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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

ALWIN CARPENTER,

Plaintiff - Appellant,

v.

ALESSI & KOENIG, LLC,

Defendant - Appellee.

No. 13-17585

D.C. No. 2:11-cv-01495-PMP-  
GWF

MEMORANDUM\*

Appeal from the United States District Court  
for the District of Nevada  
Philip M. Pro, Senior District Judge, Presiding

Argued and Submitted December 9, 2015  
San Francisco, California

Before: KOZINSKI, BYBEE, and CHRISTEN, Circuit Judges.

The district court abused its discretion by awarding Alessi & Koenig, LLC (“Alessi”) \$5,843.75 in attorney’s fees.

1. Alessi constitutes a law firm retained by its clients to collect debts in the usual course of its practice. *See* Nev. Rev. Stat. § 649.020(2)(g). As such, it is

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\* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

exempted from the requirement that it obtain a license from the State of Nevada before collecting claims on behalf of its clients. *Id.* § 649.075; *see also* Nev. Dep't of Bus. & Indus., Fin. Insts. Div., Advisory Opinion Regarding Attorneys Acting as Collection Agencies (2012).<sup>1</sup>

2. However, given the ambiguity of the “conducting collection agencies” language in § 649.020(2) and that clarifying guidance from the State was not available until several months after Carpenter filed suit against Alessi, Carpenter’s claim was not brought “without reasonable ground.” Nev. Rev. Stat. § 18.010(2)(b).

3. Additionally, the district court’s order awarding fees to Alessi did not contain the mandated “find[ings]” necessary to support its decision. *Id.*; *see also* *Rivero v. Rivero*, 216 P.3d 213, 234 (Nev. 2009).

**REVERSED.**

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<sup>1</sup> Available at [http://fid.state.nv.us/AdvisoryOpinion/2012/2012-03-22\\_OPINION\\_AtorneyActingAsCollectionAgency.pdf](http://fid.state.nv.us/AdvisoryOpinion/2012/2012-03-22_OPINION_AtorneyActingAsCollectionAgency.pdf).