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1           **IN THE COURT OF APPEALS OF THE STATE OF NEW MEXICO**

2 **SOPURKH KAUR KHALSA,**  
3 **SHAKTI PARWHA KAUR KHALSA, and**  
4 **EK ONG KAR KAUR KHALSA,**  
5 **Trustees of the Yogi Bhajan Administrative**  
6 **Trust,**

7                           Plaintiffs-Appellees,

8 v.

**No. 33,622**

9 **INDERJIT KAUR PURI,**

10                           Defendant-Appellant.

11 **APPEAL FROM THE DISTRICT COURT OF SANTA FE COUNTY**

12 **Sarah M. Singleton, District Judge**

13 Modrall, Sperling, Roehl,  
14 Harris & Sisk, P.A.  
15 R. E. Thompson  
16 Emil J. Kiene  
17 Albuquerque, NM

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21 for Appellant

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24 Albuquerque, NM

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3 Albuquerque, NM

4 Wray & Girard, PC  
5 Jane Katherine Girard  
6 Albuquerque, NM

7 for Appellees

8 **MEMORANDUM OPINION**

9 **FRY, Judge.**

10 {1} Defendant Inderjit Kaur Puri (Bibiji) appeals the district court's order awarding  
11 attorney fees to Plaintiffs, the Trustees of the Yogi Bhajan Administrative Trust.  
12 Bibiji argues on appeal that: (1) the district court erred by awarding attorney fees to  
13 the Trustees; (2) the fees awarded were unreasonable; (3) the district court erred in  
14 considering new arguments and evidence in the Trustees' reply brief in support of  
15 their motion for attorney fees; and (4) the district court erred in not awarding Bibiji  
16 attorney fees for the claims in which she prevailed. Because we concluded in our  
17 previous opinion in this case that the district court properly determined that attorney  
18 fees were warranted, we do not consider Bibiji's first contention. In regard to Bibiji's  
19 remaining contentions, we conclude that Bibiji failed to establish that the district court  
20 abused its discretion on any of these points. Accordingly, we affirm.

21 {2} Because this is a memorandum opinion and the parties are familiar with the

1 facts and procedural history of this case, we reserve further discussion of the pertinent  
2 facts for our analysis.

### 3 **The District Court Properly Awarded Attorney Fees to the Trustees**

4 {3} Bibiji argues that the district court erred in concluding that the Trustees were  
5 entitled to attorney fees. Bibiji argues that (1) the Trustees waived their right to  
6 attorney fees by failing to seek such fees in their pleadings, (2) neither justice nor  
7 equity warranted an award of attorney fees, (3) the Trustees were not the prevailing  
8 parties, (4) the district court denied Bibiji due process by not allowing briefing on  
9 whether the Trustees were entitled to attorney fees, and (5) any attorney fees awarded  
10 to the Trustees should be paid out of the trust.

11 {4} We specifically addressed the first four of these issues in our previous opinion  
12 in this case. *See Khalsa v. Puri*, 2015-NMCA \_\_\_, ¶ 71, 74, \_\_\_ P.3d \_\_\_ (No.  
13 32,600, Nov. 19, 2014). In that opinion, we rejected Bibiji’s arguments that the  
14 Trustees waived their claim for attorney fees or that Bibiji was denied the opportunity  
15 to brief the issue. *Id.* ¶ 73. We further concluded that, although it may be said that  
16 both parties prevailed on certain issues, the award of attorney fees in such situations  
17 is still within the discretion of the district court. *Id.* ¶ 74. Finally, we concluded that  
18 “[g]iven the many years of litigation over issues on which Bibiji failed to present any  
19 direct evidence to support her claims and in light of the Trustees’ overall success in

1 defending these claims,” the district court did not abuse its discretion in concluding  
2 that justice and equity entitled the Trustees to reasonable attorney fees. *Id.* Being  
3 satisfied that we reached the correct result, we decline to revisit these issues and,  
4 indeed, believe it would be improper to do so. *Alba v. Hayden*, 2010-NMCA-037,  
5 ¶ 7, 148 N.M. 465, 237 P.3d 767 (“Under the law of the case doctrine, a decision on  
6 an issue of law made at one stage of a case becomes binding precedent in successive  
7 stages of the same litigation.” (internal quotation marks and citation omitted)).

