

Practice Pointer: Have You Appealed Both the Final Judgment and the Fee Award?

Posted on March 6, 2009 by [Gary A. Bresee](#)

Very often the final judgment is issued by the trial court, which triggers the deadline for appealing the decision. In the interim, the trial court has yet to decide the fee application filed by the prevailing party. The fee award can then be issued *after* expiration of the deadline to appeal the final judgment. As a practitioner, if you wish to claim error in the fee award, what do you do? The answer is either appeal, separately, the fees decision, or appeal both rulings in the same Notice of Appeal. Failing to do so may result in your inability to claim error in the fee application ruling.

In [Colachis v. Salazar](#), a recent unpublished opinion by the California Court of Appeal, Second District, a pro per plaintiff received an unfavorable judgment in September 2007. His subsequent motion to vacate the judgment was also denied. Plaintiff then received a \$58,104 attorney fee award issued against him in November 2007. However, Plaintiff's Notice of Appeal only mentioned the "judgment and order denying motion to vacate judgment." When Plaintiff attempted to challenge the fee order, the court concluded Plaintiff's failure to expressly appeal the postjudgment fees order was fatal. Although the *Colachis* decision is unpublished, the court relied upon *Colony Hill v. Chamaty*, 143 Cal.App.4th 1156 (2006) -- which is a published opinion -- to conclude that appellant's failure to appeal from the postjudgment attorney fees award had deprived the court of jurisdiction to consider the issue.