

No. \_\_\_\_\_

Dept. No. XXVI

**IN THE EIGHTH JUDICIAL DISTRICT COURT OF  
THE STATE OF NEVADA IN AND FOR THE COUNTY OF CLARK**

TOWER HOMES, LLC, a Nevada limited  
liability company;

Plaintiff,

vs.

WILLIAM H. HEATON, individually; NITZ,  
WALTON & HEATON, LTD., a domestic  
professional corporation; and DOES I  
through X, inclusive,

Defendants.

Electronically Filed  
May 29 2014 01:57 p.m.

CASE NO.: A-12-06534-C  
DEPT. NO.: XXVI  
Tracie K. Lindeman  
Clerk of Supreme Court  
Electronically Filed  
05/28/2014 09:56:03 AM

**NOTICE OF APPEAL**

*Tracie K. Lindeman*  
CLERK OF THE COURT

Notice is hereby given that Plaintiff, Tower Homes, LLC, hereby appeals to the  
Supreme Court of Nevada from the following:

1. The Order Granting Defendants' Motion for Summary Judgment entered on May 15,  
2014.

DATED this 28 day of May, 2014.

**PRINCE & KEATING**

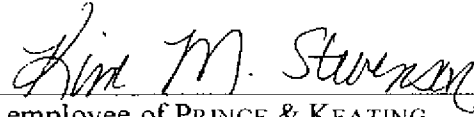


DENNIS M. PRINCE  
Nevada Bar No. 5092  
ERIC N. TRAN  
Nevada Bar No. 11876  
3230 South Buffalo Drive  
Suite 108  
Las Vegas, Nevada 89117  
Attorneys for Defendant  
Tower Homes, LLC

1 **CERTIFICATE OF MAILING**

2 I hereby certify that on the 26<sup>th</sup> day of May, 2014, I caused service of the foregoing  
3 **NOTICE OF APPEAL** to be made by depositing a true and correct copy of same in the  
4 United States Mail, postage fully prepaid, addressed to the following:  
5

6 Jeffrey Olster, Esq.  
7 LEWIS BRISBOIS BISGAARD & SMITH, LLP  
8 6385 South Rainbow Boulevard, Suite 600  
9 Las Vegas, Nevada 89118  
10 Facsimile: (702) 893-3789  
11 *Attorneys for Defendants*

12   
13 An employee of PRINCE & KEATING  
14  
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No. \_\_\_\_

Dept. No. XXVI

**IN THE EIGHTH JUDICIAL DISTRICT COURT OF  
THE STATE OF NEVADA IN AND FOR THE COUNTY OF CLARK**

TOWER HOMES, LLC, a Nevada limited  
liability company;

Plaintiff,

vs.

WILLIAM H. HEATON, individually; NITZ,  
WALTON & HEATON, LTD., a domestic  
professional corporation; and DOES I  
through X, inclusive,

Defendants.

CASE NO.: A-12-663341-C

DEPT. NO.: XXVI

Electronically Filed  
05/28/2014 09:56:47 AM

**CASE APPEAL STATEMENT**

  
CLERK OF THE COURT

1. Appellant Tower Homes, LLC files this Case Appeal Statement.
2. The Honorable Gloria Sturman entered the following Order:
  - a) The Order Granting Defendants' Motion for Summary Judgment entered on May 15, 2014.
3. TOWER HOMES, LLC; WILLIAM H. HEATON; and NITZ, WALTON & HEATON, LTD. are parties to the proceedings in the District Court.
4. The parties to this Appeal are as follows:
  - TOWER HOMES, LLC is the Appellant.;
  - WILLIAM H. HEATON; and NITZ, WALTON & HEATON, LTD., are the Respondents.
5. Appellant TOWER HOMES, LLC is represented by the following counsel:

Dennis M. Prince  
Eric N. Tran  
PRINCE & KEATING  
3230 S. Buffalo Drive, Suite 108  
Las Vegas, Nevada 89117  
(702) 228-6800  
*Attorneys for Plaintiff/Appellant  
TOWER HOMES, LLC*

1 Respondents WILLIAM H. HEATON; and NITZ, WALTON & HEATON, LTD. are  
2 represented by the following counsel:

3 Jeffrey Olster, Esq.  
4 LEWIS BRISBOIS BISGAARD & SMITH, LLP  
5 6385 South Rainbow Boulevard, Suite 600  
6 Las Vegas, Nevada 89118  
7 Facsimile: (702) 893-3789  
8 *Attorneys for Defendants/Respondent*

- 9 6. Appellant was represented by retained counsel in the District Court.  
10 7. Appellant is represented by retained counsel on Appeal.  
11 8. The District Court did not grant Appellant leave to proceed in forma pauperis.  
12 9. This action commenced in the District Court on June 12, 2012 with the filing of the  
13 Complaint.  
14 10. Brief Description of the Nature of the Action and Results in the District Court:

15 This is a legal malpractice action arising out of the failure of attorney William Heaton  
16 ("Heaton"), and the law firm of Nitz, Walton & Heaton, Ltd. ("NWH") (collectively referred  
17 to as "Defendants") to properly provide legal services to their clients Rodney C. Yanke  
18 (hereinafter "Yanke") and Plaintiff Tower Homes, LLC ("Tower") in the drafting of Purchase  
19 Contracts for the sale of condominium units in compliance with Nevada law.

20 Yanke is a licensed contractor in the State of Nevada who invested and developed real  
21 property in and around Clark County, Nevada. On or about April 3, 2004, at the request of  
22 Yanke, NWH caused or assisted in the formation of Tower Homes, LLC ("Tower"). Yanke  
23 was the managing member of Tower. At that time, Yanke informed Heaton and NWH of his  
24 intent to construct a residential common interest ownership project known as Spanish View  
25 Towers Project (hereinafter referred to as the "Project"). Yanke, in his capacity as the  
26 manager of Tower, informed Heaton and NWH that the Project was to consist of three (3) 18-  
27 story condominium towers combining for a total of 405 units located generally at the  
28 southwest corner of Interstate 215 and South Buffalo Drive in Las Vegas, Nevada.

1 In addition to other legal services, Yanke requested that Heaton and NWH draft  
2 Purchase Contracts for the sale of the individual condominium units. Prior to and during the  
3 initial phases of construction, Tower marketed the individual units for sale to members of the  
4 public prior to the completion of construction. Accordingly, Tower entered into written  
5 Purchase Contracts with numerous individual investors (collectively referred to as the "Tower  
6 Homes Purchasers") prior to the completion of construction. Each purchaser was to give  
7 Tower a significant earnest money deposit. The agreement between Tower, and the Tower  
8 Home Purchasers, called for the Project to be completed within two (2) years of the date of  
9 the Purchase Contract.  
10

11 Unfortunately, there was insufficient financing available for the Project's completion  
12 and thus, the Project failed. As a result of the Project's failure, there were over twenty five  
13 million dollars in mechanic's liens filed for the work on the Project. In addition, many of the  
14 Tower Homes Purchasers lost millions of dollars of their money deposits.  
15

16 Heaton and NWH were obligated to properly advise Tower of all applicable legal  
17 requirements concerning the sale of the individual units, including the applicability of Chapter  
18 116 of the Nevada Revised Statutes. In the manner in which Heaton and NWH drafted the  
19 contracts, Tower was in violation of NRS 116.411. In addition, Heaton and NWH failed to  
20 carry out their legal obligation to each individual purchaser to properly safeguard the earnest  
21 money deposits from mismanagement, theft, or unlawful use as required by Chapter 116 of  
22 the Nevada Revised Statutes.  
23

24 On February 18, 2014, Defendants Heaton and NWH filed their Motion for Summary  
25 Judgment. On March 7, 2014, Plaintiff Tower Homes, LLC filed its Opposition to  
26 Defendants' Motion for Summary Judgment; Defendants filed their Reply on March 14, 2014.  
27

28 On March 25, 2014, the District Court issued a Minute Order Granting Defendants'  
Motion for Summary Judgment. On May 15, 2014, the District Court signed the Order

1 Granting Defendants' Motion for Summary Judgment. Notice of Entry of Order Granting  
2 Defendants' Motion for Summary Judgment was entered on May 15, 2014.

3 11. This case has not previously been a subject of an appeal to an original writ proceeding  
4 in the Supreme Court.

5 12. This appeal **does not** involve a child custody or visitation issue.

6 13. This is a civil case on appeal, **with** the possibility of settlement.

7  
8 DATED this 28 day of May, 2014.