8 {5} As for Bibiji’s remaining issue, the determination of whether an award of  
9 attorney fees under Section 46A-10-1004 is paid by a party or from the trust is  
10 discretionary. NMSA 1978, § 46A-10-1004 (2003) (“In a judicial proceeding  
11 involving the administration of a trust, the court, as justice and equity may require,  
12 may award . . . reasonable attorney fees . . . to be paid by another party or from the  
13 trust[.]”). Bibiji argues that the attorney fees award should be paid from the trust but  
14 makes no argument as to why the district court abused its discretion in ordering her  
15 to pay the award. Accordingly, we find no abuse of discretion and affirm the district  
16 court on this point.

17 **The Attorney Fee Award was Reasonable**

18 {6} Bibiji argues that the Trustees failed to establish that the fees awarded were  
19 reasonable and necessary. Specifically, Bibiji argues that the fee award reflects

1 charges for services unrelated to the defense of Bibiji’s counterclaim, fees for multiple  
2 attorneys attending depositions and hearings contrary to the district court’s interim  
3 order, unreasonable amounts of time spent on tasks, and the use of legal professionals  
4 for clerical and courier work.

5 {7} We review the reasonableness of a district court’s award of attorney fees for  
6 abuse of discretion. *Lebeck v. Lebeck*, 1994-NMCA-103, ¶ 27, 118 N.M. 367, 881  
7 P.2d 727. Although the allowance of attorney fees is discretionary, “the exercise of  
8 that discretion must be reasonable when measured against objective standards and  
9 criteria.” *Lenz v. Chalamidas*, 1989-NMSC-067, ¶ 19, 109 N.M. 113, 782 P.2d 85.  
10 Useful factors in such a determination are those utilized under the Rules of  
11 Professional Conduct for determining whether a fee is reasonable between an attorney  
12 and his or her client. *Id.* These factors include:

- 13 (1) the time and labor required—the novelty and difficulty of the
- 14 questions involved and skill required; (2) the fee customarily charged in
- 15 the locality for similar services; (3) the amount involved and the results
- 16 obtained; (4) the time limitations imposed by the client or by the
- 17 circumstances; and (5) the experience, reputation and ability of the
- 18 lawyer or lawyers performing the services.

19 *Id.*

20 {8} We first provide some procedural context for Bibiji’s arguments. Following the  
21 district court’s conclusion that the Trustees were entitled to attorney fees, the parties  
22 submitted briefing and documentation for what fees they respectively felt were

1 warranted or unwarranted. Because of the complexity and length of this litigation, the  
2 documentation and objections regarding certain charges were quite extensive. The  
3 district court therefore entered an interim order directing the parties to revise their  
4 submissions in light of certain parameters set by the district court. The district court  
5 stated that “[o]nly fees related solely to the defense of the counterclaims” would be  
6 granted, and fees for multiple attorneys at various proceedings would generally be  
7 denied. The parties then resubmitted their respective fee requests and objections. The  
8 district court reviewed this new material, further reduced the award for charges  
9 inconsistent with its interim order, and issued a final fee award.

10 {9} Bibiji’s contentions on appeal largely follow a certain framework. Bibiji first  
11 quotes a specific provision of the district court’s interim order, such as “[t]he district  
12 court explicitly ordered that ‘only fees solely related to the defense of the  
13 [c]ounterclaims are granted.’ ” Bibiji then argues that the fee award included charges  
14 contrary to the respective provision of the district court’s interim order. The argument  
15 is generally supported by citation to the revised objections Bibiji filed below;  
16 however, in some instances, Bibiji does mention certain billing charges as examples  
17 of the improper charges submitted by the Trustees.

