

1                   **II. Postjudgment Attorney's Fees**

2                   Zandian argued that there is no applicable statute or rule upon which postjudgment  
3 attorney's fees can be awarded to Margolin and that the parties did not enter into an agreement  
4 which affords attorney's fees and therefore Margolin's request for postjudgment attorney's  
5 fees should be denied. Further, Zandian argues that NRS 598.0999(2) does not permit an  
6 award of attorney's fees in this case.

7                   However, NRS 598.0999(2) is applicable to any action filed pursuant to the provisions  
8 of NRS 598.0903 to 598.0999, inclusive. Accordingly, Margolin should be awarded his  
9 postjudgment fees pursuant to the Deceptive Trade Practices statute.  
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11                   **a. NRS 598.0999(2) provides for an award of attorney's fees**

12                   NRS 598.0999(2) states as follows:

13                   Except as otherwise provided in NRS 598.0974, in any action brought pursuant  
14 to the provisions of NRS 598.0903 to 598.0999, inclusive, if the court finds that  
15 a person has willfully engaged in a deceptive trade practice, the district attorney  
16 of any county in this State or the Attorney General bringing the action may  
17 recover a civil penalty not to exceed \$5,000 for each violation. The court in any  
18 such action may, in addition to any other relief or reimbursement, award  
19 reasonable attorney's fees and costs.

20                   NRS 598.0999(2) (emphasis added).

21                   Thus, the phrase, "provisions of NRS 598.0903 to 598.0999," encompasses all actions  
22 brought under those sections. The language, "any action brought pursuant to the provisions of  
23 NRS 598.0903 to 598.0999," does not limit Deceptive Trade Practices actions to district  
24 attorneys or the Attorney General. The only limitation in NRS 598.0999(2) relates to the  
25 district attorney's and the Attorney General being able to pursue the \$5,000 civil penalty. In  
26 contrast, the last sentence of NRS 598.0999(2) stands alone and does not limit attorney fee  
27 awards to district attorneys or the Attorney General and allows the Court, in any Deceptive  
28 Trade Practices action, to "award reasonable attorney's fees and costs." NRS 598.0999(2).

1 As NRS 598.0999(2) provides for attorney's fees based upon actions filed pursuant to  
2 the provisions of NRS 598.0903 to 598.0999, inclusive, and since NRS 598.0999(2) does not  
3 exclude postjudgment attorney fees, Margolin's attorney's fees are hereby awarded for having  
4 to incur fees enforcing the judgment on the deceptive trade practices claim.

5 **b. Margolin's attorneys' fees are reasonable**

6 "In Nevada, 'the method upon which a reasonable fee is determined is subject to the  
7 discretion of the court,' which 'is tempered only by reason and fairness.'" *Shuette v. Beazer*  
8 *Homes Holdings Corp.*, 124 P. 3d 530, 121 Nev. 837 (2005) (citing *University of Nevada v.*  
9 *Tarkanian*, 110 Nev. 581, 594, 591, 879 P.2d 1180, 1188, 1186 (1994)). "Accordingly, in  
10 determining the amount of fees to award, the court is not limited to one specific approach; its  
11 analysis may begin with any method rationally designed to calculate a reasonable amount,  
12 including those based on a 'lodestar' amount or a contingency fee." *Id.* (citations omitted).  
13 "The lodestar approach involves multiplying 'the number of hours reasonably spent on the  
14 case by a reasonable hourly rate.'" *Id.* at n. 98 (citing *Herbst v. Humana Health Ins. of*  
15 *Nevada*, 105 Nev. 586, 590, 781 P.2d 762, 764 (1989)).

16 Before awarding attorney's fees, the district court must make findings concerning the  
17 reasonableness of the award, as required by *Brunzell v. Golden Gate National Bank*, 455 P.2d  
18 31, 85 Nev. 345 (1969) and *Shuette v. Beazer Homes Holdings Corp.*, 124 P. 3d 530, 121 Nev.  
19 837 (2005). See *Barney v. Mt. Rose Heating & Air Conditioning*, 124 Nev. 821, 829-30, 192  
20 P.3d 730, 735-7 (2008).

21 According to *Brunzell*, the factors that the district court should consider in awarding  
22 attorney fees, with no one factor controlling, is as follows:

- 23 (1) the advocate's qualities, including ability, training, education, experience,  
24 professional standing, and skill;  
25 (2) the character of the work, including its difficulty, intricacy, importance, as  
26 well as the time and skill required, the responsibility imposed, and the  
27 prominence and character of the parties when affecting the importance of the  
28 litigation;