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9
10 **EIGHTH JUDICIAL DISTRICT COURT**

11 **CLARK COUNTY, NEVADA**

12 VISTANA CONDOMINIUM OWNERS
ASSOCIATION, INC., a Nevada Corporation

Case No.: A-20-826290-C
Dept. No.: 23

13 Plaintiffs,

14 **NOTICE OF ENTRY OF ORDER
GRANTING ATTORNEYS' FEES AND
COSTS AND JUDGMENT**

15 vs.

16 LYNN WILLIAMS, an individual; LARRY
FITCH, an individual; ANTHONY KNEIP, an
17 individual; ARDYCE NELSON, an individual
and DOES I-XX,

18 Defendants.

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2 DISTRICT COURT
3 CLARK COUNTY, NEVADA

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6 Vistana Condominium Owners
7 Association, Inc., Plaintiff(s)

CASE NO: A-20-826290-C

DEPT. NO. Department 23

8 vs.

9 Lynn Williams, Defendant(s)

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11 **AUTOMATED CERTIFICATE OF SERVICE**

12 This automated certificate of service was generated by the Eighth Judicial District
13 Court. The foregoing Order was served via the court's electronic eFile system to all
14 recipients registered for e-Service on the above entitled case as listed below:

15 Service Date: 7/8/2022

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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), the undersigned, an employee of LEACH KERN GRUCHOW ANDERSON SONG, hereby certifies that on this 11th day of July, 2022, service of the foregoing, **NOTICE OF ENTRY OF ORDER GRANTING ATTORNEYS' FEES AND COSTS AND JUDGMENT**, was made on all parties via the Court's CM/ECF System and/or U.S. mail, as follows:

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/s/ Yalonda Dekle

An Employee of LEACH KERN GRUCHOW
ANDERSON SONG

Electronically Filed
07/08/2022 5:42 PM
Andrew J. Smith
CLERK OF THE COURT

1 **JUDG**
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10 **EIGHTH JUDICIAL DISTRICT COURT**

11 **CLARK COUNTY, NEVADA**

12 VISTANA CONDOMINIUM OWNERS
13 ASSOCIATION, INC., a Nevada Corporation

Case No.: A-20-826290-C
Dept. No.: 23

14 Plaintiffs,

**ORDER GRANTING MOTION FOR
ATTORNEYS' FEES AND COSTS AND
JUDGMENT**

15 vs.

16 LYNN WILLIAMS, an individual; LARRY
17 FITCH, an individual; ANTHONY KNEIP, an
18 individual; ARDYCE NELSON, an individual
19 and DOES I-XX,

Defendants.

20 On March 25, 2022, Plaintiff Vistana Condominium Owners Association (“Association”)
21 filed its Motion for Attorneys’ Fees and Costs. The Defendants did not file an Opposition to the
22 Motion. On April 14, 2022, the Association filed a Notice of Non-Opposition to its Motion for
23 Attorneys’ Fees and Costs. A hearing on the Motion for Attorneys’ Fees and Costs was set for
24 June 14, 2022. Ryan Hastings appeared on behalf of the Association.

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1 The Court, having carefully considered all pleadings and papers on file herein and
2 considering the oral arguments of counsel, and for good cause appearing, finds as follows:

3 **FINDINGS OF FACT**

4 1. On September 19, 2017, the Commission for Common-Interest Communities and
5 Condominium Hotels, Department of Business and Industry, State of Nevada (the
6 “Commission”) determined that the Defendants “knowingly and willingly” violated the law with
7 regard to their fiduciary duties as board members of the Association.

8 2. On October 19, 2017, Defendants filed a Petition for Judicial Review and named
9 the Association as a party. This caused the Association to incur additional fees and costs of
10 defense.

11 3. On December 30, 2019, the District Court entered an Order denying the Petition
12 for Judicial Review and affirmed the Commission’s Order regarding the Defendants’ violations
13 of NRS 116 and NRS 487.

14 4. The Association incurred costs of \$116,010.91 in defending Defendants in both
15 the matter before the Commission and the Petition for Judicial Review.

16 5. Defendant Williams utilized his position on the Association’s Board of Directors
17 to demand and receive payments in the amount of \$22,768.42 for providing consulting and/or
18 legal services.

19 6. On December 14, 2020, the Association filed its Complaint against the
20 Defendants asserting claims for breach of restrictive covenants, breach of NRS Chapter 116,
21 Breach of NRS 116 – Defendant Williams Only, breach of fiduciary duty, unjust enrichment, and
22 declaratory relief.