18 {10} We take two issues with Bibiji’s briefing, which prevent us from properly  
19 reviewing these contentions. First, to the extent that Bibiji expects this Court to comb

1 through the multitude of objections found in her spreadsheets in order to  
2 independently justify the district court's decision on each objection, we emphasize  
3 that is not our responsibility. *See Headley v. Morgan Mgmt. Corp.*, 2005-NMCA-045,  
4 ¶ 15, 137 N.M. 339, 110 P.3d 1076 (emphasizing that this Court has no duty to review  
5 an argument that is not adequately developed). It is patently insufficient to cite to large  
6 portions of the record to support a generalized argument in the hope that this Court  
7 will construct an argument on the proponent's behalf.

8 {11} Second, even if we were to undertake such a task, it is virtually impossible for  
9 this Court to determine whether these specific charges were even included in the fee  
10 award, much less determine if their inclusion was an abuse of discretion. The district  
11 court stated in its interim order that it would not award fees for services unrelated to  
12 the defense of the counterclaim or for instances in which multiple attorneys attended  
13 certain proceedings. In the final order, the district court further reduced the award for  
14 fees inconsistent with its interim order. For instance, the district court disallowed  
15 \$47,380.50 in fees billed by the Sutin firm because the fees requested were unrelated  
16 to the defense of the counterclaim. Similarly, the district court disallowed an  
17 additional \$259 in fees from the Wray & Girard firm for the same reason. The district  
18 court's order does not reflect a line item ruling on Bibiji's objections, and we therefore  
19 have no way of determining whether the specific objections Bibiji mentions were

1 taken into account in reducing the award. Arguments that merely highlight the  
2 general nature of Bibiji’s objections to certain billing charges provide little assistance  
3 to us. Moreover, the district court is in a better position than this Court to determine  
4 whether certain fees it ultimately awarded were consistent with its interim order.  
5 Accordingly, Bibiji has failed to affirmatively show that the district court abused its  
6 discretion in calculating the fee award.

7 {12} We reject Bibiji’s remaining arguments for two additional reasons. First, Bibiji  
8 cites no authority supporting her view that the Trustees’ voluntary ten percent  
9 reduction in all fees, as opposed to the twenty percent reduction requested by Bibiji,  
10 was insufficient to address fees for allegedly unreasonable time spent on tasks. *In re*  
11 *Adoption of Doe*, 1984-NMSC-024, ¶ 2, 100 N.M. 764, 676 P.2d 1329, (stating that  
12 where a party cites no authority to support an argument, we may assume no such  
13 authority exists). Second, Bibiji’s contention that the fee award reflects charges by  
14 attorneys billing for clerical work at their regular hourly rate is unsupported by the  
15 evidence cited to this Court. The exhibit cited by Bibiji to support this contention  
16 shows 17.8 hours spent by attorneys on purportedly non-legal tasks but does not show  
17 at what rate these hours were charged. In contrast, the Trustees cite to Katherine  
18 Wray’s affidavit, which lists at least nine instances where charges for these types of  
19 activities were either “no-charge” or billed at half of Wray’s normal hourly rate.



1 Based on the limited evidence cited to this Court on this point, Bibiji failed to  
2 establish that the district court abused its discretion in the event it awarded fees for  
3 these tasks. *Muse v. Muse*, 2009-NMCA-003, ¶ 72, 145 N.M. 451, 200 P.3d 104 (“We  
4 will not search the record for facts, arguments, and rulings in order to support  
5 generalized arguments.”).