9  
10 **PRINCE & KEATING**

11 

12 DENNIS M. PRINCE  
13 Nevada Bar No. 5092  
14 ERIC N. TRAN  
15 Nevada Bar No. 11876  
16 3230 South Buffalo Drive  
17 Suite 108  
18 Las Vegas, Nevada 89117  
19 Attorneys for Plaintiff/Appellant  
20 *Tower Homes, LLC*

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**CASE APPEAL STATEMENT** to be made by depositing a true and correct copy of same in the United States Mail, postage fully prepaid, addressed to the following:

Jeffrey Olster, Esq.  
LEWIS BRISBOIS BISGAARD & SMITH, LLP  
6385 South Rainbow Boulevard, Suite 600  
Las Vegas, Nevada 89118  
Facsimile: (702) 893-3789  
*Attorneys for Defendants*

*Kimberly Stevenson*  
An employee of PRINCE & KEATING

DEPARTMENT 26  
**CASE SUMMARY**  
CASE NO. A-12-663341-C

**Tower Homes LLC, Plaintiff(s)**  
**vs.**  
**William Heaton, Defendant(s)**

§  
§  
§  
§  
§

Location: **Department 26**  
Judicial Officer: **Sturman, Gloria**  
Filed on: **06/12/2012**  
Case Number History:  
Cross-Reference Case **A663341**  
Number:

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CASE INFORMATION

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**Statistical Closures**  
05/15/2014      Summary Judgment

Case Type: **Negligence - Other**  
Case Flags: **Appealed to Supreme Court**  
**Jury Demand Filed**  
**Arbitration Exemption Granted**

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DATE

CASE ASSIGNMENT

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**Current Case Assignment**

Case Number      A-12-663341-C  
Court              Department 26  
Date Assigned     09/05/2012  
Judicial Officer    Sturman, Gloria

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PARTY INFORMATION

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		<i>Lead Attorneys</i>
<b>Plaintiff</b>	<b>Tower Homes LLC</b>	<b>Prince, Dennis M</b> <i>Retained</i> 7022286800(W)
<b>Defendant</b>	<b>Heaton, William H</b>	<b>Cass, Vincent A</b> <i>Retained</i> 7028933383(W)
	<b>Nitz Walton and Heaton Ltd</b>	<b>Cass, Vincent A</b> <i>Retained</i> 7028933383(W)





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DATE

EVENTS & ORDERS OF THE COURT

INDEX

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06/12/2012	 <b>Complaint</b> Filed By: Plaintiff Tower Homes LLC <i>Complaint</i>
06/12/2012	<b>Case Opened</b>
06/18/2012	 <b>Summons</b> Filed by: Plaintiff Tower Homes LLC <i>Summons</i>
06/18/2012	 <b>Summons</b> Filed by: Plaintiff Tower Homes LLC <i>Summons</i>
07/19/2012	 <b>Initial Appearance Fee Disclosure</b> Filed By: Defendant Heaton, William H <i>Initial Appearance Fee Disclosure (NRS Chapter 19)</i>
07/19/2012	

















DEPARTMENT 26  
**CASE SUMMARY**  
**CASE NO. A-12-663341-C**

	 <b>Motion for Summary Judgment</b> Filed By: Defendant Heaton, William H <i>Motion to Dismiss or Alternatively Motion for Summary Judgment</i>
07/20/2012	 <b>Notice of Hearing</b> Filed By: Defendant Heaton, William H <i>Notice of Hearing on Motion to Dismiss or Alternatively Motion for Summary Judgment</i>
08/17/2012	 <b>Stipulation and Order</b> Filed by: Defendant Heaton, William H <i>Stipulation and Order to Continue Hearing on Defendants' Motion to Dismiss, or Alternatively, Motion for Summary Judgment</i>
08/21/2012	 <b>Notice of Entry of Stipulation and Order</b> Filed By: Defendant Heaton, William H <i>Notice of Entry of Stipulation and Order to Continue Hearing on Defendants' Motion to Dismiss, or Alternatively, Motion for Summary Judgment</i>
09/04/2012	 <b>Minute Order (3:00 AM)</b> (Judicial Officer: Alf, Nancy) <i>Minute Order: Recusal</i>
09/04/2012	 <b>Opposition</b> Filed By: Plaintiff Tower Homes LLC <i>Tower Homes, LLC's Opposition to Defendants' Motion to Dismiss or in the Alternative, Motion for Summary Judgment</i>
09/05/2012	 <b>Notice of Department Reassignment</b>
09/06/2012	 <b>Motion</b> Filed By: Plaintiff Tower Homes LLC <i>Plaintiff's Motion to Enlarge Time to File Opposition to Defendants' Motion to Dismiss or in the Alternative, Motion for Summary Judgment on Order Shortening Time</i>
09/07/2012	 <b>Receipt of Copy</b> Filed by: Plaintiff Tower Homes LLC <i>Receipt of Copy</i>
09/11/2012	 <b>Motion to Dismiss (3:00 AM)</b> (Judicial Officer: Sturman, Gloria) <i>Plaintiff's Motion to Enlarge Time to File Opposition to Defendants' Motion to Dismiss or in the Alternative, Motion for Summary Judgment on Order Shortening Time</i>
09/19/2012	 <b>Reply</b> Filed by: Defendant Heaton, William H <i>Reply to Opposition to Motion to Dismiss or Alternatively Motion for Summary Judgment</i>
09/26/2012	 <b>Motion to Dismiss (10:00 AM)</b> (Judicial Officer: Sturman, Gloria) 09/26/2012, 10/03/2012 <i>Defendant's Motion to Dismiss or Alternatively Motion for Summary Judgment</i>
09/28/2012	 <b>Stipulation and Order</b> Filed by: Plaintiff Tower Homes LLC <i>Stipulation and Order to Continue Hearing on Defendants' Motion to Dismiss or in the Alternative, Motion for Summary Judgment</i>

DEPARTMENT 26  
**CASE SUMMARY**  
**CASE NO. A-12-663341-C**

10/01/2012	 <b>Notice of Entry of Order</b> Filed By: Plaintiff Tower Homes LLC <i>Notice of Entry of Order</i>
10/11/2012	 <b>Transcript of Proceedings</b> <i>Transcript of Defendant's Motion to Dismiss or Alternatively Motion for Summary Judgment</i>
11/01/2012	 <b>Order Denying</b> Filed By: Defendant Heaton, William H <i>Order Regarding Defendants' Motion to Dismiss or Alternatively Motion for Summary Judgment</i>
11/02/2012	 <b>Notice of Entry of Order</b> Filed By: Defendant Heaton, William H <i>Notice of Entry of Order Regarding Motion to Dismiss or Alternatively Motion for Summary Judgment</i>
04/08/2013	 <b>Notice of Entry of Order</b> Filed By: Plaintiff Tower Homes LLC <i>Notice of Entry of Order</i>
04/30/2013	 <b>Motion to Stay</b> Filed By: Defendant Nitz Walton and Heaton Ltd <i>Defendants' Motion to Stay Pending Completion of Writ Proceedings</i>
05/01/2013	 <b>Notice of Hearing</b> Filed By: Defendant Heaton, William H <i>Notice of Hearing on Defendants' Motion to Stay Pending Completion of Writ Proceedings</i>
05/15/2013	 <b>Non Opposition</b> Filed By: Plaintiff Tower Homes LLC <i>Non-Opposition to Defendants' Motion to Stay Pending Completion of Writ Proceedings</i>
06/04/2013	 <b>Motion to Stay (3:00 AM)</b> (Judicial Officer: Sturman, Gloria) Events: 04/30/2013 Motion to Stay <i>Defendants' Motion to Stay Pending Completion of Writ Proceedings</i>
06/21/2013	 <b>Order Granting Motion</b> Filed By: Defendant Heaton, William H <i>Order Granting Defendants' Motion to Stay Pending Completion of Writ Proceedings</i>
06/25/2013	 <b>Notice of Entry of Order</b> Filed By: Defendant Heaton, William H <i>Notice of Entry of Order Granting Defendants' Motion to Stay Pending Completion of Writ Proceedings</i>
07/23/2013	 <b>Notice of Early Case Conference</b> Filed By: Plaintiff Tower Homes LLC <i>Notice of Early Case Conference</i>
07/26/2013	 <b>Motion to Dismiss</b> Filed By: Plaintiff Tower Homes LLC <i>Renewed Motion to Dismiss</i>












DEPARTMENT 26  
**CASE SUMMARY**  
**CASE NO. A-12-663341-C**

07/30/2013	 <b>Notice of Hearing</b> Filed By: Defendant Heaton, William H <i>Notice of Hearing on Renewed Motion to Dismiss</i>
08/16/2013	 <b>Opposition</b> Filed By: Plaintiff Tower Homes LLC <i>Plaintiff Tower Homes, LLC's Opposition to Defendants' Renewed Motion to Dismiss</i>
08/20/2013	 <b>Reply to Opposition</b> Filed by: Defendant Heaton, William H <i>Reply to Plaintiff's Opposition to Renewed Motion to Dismiss</i>
08/28/2013	 <b>Motion to Dismiss (9:00 AM)</b> (Judicial Officer: Sturman, Gloria) <i>Defendants' Renewed Motion to Dismiss</i>
09/04/2013	 <b>Order Denying Motion</b> Filed By: Plaintiff Tower Homes LLC <i>Order Denying Defendants' Renewed Motion to Dismiss</i>
10/07/2013	 <b>Notice of Entry</b> Filed By: Plaintiff Tower Homes LLC <i>Notice of Entry of Order Denying Defendants' Renewed Motion to Dismiss</i>
10/14/2013	 <b>Notice of Early Case Conference</b> Filed By: Plaintiff Tower Homes LLC <i>Notice of Early Case Conference (2nd Notice)</i>
10/18/2013	 <b>Demand for Jury Trial</b> Filed By: Plaintiff Tower Homes LLC <i>Plaintiff's Demand for Jury Trial</i>
10/24/2013	 <b>Answer</b> Filed By: Defendant Nitz Walton and Heaton Ltd <i>Defendants' Answer to Complaint</i>
11/27/2013	 <b>Joint Case Conference Report</b> Filed By: Plaintiff Tower Homes LLC <i>Joint Case Conference Report</i>
12/30/2013	 <b>Motion to Compel</b> Filed By: Plaintiff Tower Homes LLC <i>Plaintiff's Motion to Compel Production of Documents</i>
12/30/2013	 <b>Certificate of Mailing</b> Filed By: Plaintiff Tower Homes LLC <i>Certificate of Mailing</i>
01/15/2014	 <b>Opposition and Counter-motion</b> Filed By: Defendant Heaton, William H <i>Defendants' Opposition to Plaintiff's Motion to Compel Production of Documents and Counter-Motion for Protective Order</i>
01/16/2014	 <b>Opposition and Counter-motion</b> Filed By: Defendant Heaton, William H

