

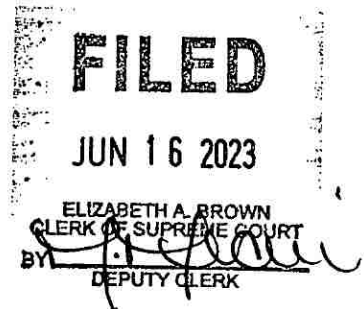
IN THE SUPREME COURT OF THE STATE OF NEVADA

TATAYA KREESHAWN JACKSON;  
AND CONNIE ANN JACKSON,  
Appellants,  
vs.  
GENARA GREGORE TONGOL,  
Respondent.

No. 84178

TATAYA KREESHAWN JACKSON;  
AND CONNIE ANN JACKSON,  
Appellants,  
vs.  
GENARA GREGORE TONGOL,  
Respondent.

No. 84561



*ORDER OF AFFIRMANCE*

These are consolidated appeals from a final judgment in a tort action and a postjudgment award of attorney fees and costs. Eighth Judicial District Court, Clark County; Nadia Krall, Judge.<sup>1</sup>

This case arises from an auto accident at a stoplight involving appellant Tataya Jackson and respondent Genara Gregore Tongol.<sup>2</sup> Las Vegas Metropolitan Police Department (LVMPD) officers were near Genara's vehicle at the time of the accident and they crafted a detailed report of the incident. After a seven-day trial, the jury found Tataya

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<sup>1</sup>Pursuant to NRAP 34(f)(1), we have determined that oral argument is not warranted.

<sup>2</sup>Appellant Connie Ann Jackson owned the vehicle operated by Tataya on the day of the collision. However, Genara abandoned her negligent entrustment claim against Connie before trial. Because Tataya was the driver of the vehicle, we primarily reference Tataya herein.

negligent and awarded damages to Genara in the amount of \$1,643,400 (\$93,400 for past pain and suffering, \$550,000 for future medical bills/expenses and \$1,000,000 for future pain and suffering). The district court also awarded Genara \$670,553.56 in attorney fees and \$80,392.47 in costs.

On appeal, Tataya first argues the district court abused its discretion when it admitted the police report and the police bodycam videos. In *Frias v. Valle*, 101 Nev. 219, 221, 698 P.2d 875, 876 (1985), this court clarified that it is the function of the trier of fact to decide who and what caused a car collision; evidence of a traffic citation is inadmissible to prove fault; and an officer's conclusion, based largely on third-party statements and a cursory inspection of the scene, do not qualify them to testify as to who was at fault. While under *Frias*, the police reports and bodycam footage likely would have been inadmissible at trial, the record reflects Tataya stipulated to their use during a September 28, 2021 hearing. Specifically, the parties stipulated to the police report and bodycam footage's admissibility only to allow non-experts, such as Officer Heaton, to testify as to the color of the light and any opinions or inferences regarding the color of the light based on his firsthand knowledge of the accident. Therefore, the district court did not abuse its discretion by admitting the police report or bodycam videos pursuant to the parties' stipulation. See *M.C. Multi-Family Dev., LLC v. Crestdale Assocs., Ltd.*, 124 Nev. 901, 913, 193 P.3d 536, 544 (2008) ("We review a district court's decision to admit or exclude evidence for an abuse of discretion, and we will not interfere with the district court's exercise of its discretion absent a showing of palpable abuse.").

Second, Tataya contends the district court abused its discretion in admitting untimely disclosed medical records. Evidence that is not timely disclosed is only admissible if “the party can show there was ‘substantial justification’ for the failure to disclose or ‘unless such failure is harmless.’” *Pizarro-Ortega v. Cervantes-Lopez*, 133 Nev. 261, 265, 396 P.3d 783, 787 (2017) (quoting NRCP 37(c)(1)). The record reflects: (1) Genara’s medical records were not provided to her until the close of discovery; (2) Genara immediately produced the documents to Tataya upon receipt; (3) Tataya was promptly apprised of the medical records; (4) Tataya failed to object to the medical records; and (5) Tataya did not attempt to depose the physicians. Thus, the district court acted within its discretion in admitting the medical records.<sup>3</sup> See *Capanna v. Orth*, 134 Nev. 888, 895, 432 P.3d 726, 734 (2018) (holding district court did not abuse its discretion when

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<sup>3</sup>Additionally, in challenging Genara’s abandonment of damages for neck and back injuries, Tataya fails to demonstrate how she was prejudiced or aggrieved under the circumstances, including that (1) Genara provided informal notice of the claim withdrawal more than two months before trial and formal notice eight days before trial, and (2) the district court, which has inherent case-management authority, *Dornbach v. Tenth Judicial Dist. Court*, 130 Nev. 305, 312, 324 P.3d 369, 373-74 (2014), confirmed that Tataya was free to argue her defense theory and call expert witnesses in support regardless of the abandoned claim. Although Tataya suggests that EDCR 2.67(b)(4) does not permit an untimely claim withdrawal, she overreads the rule and her argument on appeal, which consists of conclusory statements disagreeing with the district court’s decision, without any cogent argument supported by the record as to how the court abused its discretion in permitting withdrawal of the claim, does not entitle her to relief. See *Edwards v. Emperor’s Garden Rest.*, 122 Nev. 317, 330 n.38, 130 P.3d 1280, 1288 n.38 (2006) (declining to consider issues that are not supported by cogent argument).

allowing testimony at trial because opposing party was placed on notice of late disclosure during discovery process).