6 **The District Court Did Not Err in Considering Documents Provided in the**  
7 **Trustees’ Reply Brief**

8 {13} Bibiji argues that the district court allowed the Trustees to “sandbag” her by  
9 initially filing a generic motion for attorney fees and then waiting until their reply  
10 brief to provide specifics supporting the motion. Bibiji raised this argument below in  
11 a motion to strike affidavits attached to the Trustees’ reply brief. The district court’s  
12 ruling on this motion provided extensive discussion of Bibiji’s answer brief and how  
13 the arguments and documents attached to the Trustees’ reply brief directly responded  
14 to Bibiji’s answer brief. *See Mitchell-Carr v. McLendon*, 1999-NMSC-025, ¶ 29, 127  
15 N.M. 282, 980 P.2d 6 (stating that, in general, arguments raised for the first time in  
16 reply briefs will not be considered unless they are in response to arguments or  
17 authorities presented in the answer brief). On appeal, Bibiji provides no argument or  
18 citation to the record explaining why the arguments and evidence reviewed in the  
19 district court’s order do not directly relate to issues raised in her answer brief.  
20 Accordingly, we conclude that she failed to establish that the district court abused its

1 discretion in considering the argument and evidentiary support in the Trustees’ reply  
2 brief.

### 3 **Bibiji’s Request for Attorney Fees**

4 {14} Bibiji argues that the district court erred by not awarding her attorney fees for  
5 prevailing on the claims asserted by the Trustees. We conclude that there is no merit  
6 to this contention.

7 {15} Bibiji did not file a motion or request a finding that she was entitled to attorney  
8 fees. Instead, in her revised objections to the Trustees’ fee declarations, filed nearly  
9 fourteen months after the district court entered its judgment, Bibiji stated in a  
10 footnote:

11 While this Court ultimately decided Bibiji’s claims after trial and  
12 awarded fees to the Trustees as prevailing parties on Bibiji’s claims, it  
13 did not appear to have considered Bibiji’s fees on her successful defense  
14 against the Trustees’ claims. Bibiji respectfully requests leave to submit  
15 her fee request as prevailing party on the Trustees’ claims.

16 While the district court did not explicitly rule on Bibiji’s request for leave to submit  
17 a request for attorney fees, we presume the district denied this request. *Cf. Stinson v.*  
18 *Berry*, 1997-NMCA-076, ¶ 8, 123 N.M. 482, 943 P.2d 129 (“Where there has been  
19 no formal expression concerning a motion, a ruling can be implied by entry of final  
20 judgment or by entry of an order inconsistent with the granting of the relief sought.”).  
21 Given the delay, we conclude that the district court did not abuse its discretion in

1 denying Bibiji the opportunity to seek attorney fees. Putting aside the fact that Bibiji  
2 buried this request in a footnote, the request came long after judgment was entered in  
3 the case and at the tail-end of the twelve-month-long fee dispute that followed. It was  
4 properly in the district court’s discretion to disregard such an untimely request. *Cf.*  
5 Rule 1-054(E)(2) NMRA (“Unless otherwise provided by statute or order of the court,  
6 [a motion for attorney fees] must be filed and served no later than fifteen (15) days  
7 after entry of judgment[.]”).

#### 8 **Trustees’ Request for Attorney Fees on Appeal**

9 {16} The Trustees request that they be awarded attorney fees and costs incurred in  
10 the defense of this appeal. Rule 12-403(B)(3) NMRA provides for the grant of  
11 “reasonable attorney fees for services rendered on appeal in causes where the award  
12 of attorney fees is permitted by law[.]” Because the statute underlying the cause of  
13 action in this case provided for the award of attorney fees and the Trustees are the  
14 prevailing party on every issue, they are entitled to their appellate fees and costs. *See*  
15 *Rio Grande Sun v. Jemez Mountains Pub. Sch. Dist.*, 2012-NMCA-091, ¶ 29, 287  
16 P.3d 318. On remand, the district court shall determine the appropriate amount of  
17 appellate attorney fees and costs to be awarded to the Trustees.

#### 18 **CONCLUSION**

19 {17} For the foregoing reasons, we affirm the district court’s order.

1 {18} **IT IS SO ORDERED.**

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**CYNTHIA A. FRY, Judge**

4 **WE DO CONCUR:**

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6 **MICHAEL E. VIGIL, Chief Judge**

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8 **MICHAEL D. BUSTAMANTE, Judge**