# CASE SUMMARY

## CASE NO. A-12-663341-C

*Defendants' Opposition to Plaintiff's Motion to Compel Production of Documents and Counter-Motion for Protective Order*


01/22/2014	 Commissioners Decision on Request for Exemption - Granted <i>Commissioner's Decision on Request for Exemption - Granted</i>
01/24/2014	 Reply in Support Filed By: Plaintiff Tower Homes LLC <i>Plaintiff's Reply in Support of Motion to Compel Production of Documents; And Plaintiff's Opposition to Defendants' Counter-motion for Protective Order</i>
01/29/2014	 Scheduling Order <i>Scheduling Order</i>
01/30/2014	 Arbitration File <i>Arbitration File</i>
01/30/2014	 Reply to Opposition Filed by: Defendant Heaton, William H <i>Defendants' Reply to Plaintiff's Opposition to Counter-Motion for Protective Order</i>
01/31/2014	<b>Motion to Compel</b> (9:00 AM) (Judicial Officer: Bulla, Bonnie) 01/31/2014, 02/26/2014 <i>Pltf's Motion to Compel Production of Documents</i>
01/31/2014	<b>Opposition and Counter-motion</b> (9:00 AM) (Judicial Officer: Bulla, Bonnie) 01/31/2014, 02/26/2014 <i>Defts' Opposition to Pltf's Motion to Compel Production of Documents and Counter-Motion for Protective Order</i>
01/31/2014	<b>Opposition and Counter-motion</b> (9:00 AM) (Judicial Officer: Bulla, Bonnie) 01/31/2014, 02/26/2014 <i>Defts' Opposition to Pltf's Motion to Compel Production of Documents and Counter-Motion for Protective Order</i>
01/31/2014	 <b>All Pending Motions</b> (9:00 AM) (Judicial Officer: Bulla, Bonnie) <i>Pltf's Motion to Compel Production of Documents .. Defts' Opposition to Pltf's Motion to Compel Production of Documents and Counter-Motion for Protective Order .. Defts' Opposition / Counter-Motion for Protective Order</i>
02/18/2014	 Motion for Summary Judgment Filed By: Defendant Heaton, William H <i>Defendants' Motion for Summary Judgment</i>
02/18/2014	 Order Setting Civil Jury Trial, Pre-Trial, and Calendar Call <i>Order Setting Civil Jury Trial</i>
02/20/2014	 Supplement Filed by: Defendant Heaton, William H <i>Defendants' Supplement to Records for Counter-Motion for Protective Order</i>
02/26/2014	 <b>All Pending Motions</b> (10:00 AM) (Judicial Officer: Bulla, Bonnie) <i>Pltf's Motion to Compel Production of Documents .. Defts' Opposition to Pltf's Motion to Compel Production of Documents and Counter-Motion for Protective Order (two Motions)</i>
03/07/2014	 Opposition to Motion For Summary Judgment

# CASE SUMMARY

## CASE NO. A-12-663341-C

Filed By: Plaintiff Tower Homes LLC  
*Plaintiff's Opposition to Defendants' Motion for Summary Judgment*

03/14/2014

 Reply to Opposition


Filed by: Defendant Heaton, William H  
*Defendants' Reply to Plaintiff's Opposition to Motion for Summary Judgment*

03/21/2014


 Supplemental

Filed by: Defendant Heaton, William H  
*Defendants' Supplemental Exhibit in Support of Motion for Summary Judgment*


03/21/2014

 **Motion for Summary Judgment** (9:30 AM) (Judicial Officer: Sturman, Gloria)  
*Defendant's Motion for Summary Judgment*

03/25/2014

 **Minute Order** (3:00 AM) (Judicial Officer: Sturman, Gloria)  
*Minute Order: Defendant's Motion for Summary Judgment of 3/21/14*

03/26/2014

 Objection to Discovery Commissioners Report and Recommend  

Filed By: Defendant Heaton, William H  
*Defendants' Objections to Discovery Commissioner's Report and Recommendations*

03/28/2014


**CANCELED Status Check: Compliance** (11:00 AM) (Judicial Officer: Bulla, Bonnie)  
*Vacated - per Commissioner*

04/03/2014

 Reporters Transcript


*Recorder's Transcript Re: Plaintiff's Motion to Compel Production of Documents; Defendants' Opposition to Plaintiff's Motion to Compel and Countermotion for Protective Order, Wednesday, February 26, 2014*

04/10/2014

 Notice of Entry


Filed By: Plaintiff Tower Homes LLC  
*Notice of Entry of Discovery Commissioner's Report and Recommendations*

04/10/2014

 Discovery Commissioners Report and Recommendations  


Filed By: Plaintiff Tower Homes LLC  
*Discovery Commissioner's Report and Recommendations*

04/30/2014

 Memorandum of Costs and Disbursements  


Filed By: Defendant Heaton, William H  
*Defendants' Memorandum of Costs*

04/30/2014

 Motion for Costs  


Filed By: Defendant Heaton, William H  
*Defendants' Motion for Prevailing Party Costs*

05/15/2014

 Notice of Entry of Order  

Filed By: Plaintiff Tower Homes LLC  
*Notice of Entry of Order*

05/15/2014

 Order Granting Summary Judgment  

Filed By: Plaintiff Tower Homes LLC  
*Order Granting Defendants' Motion for Summary Judgment*







05/15/2014

**Summary Judgment** (Judicial Officer: Sturman, Gloria)  
 Debtors: Tower Homes LLC (Plaintiff)

# CASE SUMMARY

## CASE NO. A-12-663341-C

Creditors: William H Heaton (Defendant), Nitz Walton and Heaton Ltd (Defendant)  
Judgment: 05/15/2014, Docketed: 05/22/2014

05/16/2014	 Motion to Retax Filed By: Plaintiff Tower Homes LLC <i>Motion to Retax Defendants' Verified Memorandum of Costs</i>
05/16/2014	 Opposition to Motion Filed By: Plaintiff Tower Homes LLC <i>Plaintiff's Opposition to Defendants' Motion for Prevailing Party Costs</i>
05/16/2014	 Stipulation Filed by: Defendant Heaton, William H <i>Stipulation to Vacate Hearing on Defendants' Objections to Discovery Commissioner's Report and Recommendations</i>
05/20/2014	 Notice of Entry of Stipulation and Order Filed By: Defendant Heaton, William H <i>Notice of Entry of Stipulation to Vacate Hearing on Objections to Discovery Commissioners Report and Recommendations</i>
05/21/2014	<b>CANCELED Objection to Discovery Commissioner's Report (9:00 AM)</b> (Judicial Officer: Sturman, Gloria) <i>Vacated - per Stipulation and Order</i>
05/27/2014	 Reply Filed by: Defendant Heaton, William H <i>Reply to Plaintiff's Opposition to Defendants' Motion for Prevailing Party Costs</i>
05/28/2014	 Notice of Appeal Filed By: Plaintiff Tower Homes LLC <i>Notice of Appeal</i>
05/28/2014	 Case Appeal Statement Filed By: Plaintiff Tower Homes LLC <i>Case Appeal Statement</i>
06/03/2014	<b>Motion for Costs (9:00 AM)</b> (Judicial Officer: Sturman, Gloria) <i>Defendants' Motion for Prevailing Party Costs</i>
06/17/2014	<b>Motion to Retax (9:00 AM)</b> (Judicial Officer: Sturman, Gloria) <i>Motion to Retax Defendants' Verified Memorandum of Costs</i>
12/04/2014	<b>Calendar Call (11:00 AM)</b> (Judicial Officer: Sturman, Gloria)
01/12/2015	<b>Jury Trial (9:00 AM)</b> (Judicial Officer: Sturman, Gloria)

DATE

SIGNATURE INFORMATION

**Defendant** Heaton, William H

Total Charges

623.00

Total Payments and Credits

623.00

**Balance Due as of 5/29/2014****0.00****Defendant** Nitz Walton and Heaton Ltd

Total Charges

30.00

Total Payments and Credits

30.00

**Balance Due as of 5/29/2014****0.00**

**CASE SUMMARY**  
**CASE NO. A-12-663341-C****Plaintiff** Tower Homes LLC

Total Charges

294.00

Total Payments and Credits

294.00

**Balance Due as of 5/29/2014****0.00**

## CIVIL COVER SHEET

A - 1 2 - 6 6 3 3 4 1 - C

Clark County, Nevada

Case No. \_\_\_\_\_

XXVII

(Assigned by Clerk's Office)

**I. Party Information**

Plaintiff(s) (name/address/phone): Tower Homes, LLC

Defendant(s) (name/address/phone): William H. Heaton,  
individually; Nitz, Walton & Heaton, LTD.