Third, Tataya asserts the district court abused its discretion in excluding evidence of Genara's medical liens and attorney referrals. "[E]vidence of medical liens may be relevant to show bias depending upon the terms of the medical lien;" however, "the degree of relevance is 'limited,' particularly when the medical liens indicate the plaintiff will still be responsible for her medical bills if she does not obtain a favorable judgment." *Pizarro-Ortega*, 133 Nev. at 270, 396 P.3d at 790-91. Neither party disputed that Genara would still be responsible for her bills regardless of the outcome at trial and Genara did not seek damages for past medical bills, other than the emergency room-related medical bills awarded on partial summary judgment. Thus, the district court did not abuse its discretion by excluding evidence of the medical liens based on the evidence being substantially more prejudicial than probative. *See* NRS 48.035(1); *Khoury v. Seastrand*, 132 Nev. 520, 539, 377 P.3d 81, 94 (2016).

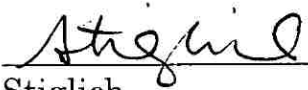
Fourth, Tataya argues the district court erred in denying her motion for a directed verdict on future damages. "In reviewing a ruling for or against a directed verdict, this court applies the same standard as the trial court, viewing the evidence in the light most favorable to the party against whom the motion is made." *Land Baron Invs., Inc. v. Bonnie Springs Family Ltd. P'ship*, 131 Nev. 686, 693, 356 P.3d 511, 517 (2015) (internal quotation marks omitted). "A directed verdict is proper only in those instances where the evidence is so overwhelming for one party that any other verdict would be contrary to the law." *Bliss v. DePrang*, 81 Nev. 599, 602, 407 P.2d 726, 727-28 (1965). Genara provided sufficient evidence

for the district court to deny Tataya's motion for a directed verdict on future damages, including (1) expert testimony from Dr. Fazzini and Dr. Patel, averring that Genara sustained a traumatic brain injury from the crash; (2) testimony from Tataya's own expert, Dr. Edmonds, explaining that Genara experienced injuries from the car crash; and (3) testimony from Dr. Newman and Mr. Auerbach concerning the necessity for Genara's life care plan due to her traumatic brain injury. Accordingly, the district court did not err in denying Tataya's motion for a directed verdict on future damages.


Fifth, Tataya argues the district court abused its discretion in awarding attorney fees and costs based on a rejected offer of judgment. "A party is entitled to recover certain costs and reasonable attorney fees that it incurs after making an unimproved-upon offer of judgment pursuant to . . . NRCP 68." *Logan v. Abe*, 131 Nev. 260, 268, 350 P.3d 1139, 1144 (2015). The district court found: (1) Genara made an offer of judgment to settle this matter for \$80,000; (2) Genara is a prevailing party and received a far more favorable judgment than that offered to Tataya; and (3) Genara's request of \$670,553.56 for attorney fees and \$80,392.47 in costs was justified and reasonable in consideration of the necessary factors under *Brunzell v. Golden Gate Nat'l Bank*, 85 Nev. 345, 455 P.2d 31, 33 (1969) and *Beattie v. Thomas*, 99 Nev. 579, 588-89, 668 P.2d 268, 274 (1983). See *Logan* 131 Nev. at 266, 350 P.3d at 1143 (requiring a court to consider the *Brunzell* and *Beattie* factors in awarding attorney fees). We conclude these findings are supported by substantial evidence, and thus the district court did not abuse its discretion in awarding Genara fees and costs. *Id.* at 266-67, 350 P.3d at 1143 (providing that if the district court's exercise of discretion is

neither arbitrary nor capricious, then we will not disturb an award of attorney fees under NRCP 68 on appeal).

Based on the foregoing, we ORDER the judgment and postjudgment order of the district court AFFIRMED.

\_\_\_\_\_, C.J.  
Stiglich

\_\_\_\_\_, J.  
Lee

\_\_\_\_\_, J.  
Bell

cc: Hon. Nadia Krall, District Judge  
Paul M. Haire, Settlement Judge  
Lewis Brisbois Bisgaard & Smith, LLP/Las Vegas  
Bighorn Law/Las Vegas  
Eighth District Court Clerk