IN THE SUPREME COURT OF THE STATE OF NEVADA

MICHAEL A. TRICARICHI, Appellant, vs. PRICEWATERHOUSECOOPERS, LLP, Respondent.	No. 86317
MICHAEL A. TRICARICHI, AN INDIVIDUAL, Appellant, vs. PRICEWATERHOUSECOOPERS, LLP, Respondent.	No. 87375
MICHAEL A. TRICARICHI, Appellant, vs. PRICEWATERHOUSECOOPERS, LLP, Respondent.	No. 87835

FILED

MAY 29 2025

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY
DEPUTY CLERK

ORDER OF AFFIRMANCE

These are consolidated appeals from a final judgment, a post-judgment order awarding attorney fees and costs, and a post-judgment order denying a motion for relief in an accounting malpractice proceeding. Eighth Judicial District Court, Clark County; Joanna Kishner, Judge.

The IRS assessed appellant Michael Tricarichi with liability for a tax deficiency and penalties totaling over $20 million when it discovered he had engaged in a tax-avoidance transaction while liquidating his company, Westside Cellular, Inc., in 2003. In 2016, Tricarichi sued respondent PricewaterhouseCoopers, LLC (PwC), for negligently advising him to go forward with the 2003 transaction. The district court granted summary judgment to PwC, finding that the statute of limitations had lapsed regarding any claims arising out of advice given in 2003. Tricarichi

amended his complaint to bring forth new claims arising in and after 2008. Following a bench trial on the 2008-based claims, the district court rejected all of Tricarichi's claims and entered final judgment in favor of PwC. The district court also granted PwC's NRCP 68 motion for attorney fees and costs based on Tricarichi's rejection of a 2021 offer of judgment. Tricarichi later filed a motion for relief from judgment under NRCP 60(b) based on newly discovered evidence, which the district court denied. Tricarichi now appeals, arguing the district court misapplied the statute of limitations to Tricarichi's 2003-based claims, abused its discretion in denying NRCP 60(b) relief, and abused its discretion in awarding attorney fees. We conclude that the district court did not err in its entry of these orders and therefore affirm.

The district court did not err in applying the statute of limitations to Tricarichi's 2003-based claims

The district court granted summary judgment to PwC on Tricarichi's 2003-based claims after determining that the limitations period had lapsed. This court "review[s] a district court's grant of summary judgment de novo." *Jaramillo v. Ramos*, 136 Nev. 134, 135, 460 P.3d 460, 462 (2020). "Summary judgment is appropriate when the record shows that there is no genuine issue of material fact and the movant is entitled to judgment as a matter of law." *Id.* at 135, 460 P.3d at 463. NRS 11.2075(1) provides, in relevant part, that an action against an accounting firm for malpractice must be commenced within:

> (a) Two years after the date on which the alleged act, error or omission is discovered or should have been discovered through the use of reasonable diligence;
>
> (b) Four years after completion of performance of the service for which the action is brought;

. . . .

whichever occurs earlier.

The statute also provides that the time limitation "is tolled for any period during which the accountant or accounting firm conceals the act, error or omission upon which the action is founded and which is known or through the use of reasonable diligence should have been known to the accountant or firm." NRS 11.2075(2).

Tricarichi argues the district court erred in determining the statute of limitations had lapsed. He argues that a limitations period does not begin to run until there is an accrued injury for which a claim may be brought. In that respect, Tricarichi asserts there was no accrued injury for which he could bring a claim against PwC until the IRS issued its final determination in 2012 that he was personally liable for West Side's tax deficiency. But NRS 11.2075(1) does not provide that an injury such as an assessment of tax liability must accrue for the limitations period to begin running. Tricarichi's complaint was clearly time-barred under NRS 11.2075(1)(b), as PwC completed its services for Tricarichi by October 2003, and Tricarichi did not bring his claim within "[f]our years after completion of performance of the service."[1] Even crediting the argument that the operative statute of limitation for Tricarichi's claim is NRS 11.2075(1)(a), the district court did not err in concluding that Tricarichi was placed on inquiry notice of a potential cause of action in February 2008 when the IRS sent Tricarichi an Information Document Request letter stating that he