Attorney (name/address/phone):

Dennis M. Prince, 3230 S. Buffalo Drive, Suite 108,  
Las Vegas, Nevada 89117 (702) 228-6800

Attorney (name/address/phone):

**II. Nature of Controversy** (Please check applicable bold category and applicable subcategory, if appropriate)☐ **Arbitration Requested****Civil Cases**

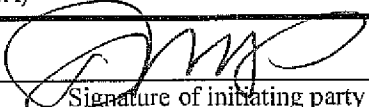
Real Property	Torts	
<input type="checkbox"/> <b>Landlord/Tenant</b> <input type="checkbox"/> Unlawful Detainer <input type="checkbox"/> <b>Title to Property</b> <input type="checkbox"/> Foreclosure <input type="checkbox"/> Liens <input type="checkbox"/> Quiet Title <input type="checkbox"/> Specific Performance <input type="checkbox"/> <b>Condemnation/Eminent Domain</b> <input type="checkbox"/> <b>Other Real Property</b> <input type="checkbox"/> Partition <input type="checkbox"/> Planning/Zoning	<input type="checkbox"/> <b>Negligence</b> <input type="checkbox"/> Negligence – Auto <input type="checkbox"/> Negligence – Medical/Dental <input type="checkbox"/> Negligence – Premises Liability (Slip/Fall) <input checked="" type="checkbox"/> <b>Negligence – Other</b>	<input type="checkbox"/> <b>Product Liability</b> <input type="checkbox"/> Product Liability/Motor Vehicle <input type="checkbox"/> Other Torts/Product Liability <input type="checkbox"/> <b>Intentional Misconduct</b> <input type="checkbox"/> Torts/Defamation (Libel/Slander) <input type="checkbox"/> Interfere with Contract Rights <input type="checkbox"/> <b>Employment Torts</b> (Wrongful termination) <input type="checkbox"/> <b>Other Torts</b> <input type="checkbox"/> Anti-trust <input type="checkbox"/> Fraud/Misrepresentation <input type="checkbox"/> Insurance <input type="checkbox"/> Legal Tort <input type="checkbox"/> Unfair Competition
Probate	Other Civil Filing Types	
<input type="checkbox"/> <b>Summary Administration</b> <input type="checkbox"/> <b>General Administration</b> <input type="checkbox"/> <b>Special Administration</b> <input type="checkbox"/> <b>Set Aside Estates</b> <input type="checkbox"/> <b>Trust/Conservatorships</b> <input type="checkbox"/> Individual Trustee <input type="checkbox"/> Corporate Trustee <input type="checkbox"/> <b>Other Probate</b>	<input type="checkbox"/> <b>Construction Defect</b> <input type="checkbox"/> Chapter 40 <input type="checkbox"/> General <input type="checkbox"/> <b>Breach of Contract</b> <input type="checkbox"/> Building & Construction <input type="checkbox"/> Insurance Carrier <input type="checkbox"/> Commercial Instrument <input type="checkbox"/> Other Contracts/Acct/Judgment <input type="checkbox"/> Collection of Actions <input type="checkbox"/> Employment Contract <input type="checkbox"/> Guarantee <input type="checkbox"/> Sale Contract <input type="checkbox"/> Uniform Commercial Code <input type="checkbox"/> <b>Civil Petition for Judicial Review</b> <input type="checkbox"/> Other Administrative Law <input type="checkbox"/> Department of Motor Vehicles <input type="checkbox"/> Worker's Compensation Appeal	<input type="checkbox"/> <b>Appeal from Lower Court</b> (also check applicable civil case box) <input type="checkbox"/> Transfer from Justice Court <input type="checkbox"/> Justice Court Civil Appeal <input type="checkbox"/> <b>Civil Writ</b> <input type="checkbox"/> Other Special Proceeding <input type="checkbox"/> <b>Other Civil Filing</b> <input type="checkbox"/> Compromise of Minor's Claim <input type="checkbox"/> Conversion of Property <input type="checkbox"/> Damage to Property <input type="checkbox"/> Employment Security <input type="checkbox"/> Enforcement of Judgment <input type="checkbox"/> Foreign Judgment – Civil <input type="checkbox"/> Other Personal Property <input type="checkbox"/> Recovery of Property <input type="checkbox"/> Stockholder Suit <input type="checkbox"/> Other Civil Matters

**III. Business Court Requested** (Please check applicable category; for Clark or Washoe Counties only.)

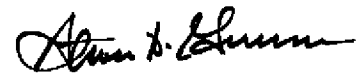
- |   |  |   |
|---|--|---|
| <input type="checkbox"/> NRS Chapters 78-88   | <input type="checkbox"/> Investments (NRS 104 Art. 8)        | <input type="checkbox"/> Enhanced Case Mgmt/Business  |
| <input type="checkbox"/> Commodities (NRS 90) | <input type="checkbox"/> Deceptive Trade Practices (NRS 598) | <input type="checkbox"/> Other Business Court Matters |
| <input type="checkbox"/> Securities (NRS 90)  | <input type="checkbox"/> Trademarks (NRS 600A)               |   |

06/12/12

Date

  
 Signature of initiating party or representative





CLERK OF THE COURT

**ORDER**

DENNIS M. PRINCE

Nevada Bar No. 5092

ERIC N. TRAN

Nevada Bar No. 11876

**PRINCE & KEATING**

3230 South Buffalo Drive

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Attorneys for Plaintiffs

*Tower Homes, LLC*

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

TOWER HOMES, LLC, a Nevada limited  
liability company;

Plaintiff,

vs.

WILLIAM H. HEATON, individually; NITZ,  
WALTON & HEATON, LTD., a domestic  
professional corporation; and DOES I  
through X, inclusive,

Defendants.

CASE NO.: A-12-663341-C

DEPT. NO.: XXVI

**ORDER GRANTING DEFENDANTS'  
MOTION FOR SUMMARY JUDGMENT**

Defendants William H. Heaton and Nitz, Walton & Heaton, Ltd.'s Motion for Summary Judgment came on for hearing before the Hon. Gloria Sturman on March 21, 2014. Jeffrey D. Olster of Lewis Brisbois Bisgaard & Smith, LLP appeared on behalf of Defendants. Dennis Prince appeared on behalf of plaintiff Tower Homes, LLC.

<input checked="" type="checkbox"/> Jury Trial	<input type="checkbox"/> Non-Jury Trial
<input type="checkbox"/> Jury Trial	<input type="checkbox"/> Non-Jury Trial
<input type="checkbox"/> Site Dis	<input type="checkbox"/> Site Dis
<input type="checkbox"/> Site Dis	<input type="checkbox"/> Site Dis
<input type="checkbox"/> Default Judgment	<input type="checkbox"/> Default Judgment
<input type="checkbox"/> Transferred	<input type="checkbox"/> Transferred
<input type="checkbox"/> Voluntary Dis	<input type="checkbox"/> Voluntary Dis
<input type="checkbox"/> Involuntary Dis	<input type="checkbox"/> Involuntary Dis
<input type="checkbox"/> Judgment on Pleadings	<input type="checkbox"/> Judgment on Pleadings
<input type="checkbox"/> Judgment on Pleadings	<input type="checkbox"/> Judgment on Pleadings

1       **I. FACTS**

2           1. This case arises out of an attorney-client relationship between Defendants and  
3 Plaintiff Tower Homes, LLC ("Tower Homes") in connection with a residential common  
4 interest ownership development known as Spanish View Tower Homes (the "Development").  
5 Defendants handled transactional and litigation matters on behalf of Tower Homes in  
6 connection with the Development.

7           2. Many of the individuals and entities that agreed to purchase units in the  
8 Development (the "Tower Homes Purchasers") paid earnest money deposits. The  
9 Development was not successful, and construction was never completed. The earnest money  
10 deposits were not returned to the Tower Homes Purchasers. Consequently, many of the  
11 Tower Homes Purchasers filed lawsuits in Clark County District Court against Tower Homes,  
12 Rodney Yanke (Tower Homes' sole owner and manager) and other individuals and entities  
13 involved in the sale of the units.  
14

15           3. On May 31, 2007, various creditors of Tower Homes initiated involuntary Chapter  
16 11 bankruptcy proceedings against Tower Homes in the United States Bankruptcy Court,  
17 District of Nevada (Case No. BK-S-07-13208-BAM).  
18

19           4. On December 8, 2008, the Bankruptcy Court entered an "Order Approving  
20 Disclosure Statement and Confirming Plan of Reorganization." See Defendants' **Exhibit A** to  
21 MSJ. Pursuant to the Order, "the Trustee and the Debtor's (Tower's) bankruptcy estate shall  
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23 arising pre- or post-petition, subject to the applicable state law statutes of limitation and  
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25 equity."  
26

27           5. On June 3, 2010, during the bankruptcy proceeding, the Bankruptcy Court  
28 entered an "Order Granting Motion to Approve Stipulation to Release Claims and Allow

1 Marquis & Aurbach, as Counsel for the Tower Homes Purchasers, To Pursue Claims on  
2 Behalf of Debtor" (hereinafter referred to as the "Marquis Aurbach Order" attached as  
3 Defendants' **Exhibit B** to MSJ).