23 7. On December 6, 2021, the Association filed its Motion for Summary Judgment.
24 The Motion came on for hearing before the Honorable Jasmin Lilly-Spells, on January 11, 2022,
25 at which time the Court granted the Motion in its entirety. *See Findings of Fact, Conclusions of*
26 *Law.*

27 8. The Association as the prevailing party to this case is entitled to its reasonable
28 attorneys’ fees pursuant to NRS 116.4117 and NRS Chapter 18.

CONCLUSIONS OF LAW

1
2 1. NRS 116.4117 provides a basis upon which an award of attorneys’ fees may be
3 granted. Pursuant to NRS 116.4117(6) “[t]he court may award reasonable attorney’s fees to the
4 prevailing party.” Statutory interpretation is an issue of law that this Court reviews *de novo*.
5 *Washoe Medical Center v. Second Judicial Dist. Court of State of Nev. ex rel. County of Washoe*,
6 122 Nev. 1298, 1302, 148 P.3d 790, 792-93 (2006). When a statute is clear on its face, a Court
7 “will not look beyond the statute’s plain language.” *Id.* at 793.

8 2. In Nevada, “the method upon which a reasonable fee is determined is subject to
9 the discretion of the court,” which “is tempered only by reasons and fairness.” *Shuette v. Beazer*
10 *Home Holding Corp.*, 121 Nev. 837, 864, 124 P.3d 530, 548-49 (2005).

11 3. The factors the court must consider in its analysis of the required amount of
12 attorneys’ fees include: (1) The qualities of the advocate: his ability, training, education,
13 experience, professional standing and skills; (2) The character of the work done; its difficulty,
14 intricacy, importance, time and skill required, the responsibility imposed and the prominence and
15 character of the parties where they affect the importance of the litigation; (3) The work actually
16 performed by the lawyer, the skill, time and attention given to the work; and (4) The result;
17 whether the attorney was successful and what benefits were derived. *Brunzell v. Golden Gate*
18 *National Bank*, 85 Nev. 345, 349, 455 P.2d 31, 33 (1969).

19 4. The Association, as the prevailing party in this matter, has incurred substantial
20 attorneys’ fees and costs in the amount of \$32,566.50.

21 5. The Court finds that pursuant to the factors set forth in *Brunzell* and *Cadle Co.*
22 *v. Woods & Erickson, LLP*, 131 Nev. 114, 120, 345 P.3d 1049, 1054 (2015), the Association’s
23 attorneys’ fees and costs sought were reasonable, supported by evidentiary documentation,
24 and were necessarily incurred. The Association provided evidence that its attorneys’ hourly
25 rates were reasonable. The time entries were for tasks actually and necessarily incurred and
26 the result obtained was of a substantial benefit to the Association.

27 6. After oral argument on the Motion for Attorneys’ Fees and Costs, the Court
28 finds that the facts and circumstances in this case were unique, which required research and

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1 analysis that legal counsel had not encountered previously, even considering the extensive
2 experience of counsel in the relevant area of the law. The Court finds that these additional
3 efforts justified additional time spent by the attorneys, as reflected in the billing
4 documentation submitted with the Motion.

5 Accordingly, **IT IS HEREBY ORDERED, ADJUDGED AND DECREED**, the
6 Association is awarded its attorneys' fees in the amount of \$32,566.50 and costs in the amount of
7 \$1,079.37 pursuant to NRS 116.4117 and NRS Chapter 18 against the Defendants.

8 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED**, that this Order shall
9 also operate to supplement the judgment against Defendants in favor of the Association entered
10 on March 4, 2022, effective upon notice of entry of order.

The court hereby vacates the
award of costs in the amount of
\$1048.02 as noted in the May 24,
2022 minute order.

11 **IT IS SO ORDERED.**

Dated this 8th day of July, 2022



DISTRICT COURT JUDGE

12 Submitted by:

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16 **WWW.LKGA.B6A2.68CE**
17 **Jasmin Lilly-Spells**
18 **District Court Judge**

16 /s/ Ryan D. Hastings
17 Sean L. Anderson
18 Nevada Bar No. 7259
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23 *Attorneys for Plaintiff Vistana*
24 *Condominium Owners Association*

1 PLEASE TAKE NOTICE that a **ORDER GRANTING MOTION FOR**
2 **ATTORNEYS' FEES AND COSTS AND JUDGMENT** was entered in the above-entitled
3 case on July 8, 2022, a copy of which is attached hereto.

4 Dated this 11th day of July 2022.

5 **LEACH KERN GRUCHOW ANDERSON SONG**

6
7 /s/ Ryan D. Hastings

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