeca's expert witness.

---

[2]We note that Nosrat argues that he should be allowed to retain the Coley property if he can satisfy his obligations to Rebeca using other funds; nothing in the record, however, shows that Nosrat has the financial ability to do this. To the extent that Nosrat can pay Rebeca everything she is owed, as well as refinance the home so that her name is no longer on the mortgage, he may present proof of such to the district court and seek relief.

The district court did not abuse its discretion in awarding Rebeca preliminary expert fees

Nosrat argues that it was an abuse of discretion to award Rebeca expert fees and, in the alternative, that Rebeca's final attorney fee award should have been offset by the amount he already paid in expert fees.

We review an order of expert fees for an abuse of discretion. *See Miller v. Wilfong*, 121 Nev. 619, 622, 119 P.3d 727, 729 (2005). In a divorce proceeding, the district court is allowed to order one party to pay money so that the other party can "carry on or defend such suit." NRS 125.040(1)(c). In addition, "*whether or not application for suit money has been made under the provisions of NRS 125.040*, the court may award a reasonable attorney's fee to either party to an action for divorce." NRS 125.150(4) (emphasis added). Our supreme court has affirmed a district court's award of preliminary attorney fees for a spouse on the ground that the spouse "must be afforded her day in court without destroying her financial position." *Sargeant v. Sargeant*, 88 Nev. 223, 227, 495 P.2d 618, 621 (1972). The supreme court has noted that *Sargeant*'s "application is limited to divorce proceedings" and requires a "financial hardship concern." *Miller*, 121 Nev. at 624, 119 P.3d at 730.

Here, the district court found that Nosrat gave Rebeca an allowance of only \$60 to \$100 per week during the marriage and retained control of the couple's finances throughout the marriage. The district court also found that Rebeca earns no income. Based on this financial disparity, the district court concluded that Rebeca's expenses for the forensic accountant should be paid by Nosrat because a party must be afforded her day in court without destroying her financial position. The district court, therefore, ordered Nosrat to pay preliminary expert fees—utilizing

community funds—without prejudice to the final distribution in the case. He paid Anthem Forensics $16,301.50.

Nosrat's arguments regarding the expert fees are without merit for three reasons. First, NRS 125.150(4) plainly states that attorney fees can be awarded without regard to whether preliminary fees were awarded under NRS 125.040. *See, e.g., Edgington v. Edgington*, 119 Nev. 577, 582, 80 P.3d 1282, 1286 (2003) ("In interpreting a statute, 'words . . . should be given their plain meaning . . . .'" (quoting *McKay v. Bd. of Supervisors*, 102 Nev. 644, 648, 730 P.2d 438, 441 (1986))). Second, Nosrat cited no authority to show attorney fees should be offset by the payment for the expert fees. *See Vaile,* 133 Nev. at 217, 396 P.3d at 795 (noting that appellate arguments should be supported with citations to relevant authority). Third, the district court found that Rebeca would have no ability to defend the lawsuit—predominantly because Nosrat controlled all of the finances and gave her a meager allowance—without the fees being paid, and Nosrat does not show how the district court abused its discretion in this regard. Thus, pursuant to *Sargeant,* 88 Nev. at 227, 495 P.2d at 621, the district court properly awarded preliminary expert fees because Rebeca was at a financial disparity and an expert was needed due to the nature of this case. Therefore, we conclude that the district court did not abuse its discretion in ordering Nosrat to pay Rebeca's expert fees using the parties' community funds.

The district court did not abuse its discretion in awarding Rebeca attorney fees

Nosrat also argues that it was an abuse of discretion to award Rebeca attorney fees because the parties were now on equal financial footing, and that attorney fees were inappropriate in this case because Rebeca caused him to incur legal fees.

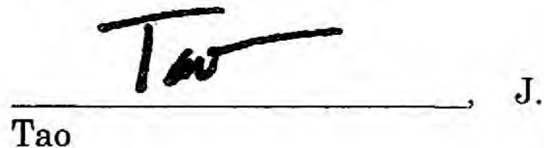
We also review attorney fee orders for an abuse of discretion. *See Miller*, 121 Nev. at 622, 119 P.3d at 729. The court "may award a reasonable attorney's fee to either party to an action for divorce." NRS 125.150(4). Although it is within the district court's discretion to determine a reasonable amount of attorney fees under a statute or rule, in exercising that discretion district courts must evaluate the *Brunzell* factors. *See Miller*, 121 Nev. at 623, 119 P.3d at 730; *Brunzell v. Golden Gate Nat'l, Bank,* 85 Nev. 345, 349, 455 P.2d 31, 33 (1969) (holding that the district court must consider various factors, including "the qualities of the advocate," the character and difficulty of the work performed, "the work actually performed by the lawyer", and "the result" obtained). While district courts are not required to make explicit findings on each *Brunzell* factor, the record nonetheless must show that the court considered the factors and that the award is supported by substantial evidence. *Logan v. Abe*, 131 Nev. 260, 266, 350 P.3d 1139, 1143 (2015). The district court must also consider the parties' disparity in income. *Wright v. Osburn*, 114 Nev. 1367, 1370, 970 P.2d 1071, 1073 (1998).

Here, the district court found that Nosrat did not file a timely objection to Rebeca's fees, and the court otherwise adopted Rebeca's memorandum of fees and costs. The memorandum of costs evaluated each one of the *Brunzell* factors, as well as the financial disparity between the parties, and the district court awarded Rebeca $71,917 in attorney fees for the costs she incurred. In addition, Rebeca's *Brunzell* motion and affidavit did not attempt to bill Nosrat a second time for Rebeca's expert fees. To the extent that Nosrat argues that the parties were on equal financial footing, this argument is not supported by the record because as of January 2018, Nosrat was $37,664 delinquent in alimony payments. Although the pre-

decree arrears alone are not the determinative factor in awarding attorney fees, Rebeca was found to have no income and was still at a financial disparity to Nosrat and not on equal footing. The district court was acting within its discretion to award Rebeca attorney fees pursuant to statute, caselaw, and the lack of a timely opposition, and the *Brunzell* factors were correctly applied. Therefore, the district court properly awarded attorney fees. Thus, we conclude that the district court did not abuse its discretion in awarding Rebeca attorney fees.[3] Accordingly, we

ORDER the judgment of the district court AFFIRMED.[4]

____________________, C.J.
Gibbons



____________________, J.
Tao

____________________, J.
Bulla

---

[3]To the extent that Nosrat argues that the district court abused its discretion in denying his motions to amend or for reconsideration under the NRCP and the EDCR—which he filed before the decree of divorce was entered—we find his arguments unpersuasive. We further note that our disposition does not prevent Nosrat from filing a future motion under NRS 125.150(8) and (12) if changed circumstances warrant a modification of the alimony award. Insofar as the parties raise arguments that are not specifically addressed in this order, we have considered the same and conclude they either do not present a basis for relief or need not be reached given the disposition of this appeal.

[4]A stay was entered on June 15, 2018, as to the sale of the house, pending the disposition of this appeal. In light of this order, the stay is lifted.

cc: Hon. Bryce Duckworth, Presiding Judge, Family Court Division
Hon. Jennifer Elliott, Senior Judge
McFarling Law Group
Radford J. Smith, Chartered
Eighth District Court Clerk