4 6. Pursuant to the Marquis Aurbach Order,

- 5 a. The "Trustee has determine that he does not intend, and in any event, does  
6 not have sufficient funds in the Estate to pursue claims on behalf of the  
7 Debtor against . . . any other individual or entity later identified through  
8 discovery which has or may have liability to Debtor or others for the loss  
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10 View Tower Homes condominium project."  
11  
12 b. The "Trustee has determine that the claims against . . . any other individual  
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16 projects are or may be direct claims held by the Tower Homes Purchasers,  
17 and therefore, are not claims held solely and exclusively by the Estate."  
18  
19 c. The "Trustee hereby stipulates and agrees to release to the Tower Homes  
20 Purchasers any and all claims on behalf of the Debtor against . . . any other  
21 individual or entity later identified through discovery which has or may  
22 have liability or owed any duty to Debtor or others for the loss of the  
23 Tower Homes Purchasers earnest money deposits and all claims to any and  
24 all earnest money deposits provided by purchasers for units in the Spanish  
25 View Tower Homes Condominium projects."  
26  
27 d. The "Trustee hereby stipulates and agrees to allow Marquis & Aurbach, as  
28 counsel for the Tower Homes Purchasers, to pursue any and all claims on

1                   behalf of the Debt against . . . any other individual or entity later identified  
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3                   Debtor or others for the loss earnest money deposits provided by  
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5                   project.”

6  
7           e. The “Trustee hereby stipulates and agrees to allow Marquis & Aurbach, as  
8           counsel for the Tower Homes Purchasers, to recovery any and all earnest  
9           monies deposits, damages, attorney’s fees and costs, and interest thereon  
10           on behalf of Debtor and the Tower Homes Purchasers with respect to those  
11           claims release to the Tower Homes Purchasers herein.”

12                   7. On April 2, 2013, the Bankruptcy Court issued an “Order Granting Motion to  
13           Approve Amended Stipulation to Release Claims and Allow Marquis Aurbach Coffing, as  
14           Counsel for the Tower Homes Purchasers, To Pursue Claims on Behalf of Debtor”  
15           (hereinafter referred to as “Amended Marquis Aurbach Order”) . See Defendants’ Exhibit D  
16           to MSJ.

17  
18           8. Pursuant to the Amended Marquis Aurbach Order:

19           a. The Order “authorizes the Trustee to permit the Tower Homes Purchasers  
20           to pursue any and all claim on behalf of Tower Homes, LLC (the “Debtor”)  
21           against any individual or entity which has or may have liability or owed  
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24           condominium project which shall specifically include, but may not be  
25           limited to, pursuing the action currently filed in the Clark County District  
26           Court styled as Tower Homes, LLC v. William H. Heaton et. al. Case No.  
27           A-12-663341-C.”  
28

1           b. "[T]his Court hereby authorizes the law firm of Marquis Aurbach Coffing,  
2           and/or Prince & Keating, LLP or successive counsel, retained on behalf of  
3           Tower Homes Purchasers to recover any and all earnest money deposits,  
4           damages, attorney's fees and costs and interest thereon on behalf of Debtor  
5           and the Tower Homes Purchasers and that any such recoveries shall be for  
6           the benefit of the Tower Homes Purchasers."  
7

## 8           **II. LEGAL CONCLUSIONS**

9           9. As a general rule legal malpractice claims may not be assigned. Chaffee v Smith,  
10          98 Nev. 222 (1982).

11          10. The Bankruptcy Orders at issue herein did not assign the alleged malpractice  
12          claims to the Tower Homes Purchasers. Rather, the Plan approved by the Bankruptcy Court  
13          recognized that the Trustee lacked funds to pursue various claims related to the loss of earnest  
14          money deposits which the Trustee had the right to pursue upon the effective date of the Plan.  
15          See Bankruptcy Plan dated 12/08/08, Section X Miscellaneous Provisions, Paragraph C,  
16          Litigation.  
17

18          11. Subsequently, pursuant to the June 2, 2010 Marquis Aurbach Order, the Trustee  
19          "releases" to the Tower Homes Purchasers the right to pursue any person or entity who "may  
20          have any liability or owed any duty" to Tower Homes for loss of the earnest money deposits  
21          made by the Tower Homes Purchasers.  
22

23          12. The Amended Marquis Aurbach Order dated April 2, 2013 clarified that the  
24          Bankruptcy Court authorized the Trustee to "permit the Tower Homes Purchasers, to pursue  
25          any and all claims on behalf of Tower Homes, LLC (the "Debtor") . . . which shall  
26          specifically include, but may not be limited to, pursuing" the instant action, with any recovery  
27          being for the benefit of the Tower Homes Purchasers. The Trustee specifically authorized the  
28          Tower Homes Purchasers to pursue the claim in the name of Tower Homes, LLC.

1 13. The California Supreme Court has addressed the prohibition against assignment of  
2 malpractice claims from a Bankruptcy estate. A legal malpractice claim obtained by  
3 assignment in bankruptcy was dismissed when filed in the name of the third party assignee.  
4 Baum v. Duckur, Spradling & Metzger, 72 cal. App. 4<sup>th</sup> 54,69, 84 Cal.Rptr.2d 703,712  
5 (1999).  
6

7 14. Plaintiff argues that the instant case is distinguishable as it is brought in the name  
8 of Tower Homes, LLC. A similar attempt to sue in the name of the Debtor was disallowed in  
9 Curtis v Kellogg & Andelson, 73 Cal.App. 4th 492, 86 Cal.Rptr. 2d 536 (1999), as the Debtor  
10 was not pursuing the claim on behalf of the trustee for the benefit of the estate; instead any  
11 proceeds recovered would go directly to Dr. Curtis. In the instant claim, any recovery is  
12 expressly for the benefit of the Purchasers.  
13

14 15. Plaintiff also relies on In re AgriBioTech, Inc., 319 BR 216 (D.Nev. 2004) for the  
15 holding that a Trustee can pursue a claim which would ultimately benefit creditors, as doing  
16 so is for the benefit of the estate. Here, the Trustee is not pursuing the claim. The Trustee did  
17 not retain counsel to bring the claim in the name of the Estate for the benefit of all creditors as  
18 allowed in the Plan. The Marquis Aurbach Orders approving the agreement between the  
19 Trustee and the Towers Homes Purchasers purports to release the claim to the Tower Homes  
20 Purchasers instead of assigning the rights, which is a distinction without a difference.  
21

22 16. Recently the California Supreme Court has recognized a narrow exception to the  
23 prohibition against assignment of malpractice claims, see White Mountains Reinsurance  
24 Company v. Borton Petrini, LLP, 221 Cal. App. 4th 890 (2013), wherein the Court allowed  
25 the assignment as a small incidental part of a larger commercial transfer; the transfer was for  
26 all assets, rights, obligations and liabilities and did not treat the malpractice claim as a distinct  
27 commodity; the transfer was not to a former adversary; the malpractice claim arose from the  
28 insurance carrier's retention of defense counsel for an insured; and all communication

1 between the carrier and counsel had been conducted through a third party claims  
2 administrator. None of the factors giving rise to the exception are present here.

3 17. Based on a review of the Bankruptcy Orders, it cannot be said that the Tower  
4 Homes Purchasers are pursuing the legal malpractice claim in the name of the Debtor and for  
5 the benefit of the Bankruptcy estate. Rather the sole benefit appears to be for the Purchasers.  
6 The assignment/release was not incidental to a larger transfer of assets and liabilities,  
7 therefore, the exception does not apply. The Nevada Supreme Court has stated the assignment  
8 of legal malpractice claims is against public policy. The release at issue herein violates the  
9 general principal articulated in Chaffee v Smith, 98 Nev. 222 (1982).  
10

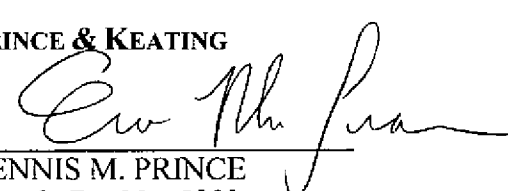
11 18. Defendant's Motion for Summary Judgment is, therefore, GRANTED.

12 DATED this 17<sup>th</sup> day of May, 2014.

13  
14   
15 DISTRICT COURT JUDGE  
16 

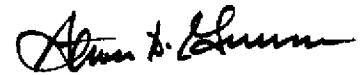
17 Respectfully submitted by:

18 **PRINCE & KEATING**

19   
20 DENNIS M. PRINCE  
21 Nevada Bar No. 5092  
22 ERIC N. TRAN  
23 Nevada Bar No. 11876  
3230 South Buffalo Drive, Suite 108  
Las Vegas, Nevada 89117  
Attorneys for Plaintiff  
*Tower Homes, LLC*

24 Approved as to Form and Content by:

25  
26 Jeffrey Olster, Esq.  
27 LEWIS BRISBOIS BISGAARD & SMITH, LLP  
6385 South Rainbow Boulevard, Suite 600  
28 Las Vegas, Nevada 89118  
*Attorneys for Defendants*



CLERK OF THE COURT

1 **NEOJ**

2 DENNIS M. PRINCE

3 Nevada Bar No. 5092

4 ERIC N. TRAN

5 Nevada Bar No. 11876

6 **PRINCE & KEATING**

7 3230 South Buffalo Drive

8 Suite 108

9 Las Vegas, Nevada 89117

10 Telephone: (702) 228-6800

11 Facsimile: (702) 228-0443

12 *E-Mail: DPrince@PrinceKeating.com*

13 *E-Mail: ETran@PrinceKeating.com*

14 Attorneys for Plaintiffs

15 *Tower Homes, LLC*

11 **DISTRICT COURT**

12 **CLARK COUNTY, NEVADA**

14 TOWER HOMES, LLC, a Nevada limited  
15 liability company;

16 Plaintiff,

17 vs.