---

[1]Similarly, if New York law applies as PwC argues, a malpractice claim against an accountant under New York law is subject to a three-year statute of limitations that "accrues upon the client's receipt of the work product." *Ackerman v. Price Waterhouse*, 644 N.E.2d 1009, 1012 (N.Y. 1994).

may be liable for West Side's unpaid taxes. Upon receipt of this letter, reasonable diligence would have revealed the potential for a claim for faulty tax advice. *See Winn v. Sunrise Hosp. & Med. Ctr.*, 128 Nev. 246, 252, 277 P.3d 458, 462 (2012) (stating that "a person is put on inquiry notice when he or she should have known of facts that would lead an ordinarily prudent person to investigate the matter further") (internal quotation marks omitted)). Therefore, under the most generous reading of the limitations period, Tricarichi's claims were barred after February 2010—two years following receipt of the letter from the IRS. Because Tricarichi did not bring his claims before February 2010, the district court did not err in granting summary judgment to PwC on Tricarichi's 2003-based claims.

The district court did not err in denying Tricarichi's motion for reconsideration

A district court's denial of relief under NRCP 60(b) is reviewed for an abuse of discretion. *Cook v. Cook*, 112 Nev. 179, 181-82, 912 P.2d 264, 265 (1996). Under NRCP 60(b), the court may relieve a party from a final judgment for "newly discovered evidence that, with reasonable diligence, could not have been discovered in time to move for a new trial under Rule 59(b)," or for "fraud . . . , misrepresentation, or misconduct by an opposing party." Tricarichi argues both grounds were appropriate here, and that the district court abused its discretion by denying his motion.

Tricarichi alleges that prior to final judgment, PwC failed to produce incriminating evidence showing that PwC knew transactions like those it advised Tricarichi to engage in were risky. Specifically, he points to an email written by the co-head of PwC's Portland, Oregon, office. This email came to light during separate litigation arising from advice that PwC gave to another client. *See Est. of Marshall v. Comm'r of Internal Revenue*, Nos. 27241-11, 28661-11, 28782-11, 2016 WL 3460226 (T.C. June 20, 2016)

(Memorandum Findings of Fact and Opinion). Tricarichi argues that this email reveals PwC knew Tricarichi's transaction was risky and concealed that fact. Tricarichi also argues that PwC improperly withheld the existence of a risk management policy that directed employees to refrain from admitting liability, shortcomings, or defects in its services.

To obtain relief under NRCP 60(b)(2), the newly discovered evidence must affect the outcome of the case. *Cf. Coastal Transfer Co. v. Toyota Motor Sales, U.S.A.*, 833 F.2d 208, 211 (9th Cir. 1987) (stating that under the federal counterpart to NRCP 60(b)(2), "the newly discovered evidence must be of such magnitude that production of it earlier would have been likely to change the disposition of the case"). Tricarichi asserts that the concealment of this evidence would have triggered the statute of limitations tolling provision in NRS 11.2075(2) because it shows that PwC "conceal[ed] the act, error or omission upon which the action is founded," thereby changing the district court's statute of limitations determination. NRS 11.2075(2). We conclude the district court was within its discretion in determining that this evidence would not have changed the outcome of either the 2003-based claims or the 2008-based claims. As the district court concluded, there were numerus differences between the *Marshall* transaction and Tricarichi's transaction. The acknowledgment in the email that the *Marshall* transaction was improper, therefore, does not necessarily mean that PwC knew Tricarichi's transaction was also improper. And this information would not have triggered the tolling provision in NRS 11.2075(2) here because if PwC did conceal the email, then it concealed the act, error, or omission at issue in the *Marshall* transaction, not in Tricarichi's underlying transaction. The risk management policy likewise has no bearing on the statute of limitations inquiry. Accordingly, the

district court did not abuse its discretion in denying Tricarichi's NRCP 60(b) motion.

