


IN THE SUPREME COURT OF THE STATE OF NEVADA

JAMES DICKINSON, AN INDIVIDUAL;
AND DONNA DICKINSON, AN
INDIVIDUAL,
Appellants,
vs.
SUNSHINE MOVING OF AMERICA,
INC., A FOREIGN CORPORATION,
Respondent.

No. 78136

FILED

FEB 05 2020

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a district court order denying a request for attorney fees. Second Judicial District Court, Washoe County; Lynne K. Simons, Judge.¹

We are not persuaded that the district court erred in declining to award attorney fees. “[A]lthough allegations in the pleadings are deemed admitted as a result of the entry of default,” *Foster v. Dingwall*, 126 Nev. 56, 68, 227 P.3d 1042, 1050 (2010), “a party in default does not admit mere conclusions of law,” *Marshall v. Baggett*, 616 F.3d 849, 852 (8th Cir. 2010) (internal quotation marks and alteration omitted). See also *DIRECTV, Inc. v. Hoa Huynh*, 503 F.3d 847, 854 (9th Cir. 2007) (recognizing that a defaulted defendant does not admit to conclusions of law); *Nishimatsu Const. Co. v. Houston Nat’l Bank*, 515 F.2d 1200, 1206 (5th Cir. 1975) (same). Here, respondent argues that whether it engaged in a deceptive trade practice is a legal conclusion rather than a factual allegation. Appellants have not addressed this argument, which we otherwise find persuasive. Cf. *Ozawa v. Vision Airlines, Inc.*, 125 Nev. 556, 563, 216 P.3d

¹Pursuant to NRAP 34(f)(1), we have determined that oral argument is not warranted in this appeal.

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788, 793 (2009) (treating a party's failure to respond to an argument as a concession that the argument is meritorious). Because the district court determined that respondent had not engaged in deceptive trade practices, NRS 598.0977 did not authorize an award of attorney fees. We therefore

ORDER the judgment of the district court AFFIRMED.²

Pickering, C.J.
Pickering

Hardesty, J.
Hardesty

Douglas, Sr. J.
Douglas

cc: Hon. Lynne K. Simons, District Judge
J. Douglas Clark, Settlement Judge
Argentum Law
Richard G. Hill, Ltd.
Washoe District Court Clerk

²The Honorable Michael Douglas, Senior Justice, participated in the decision of this matter under a general order of assignment.