18 WILLIAM H. HEATON, individually; NITZ,  
19 WALTON & HEATON, LTD., a domestic  
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21 through X, inclusive,

21 Defendants.

CASE NO.: A-12-663341-C

DEPT. NO.: XXVI

**NOTICE OF ENTRY OF ORDER**

22 TO: WILLIAM H. HEATON individually and NITZ, WALTON & HEATON, Defendants;  
23 and

24 TO: JEFFREY OLSTER ESQ., attorney for Defendants:

25 / / /

26 / / /

27 / / /

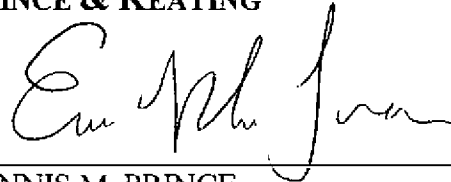
28



1 PLEASE TAKE NOTICE that the attached Order Granting Defendants' Motion for  
2 Summary Judgment was entered on May 12, 2014, a copy of which is attached hereto.

3 DATED this 15 day of May, 2014.

4  
5 **PRINCE & KEATING**

6 

7 DENNIS M. PRINCE  
8 Nevada Bar No. 5092  
9 ERIC N. TRAN  
10 Nevada Bar No. 11876  
11 3230 South Buffalo Drive, Suite 108  
12 Las Vegas, Nevada 89117  
13 Attorneys for Plaintiff  
14 *Tower Homes, LLC*

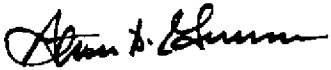
15  
16 **CERTIFICATE OF MAILING**

17 I hereby certify that on the 15<sup>th</sup> day of May, 2014, I caused service of the foregoing  
18 ***NOTICE OF ENTRY OF ORDER*** to be made by depositing a true and correct copy of same  
19 in the United States Mail, postage fully prepaid, addressed to the following:

20 Jeffrey Olster, Esq.  
21 LEWIS BRISBOIS BISGAARD & SMITH, LLP  
22 6385 South Rainbow Boulevard, Suite 600  
23 Las Vegas, Nevada 89118  
24 Facsimile: (702) 893-3789  
25 *Attorneys for Defendants*

26 

27 An employee of PRINCE & KEATING  
28



CLERK OF THE COURT

**ORDR**

DENNIS M. PRINCE

Nevada Bar No. 5092

ERIC N. TRAN

Nevada Bar No. 11876

**PRINCE & KEATING**

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<input checked="" type="checkbox"/> Sum Jdgmt	<input type="checkbox"/> Non-Jury Trial
<input type="checkbox"/> Jury Trial	<input type="checkbox"/> Jury Trial
<input type="checkbox"/> No Dis	<input type="checkbox"/> No Jdgmt
<input type="checkbox"/> Default Jdgmt	<input type="checkbox"/> Transferred
<input type="checkbox"/> Voluntary Dis	<input type="checkbox"/> Involuntary (stat) Dis
<input type="checkbox"/> Jdgmt on file aware	<input type="checkbox"/> Min to Dis (by client)

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6  
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16          to MSJ.

17  
18           8. Pursuant to the Amended Marquis Aurbach Order:

19           a. The Order “authorizes the Trustee to permit the Tower Homes Purchasers  
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28

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7  
8       **II. LEGAL CONCLUSIONS**

9           9. As a general rule legal malpractice claims may not be assigned. Chaffee v Smith,  
10       98 Nev. 222 (1982).

11          10. The Bankruptcy Orders at issue herein did not assign the alleged malpractice  
12       claims to the Tower Homes Purchasers. Rather, the Plan approved by the Bankruptcy Court  
13       recognized that the Trustee lacked funds to pursue various claims related to the loss of earnest  
14       money deposits which the Trustee had the right to pursue upon the effective date of the Plan.  
15       See Bankruptcy Plan dated 12/08/08, Section X Miscellaneous Provisions, Paragraph C,  
16       Litigation.

17  
18          11. Subsequently, pursuant to the June 2, 2010 Marquis Aurbach Order, the Trustee  
19       "releases" to the Tower Homes Purchasers the right to pursue any person or entity who "may  
20       have any liability or owed any duty" to Tower Homes for loss of the earnest money deposits  
21       made by the Tower Homes Purchasers.

22  
23          12. The Amended Marquis Aurbach Order dated April 2, 2013 clarified that the  
24       Bankruptcy Court authorized the Trustee to "permit the Tower Homes Purchasers, to pursue  
25       any and all claims on behalf of Tower Homes, LLC (the "Debtor") . . . which shall  
26       specifically include, but may not be limited to, pursuing" the instant action, with any recovery  
27       being for the benefit of the Tower Homes Purchasers. The Trustee specifically authorized the  
28       Tower Homes Purchasers to pursue the claim in the name of Tower Homes, LLC.

1 13. The California Supreme Court has addressed the prohibition against assignment of  
2 malpractice claims from a Bankruptcy estate. A legal malpractice claim obtained by  
3 assignment in bankruptcy was dismissed when filed in the name of the third party assignee.  
4 Baum v. Duckur, Spradling & Metzger, 72 Cal. App. 4<sup>th</sup> 54,69, 84 Cal.Rptr.2d 703,712  
5 (1999).  
6

7 14. Plaintiff argues that the instant case is distinguishable as it is brought in the name  
8 of Tower Homes, LLC. A similar attempt to sue in the name of the Debtor was disallowed in  
9 Curtis v Kellogg & Andelson, 73 Cal.App. 4th 492, 86 Cal.Rptr. 2d 536 (1999), as the Debtor  
10 was not pursuing the claim on behalf of the trustee for the benefit of the estate; instead any  
11 proceeds recovered would go directly to Dr. Curtis. In the instant claim, any recovery is  
12 expressly for the benefit of the Purchasers.  
13

14 15. Plaintiff also relies on In re AgriBioTech, Inc., 319 BR 216 (D.Nev. 2004) for the  
15 holding that a Trustee can pursue a claim which would ultimately benefit creditors, as doing  
16 so is for the benefit of the estate. Here, the Trustee is not pursuing the claim. The Trustee did  
17 not retain counsel to bring the claim in the name of the Estate for the benefit of all creditors as  
18 allowed in the Plan. The Marquis Aurbach Orders approving the agreement between the  
19 Trustee and the Towers Homes Purchasers purports to release the claim to the Tower Homes  
20 Purchasers instead of assigning the rights, which is a distinction without a difference.  
21

22 16. Recently the California Supreme Court has recognized a narrow exception to the  
23 prohibition against assignment of malpractice claims, see White Mountains Reinsurance  
24 Company v. Borton Petrini, LLP, 221 Cal. App. 4th 890 (2013), wherein the Court allowed  
25 the assignment as a small incidental part of a larger commercial transfer; the transfer was for  
26 all assets, rights, obligations and liabilities and did not treat the malpractice claim as a distinct  
27 commodity; the transfer was not to a former adversary; the malpractice claim arose from the  
28 insurance carrier's retention of defense counsel for an insured; and all communication

1 between the carrier and counsel had been conducted through a third party claims  
2 administrator. None of the factors giving rise to the exception are present here.

3 17. Based on a review of the Bankruptcy Orders, it cannot be said that the Tower  
4 Homes Purchasers are pursuing the legal malpractice claim in the name of the Debtor and for  
5 the benefit of the Bankruptcy estate. Rather the sole benefit appears to be for the Purchasers.  
6 The assignment/release was not incidental to a larger transfer of assets and liabilities,  
7 therefore, the exception does not apply. The Nevada Supreme Court has stated the assignment  
8 of legal malpractice claims is against public policy. The release at issue herein violates the  
9 general principal articulated in Chaffee v Smith, 98 Nev. 222 (1982).  
10

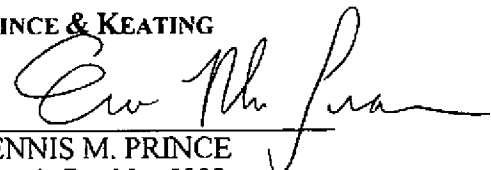
11 18. Defendant's Motion for Summary Judgment is, therefore, GRANTED.

12 DATED this 17th day of May, 2014.

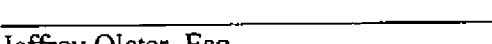
13  
14   
15 DISTRICT COURT JUDGE  


16 Respectfully submitted by:

17 PRINCE & KEATING

18   
19 DENNIS M. PRINCE  
20 Nevada Bar No. 5092  
21 ERIC N. TRAN  
22 Nevada Bar No. 11876  
23 3230 South Buffalo Drive, Suite 108  
24 Las Vegas, Nevada 89117  
25 Attorneys for Plaintiff  
26 *Tower Homes, LLC*

27 Approved as to Form and Content by:

28   
Jeffrey Olster, Esq.  
LEWIS BRISBOIS BISGAARD & SMITH, LLP  
6385 South Rainbow Boulevard, Suite 600  
Las Vegas, Nevada 89118  
*Attorneys for Defendants*



DISTRICT COURT  
CLARK COUNTY, NEVADA

Negligence - Other

COURT MINUTES

September 04, 2012

---

A-12-663341-C      Tower Homes LLC, Plaintiff(s)  
vs.  
William Heaton, Defendant(s)

---

September 04, 2012      3:00 AM      Minute Order

HEARD BY:    Alf, Nancy

COURTROOM:

COURT CLERK:    Nicole McDevitt

RECORDER:

REPORTER:

PARTIES  
PRESENT:

JOURNAL ENTRIES

- As this Court is familiar with one of the parties, in accordance with Rule 2.11(a), and to avoid the appearance of impropriety and implied bias, this Court hereby disqualifies itself and ORDERS, this case be REASSIGNED at random.