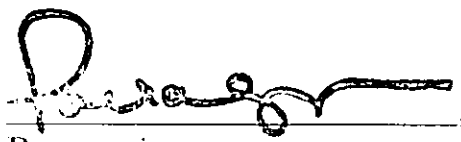
The district court did not err in granting, in-part, PwC's NRCP 68 motion

Tricarichi appeals the district court's award of attorney fees to PwC. "[T]he decision to award attorney fees rests within the district court's discretion, and we review such decisions for an abuse of discretion." *O'Connell v. Wynn Las Vegas, LLC*, 134 Nev. 550, 554, 429 P.3d 664, 668 (2018). PwC served Tricarichi with an offer of judgment for $50,000 in September 2019 (the 2019 offer). In October 2021, PwC served a second offer of judgment, again for $50,000 (the 2021 offer). The district court determined the *Beattie* factors favored awarding NRCP 68 attorney fees and costs to PwC based on the 2021 offer but not the 2019 offer. *See Beattie v. Thomas*, 99 Nev. 579, 588-89, 668 P.2d 268, 274 (1983). Tricarichi argues that the ruling is contradictory and the district court abused its discretion in making this determination. We conclude the district court properly applied the *Beattie* factors to the two offers of judgment and did not abuse its discretion in determining the 2019 offer was rejected in good faith while the 2021 offer was rejected in bad faith. Though the 2019 offer was rejected in good faith, circumstances had changed enough by the time of the 2021 offer to render the rejection of the 2021 offer unreasonable.

Alternatively, Tricarichi asserts the amount of fees sought and ultimately awarded was unreasonable, primarily arguing that the district court could not calculate a reasonable fee under *Brunzell* because one firm employed by PwC billed through a flat fee and did not maintain precise hourly records of its work for PwC. *See Brunzell v. Golden Gate Nat'l Bank*, 85 Nev. 345, 349, 455 P.2d 31, 33 (1969). In calculating the amount of an attorney fees award, "Nevada law does not require billing records with every attorney fees request. The law only requires the trial court to

calculate a reasonable fee." *O'Connell*, 134 Nev. at 557, 429 P.3d at 670 (internal quotation marks omitted). The district court "is not limited to one specific approach; its analysis may begin with any method rationally designed to calculate a reasonable amount, so long as the requested amount is reviewed in light of the *Brunzell* factors." *Logan v. Abe*, 131 Nev. 260, 266, 350 P.3d 1139, 1143 (2015) (internal quotation marks omitted); *see also Shuette v. Beazer Homes Holdings Corp.*, 121 Nev. 837, 865, 124 P.3d 530, 549 (2005) (stating that "whichever method the court ultimately uses, the result will prove reasonable as long as the court provides sufficient reasoning and findings in support of its ultimate determination"). Here, the district court properly applied *Brunzell*, calculated a reasonable amount of attorney fees, and provided extensive reasoning in support of its findings. We conclude the district court did not abuse its discretion in assessing attorney fees and costs. Accordingly, we

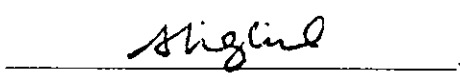
ORDER the judgment of the district court AFFIRMED.



_____, J.
Parraguirre



_____, J.
Bell



_____, J.
Stiglich

cc: Hon. Joanna Kishner, District Judge
Ara H. Shirinian, Settlement Judge
Hutchison & Steffen, LLC/Las Vegas
Sperling & Slater, LLC/Chicago
Bartlit Beck LLP/Chicago
Snell & Wilmer, LLP/Las Vegas
Bartlit Beck LLP/Denver
Eighth District Court Clerk