DISTRICT COURT  
CLARK COUNTY, NEVADA

Negligence - Other

COURT MINUTES

September 11, 2012

---

A-12-663341-C      Tower Homes LLC, Plaintiff(s)  
vs.  
William Heaton, Defendant(s)

---

September 11, 2012      3:00 AM      Motion to Dismiss

HEARD BY:    Sturman, Gloria

COURTROOM:

COURT CLERK:    Lorna Shell

RECORDER:

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- COURT ORDERED, Plaintiff's Motion to Extend Time to File Opposition to Motion to Dismiss GRANTED pursuant to EDCR 7.25. Court noted the parties stipulated to move the Motion to Dismiss to September 20, 2012 and subsequently the matter was reassigned to this Court which does not hold a motion calendar on Thursdays, therefore, the matters have been re-calendared to September 26, 2012; further, the Order should provide a briefing schedule that allows for filing the Opposition and Reply briefs in accordance with the scheduled hearing date and EDCR 2.20.

CLERK'S NOTE: A copy of this minute order was placed in the attorney folder(s) of: Dennis Prince, Esq. (Prince & Keating, LLC) and Vincent Cass, Esq. (Lewis, Brisbois, Bisgaard & Smith, LLP)./ls 9-11-12

DISTRICT COURT  
CLARK COUNTY, NEVADA

Negligence - Other

COURT MINUTES

September 26, 2012

---

A-12-663341-C      Tower Homes LLC, Plaintiff(s)  
vs.  
William Heaton, Defendant(s)

---

September 26, 2012    10:00 AM      Motion to Dismiss

HEARD BY:    Sturman, Gloria

COURTROOM:    RJC Courtroom 10D

COURT CLERK:    Lorna Shell

RECORDER:    Rosalyn Navara

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- There being no parties present at the call of the case, COURT ORDERED, motion CONTINUED.

CONTINUED TO: 10/10/12 9:00 AM

CLERK'S NOTE: A copy of this minute order was placed in the attorney folder(s) of: Dennis Prince, Esq. (Prince & Keating) and Vincent Cass, Esq. (Lewis, Brisbois, B, S)./ls 09-27-12

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

Negligence - Other

COURT MINUTES

October 03, 2012

A-12-663341-C      Tower Homes LLC, Plaintiff(s)  
vs.  
William Heaton, Defendant(s)

October 03, 2012      9:00 AM      Motion to Dismiss

HEARD BY: Sturman, Gloria

COURTROOM: RJC Courtroom 10D

COURT CLERK: Lorna Shell

RECORDER: Rosalyn Navara

REPORTER:

**PARTIES**

<b>PRESENT:</b>	Heaton, William H	Defendant
	Nitz Walton and Heaton Ltd	Defendant
	Olster, Jeffrey D.	Attorney
	Prince, Dennis M	Attorney

**JOURNAL ENTRIES**

- Mr. Olster argued Tower Homes lacked the capacity to bring action based on federal bankruptcy law, the statute of limitations, Plan Confirmation Order, the Marquis Aurbach Order does not authorize Tower to bring this action as the claims were released to the Tower Homes Purchasers, Gonzales, and NRS 11.207. Mr. Prince argued after the lawsuit was filed, all claims were stayed and the assets became the property of the bankruptcy estate, pursuant to NRS 11.207 the statute of limitations does not commence until the litigation concluded, under Kopicko the statute of limitations commenced when Pltf. sustained damages, and the amount of damages was unknown until after the bankruptcy action was completed. Further arguments by counsel regarding the statute of limitations, NRS 114.1333, attorney transactional work versus attorney dispute work, the extent of damages not the existence of damages, and when the parties were on notice. COURT ORDERED, motion DENIED as it was not clear the correct entity brought this motion and it was necessary to determine if Tower Homes had the authority to pursue this litigation; Mr. Prince to prepare the Order and Mr. Olster to approve as to form and content prior to submitting to the Court.

DISTRICT COURT  
CLARK COUNTY, NEVADA

Negligence - Other

COURT MINUTES

June 04, 2013

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A-12-663341-C      Tower Homes LLC, Plaintiff(s)  
vs.  
William Heaton, Defendant(s)

---

June 04, 2013      3:00 AM      Motion to Stay

HEARD BY:    Sturman, Gloria

COURTROOM:

COURT CLERK:    Linda Denman

RECORDER:

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- DEFENDANTS' MOTION TO STAY PENDING COMPLETION OF WRIT PROCEEDINGS came before the Court on the June 4 Chamber calendar. There being a written non-opposition and good cause appearing, COURT ORDERED motion GRANTED pursuant to NRCP 8 and EDCR 2.20.

Mr. Cass to prepare proposed Order. Court will set a status check upon request of parties or notification from Supreme Court that a decision has been made.

CLERK'S NOTE: A copy of this minute order was placed in the attorney folders of Dennis Prince, Esq. (Prince and Keating); and Vincent Cass, Esq. (Lewis Brisbois Bisgaard)./ld 6.6.13

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

Negligence - Other

COURT MINUTES

August 28, 2013

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A-12-663341-C	Tower Homes LLC, Plaintiff(s) vs. William Heaton, Defendant(s)
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August 28, 2013	9:00 AM	Motion to Dismiss
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HEARD BY: Sturman, Gloria

COURTROOM: RJC Courtroom 03H

COURT CLERK: Linda Denman

RECORDER: Kerry Esparza

REPORTER:

**PARTIES**

PRESENT:	Heaton, William H Olster, Jeffrey D. Prince, Dennis M	Defendant Attorney Attorney
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**JOURNAL ENTRIES**

- Argument by counsel on DEFENDANTS' RENEWED MOTION TO DISMISS based on whether the bankruptcy trustee authorized Tower-Homes LLC or Tower Homes purchasers to maintain this action and whether this Court has jurisdiction. Court noted its original concern was whether the bankruptcy trustee had notice of this lawsuit or if it was a fugitive action and Mr. Prince referenced the trustee's hearing and Order acknowledging the case of Tower Homes LLC vs Heaton that shows notice of this litigation and assigned to the purchasers the right to pursue collections on behalf of the debtor. COURT STATED ITS FINDINGS that legal capacity of Prince and Keating and Tower-Homes LLC to bring this lawsuit is moot. COURT ORDERED Defendant's Renewed Motion to Dismiss DENIED.

Mr. Prince then made an oral motion to have the Stay Order previously entered by this Court lifted. COURT ORDERED stay LIFTED; defendants have ten (10) days from notice of entry of Order to answer or otherwise respond.

DISTRICT COURT  
CLARK COUNTY, NEVADA

Negligence - Other

COURT MINUTES

January 31, 2014

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A-12-663341-C      Tower Homes LLC, Plaintiff(s)  
vs.  
William Heaton, Defendant(s)

---

January 31, 2014      9:00 AM      All Pending Motions

HEARD BY:    Bulla, Bonnie

COURTROOM:    RJC Level 5 Hearing  
Room

COURT CLERK:    Jennifer Lott

RECORDER:    Richard Kangas

REPORTER:

**PARTIES**

PRESENT:      Keating, John T.      Attorney  
                 Olster, Jeffrey D.      Attorney

**JOURNAL ENTRIES**

- Pltff's Motion to Compel Production of Documents.....Defts' Opposition to Pltff's Motion to Compel Production of Documents and Counter-Motion for Protective Order.....Defts' Opposition / Counter-Motion for Protective Order

COMMISSIONER RECOMMENDED, matter CONTINUED based on agreement by counsel.

2/21/14    9:30 a.m.    same as above

DISTRICT COURT  
CLARK COUNTY, NEVADA

### Negligence - Other

COURT MINUTES

February 26, 2014

A-12-663341-C      Tower Homes LLC, Plaintiff(s)  
vs.  
William Heaton, Defendant(s)

February 26, 2014      10:00 AM      All Pending Motions

HEARD BY: Bulla, Bonnie

COURTROOM: RJC Level 5 Hearing Room

COURT CLERK: Jennifer Lott

RECORDER: Richard Kangas

REPORTER:

## PARTIES

PRESENT: Olster, Jeffrey D. Attorney  
Prince, Dennis M Attorney  
Tran, Eric N. Attorney

## JOURNAL ENTRIES

- Pltff's Motion to Compel Production of Documents ..... Defts' Opposition to Pltff's Motion to Compel Production of Documents and Counter-Motion for Protective Order ..... Defts' Opposition to Pltff's Motion to Compel Production of Documents and Counter-Motion for Protective Order

Arguments by counsel. Colloquy re: status of Rodney Yanke. COMMISSIONER RECOMMENDED, the Transactional file must be produced; if Mr. Yanke retained the Law Firm in any individual capacity, it's PROTECTED; separation is needed if the transactional file and litigation file are joined. Argument by Mr. Olster; counsel requested to defer ruling until after Deft's Motion for Summary Judgment. COMMISSIONER RECOMMENDED, Plt's Motion to Compel Production of Documents is GRANTED within parameters; the file that pertains to Tower Homes with the Defense Firm will be produced as it relates to claims in this case; any representation of Mr. Yanke in his individual capacity not related to this case is PROTECTED; issue on litigation file is DEFERRED to another day; 2.34(e) relief is GRANTED, but produce the file within three business days after Court signs

PRINT DATE: 05/29/2014

Page 8 of 12

Minutes Date: September 04, 2012



recommendation. Mr. Prince requested a privilege log on 42,000 documents. COMMISSIONER RECOMMENDED, RULING is DEFERRED; Commissioner may Recommend alternative relief for an in camera file review (re: separating file).

Upon Mr. Prince's request, Commissioner agreed Pltf is entitled to billing records related to preparation of documents at issue. Argument by Mr. Olster. Commissioner did not receive the courtesy copy. Mr. Olster was assured a courtesy copy was provided; counsel requested revisiting issues after Commissioner receives the exhibits. COMMISSIONER RECOMMENDED, Request is DENIED; Defts' Counter-Motion for Protective Order is GRANTED IN PART; litigation portion of file is PROTECTED for now. Colloquy re: language; counsel may argue issue to the District Court Judge. Mr. Prince prepare recommendation; Mr. Olster approve form and content; submit report within ten (10) days of this hearing, otherwise, counsel will pay a CONTRIBUTION for failure to comply; status check SET; Mr. Prince must appear if report is not timely submitted.

3/28/14 11:00 a.m. Status Check: Compliance

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

Negligence - Other

COURT MINUTES

March 21, 2014

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A-12-663341-C	Tower Homes LLC, Plaintiff(s) vs. William Heaton, Defendant(s)
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March 21, 2014	9:30 AM	Motion for Summary Judgment
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HEARD BY: Sturman, Gloria

COURTROOM: RJC Courtroom 03H

COURT CLERK: Linda Denman

RECORDER: Kerry Esparza

REPORTER:

**PARTIES**

PRESENT:	Olster, Jeffrey D. Prince, Dennis M	Attorney Attorney
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**JOURNAL ENTRIES**

- Argument by Counsel on DEFENDANT'S MOTION FOR SUMMARY JUDGMENT as to whether Tower Home Purchasers are the real parties-in-interest and if they are pursuing this case through an assignment of rights from Tower Home LLC, which is contrary to Nevada law and public policy in a legal malpractice case. Mr. Osler cited two California cases as controlling on these very points and stated allowing a corporate shell to pursue this case is in reality a way to sidestep prohibitive assignment of rights. Mr. Prince argued this case is unique since the bankruptcy trustee ordered the company to pursue the claims as a debtor and not a creditor. Defendant's did not oppose or appeal the trustee's order but have raised this same issue three times and been denied by this Court and the Nevada Supreme Court. Following argument, COURT STATED matter TAKEN UNDER ADVISEMENT in order to review the California cases.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

Negligence - Other

COURT MINUTES

March 25, 2014

A-12-663341-C      Tower Homes LLC, Plaintiff(s)  
vs.  
William Heaton, Defendant(s)

March 25, 2014      3:00 AM      Minute Order

HEARD BY: Sturman, Gloria

COURTROOM:

COURT CLERK: Linda Denman

RECORDER:

REPORTER:

PARTIES

PRESENT:

**JOURNAL ENTRIES**

- DEFENDANT'S MOTION FOR SUMMARY JUDGMENT came before the Court for oral argument on March 21, 2014. The Court having taken this matter under advisement to review the US Bankruptcy Court orders in the context of two California opinions relied upon by Defendant, finds as follows: As a general rule legal malpractice claims may not be assigned. Chaffee v Smith, 98 Nev. 222 (1982). Defendant contends the real party in interest in this lawsuit is the Tower Home Purchasers. NRCP 17. The Bankruptcy Orders at issue herein do not assign the alleged malpractice claims to the Tower Homes Purchasers. Rather the Plan approved by the Bankruptcy Court recognized that the Trustee lacked funds to pursue various claims related to the loss of earnest money deposits (Plan dated 12/08/08, Section X Miscellaneous Provisions, Paragraph C, Litigation) which the Trustee had the right to pursue upon the effective date of the Plan. Subsequently by Order of June 2, 2010 the Trustee "releases" to Tower Homes Purchasers the right to pursue any person or entity who "may have any liability or owed any duty" to Tower Homes for loss of the earnest money deposits made by Purchasers. The Order dated April 2, 2013 clarified that the Court authorized the Trustee to "permit the Tower Homes Purchasers, to pursue any and all claims on behalf of Tower Homes, LLC (the "Debtor") . . . which shall specifically include, but may not be limited to, pursuing" the instant action, with any recovery being for the benefit of the Tower Homes Purchasers. The Trustee specifically authorized the Purchasers to pursue the claim in the name of Tower Homes, LLC.

The California Supreme Court has addressed the prohibition against assignment of malpractice claims from a Bankruptcy estate. A legal malpractice claim obtained by assignment in bankruptcy was dismissed when filed in the name of the third party assignee. *Baum v. Duckur, Spradling & Metzger* 72 Cal. App. 4th 84 Cal.Rptr.2d 702 (1999). Plaintiff argues that the instant case is distinguishable as it is brought in the name of Tower Homes LLC. A similar attempt to sue in the name of the Debtor was disallowed in *Curtis v Kellogg & Andelson* 73 Cal.App. 4th 492, 86 Cal.Rptr. 2d 536 (1999), as the Debtor was not pursuing the claim on behalf of the trustee for the benefit of the estate; instead any proceeds recovered would go directly to Dr. Curtis. In the instant claim, any recovery is expressly for the benefit of the Purchasers.

Plaintiff also relies on *In re AgriBioTech, Inc*, 319 BR 216 (D.Nev. 2004) for the holding that a Trustee can pursue a claim which would ultimately benefit creditors, as doing so is for the benefit of the estate. Here the Trustee is not pursuing the claim, he did not retain counsel to bring the claim in the name of the Estate for the benefit of all creditors as allowed in the Plan. The Order approving the agreement between the Trustee and the Purchasers purports to release the claim to the Purchasers instead of assigning the rights, which is a distinction without a difference.

Recently the California Supreme Court has recognized a narrow exception to the prohibition against assignment of malpractice claims, see *White Mountains Reinsurance Company v Borton Petrini, LLP* 221 Cal. App. 4th 890 (2013), wherein the Court allowed the assignment as a small incidental part of a larger commercial transfer; the transfer was for all assets, rights, obligations and liabilities and did not treat the malpractice claim as a distinct commodity; the transfer was not to a former adversary; the malpractice claim arose from the insurance carrier's retention of defense counsel for an insured; and all communication between the carrier and counsel had been conducted through a third party claims administrator. None of the factors giving rise to the exception are present here.

Based on a review of the Bankruptcy Orders it cannot be said that the Purchasers are pursuing the legal malpractice claim in the name of the Debtor and for the benefit of the Bankruptcy estate, rather the sole benefit appears to be for the Purchasers. The assignment/release was not incidental to a larger transfer of assets and liabilities, therefore, the exception does not apply. The Nevada Supreme Court has stated the assignment of legal malpractice claims is against public policy. The release at issue herein violates the general principal articulated in *Chaffee v Smith*, 98 Nev. 222 (1982). Defendant's Motion for Summary Judgment is, therefore, GRANTED.

Counsel for defendant is directed to submit a proposed Order consistent with the foregoing and which sets forth the factual and legal underpinnings of same in accordance herewith and with counsel's briefing and argument.

CLERK'S NOTE: A copy of this minute order was placed in the attorney folder(s) of: Jeffrey D. Olster, Esq. (LEWIS BRISBOIS BISGAARD & SMITH) and Dennis M. Prince, Esq. (PRINCE & KEATING)./ld 3/25/14



**EIGHTH JUDICIAL DISTRICT COURT CLERK'S OFFICE**  
**NOTICE OF DEFICIENCY**  
**ON APPEAL TO NEVADA SUPREME COURT**

**DENNIS M. PRINCE**  
**3230 S. BUFFALO DR., SUITE 108**  
**LAS VEGAS, NV 89117**

**DATE: May 29, 2014**  
**CASE: A663341**

**RE CASE:** TOWER HOMES, LLC vs. WILLIAM H. HEATON; NITZ, WALTON & HEATON, LTD.

**NOTICE OF APPEAL FILED:** May 28, 2014

**YOUR APPEAL HAS BEEN SENT TO THE SUPREME COURT.**

**PLEASE NOTE: DOCUMENTS NOT TRANSMITTED HAVE BEEN MARKED:**

- ☐ \$250 – Supreme Court Filing Fee\*\*
  - If the \$250 Supreme Court Filing Fee was not submitted along with the original Notice of Appeal, it must be mailed directly to the Supreme Court. The Supreme Court Filing Fee will not be forwarded by this office if submitted after the Notice of Appeal has been filed.
- ☐ \$24 – District Court Filing Fee (Make Check Payable to the District Court)\*\*
- ☒ \$500 – Cost Bond on Appeal (Make Check Payable to the District Court)\*\*
  - NRAP 7: Bond For Costs On Appeal in Civil Cases
- ☐ Case Appeal Statement
  - NRAP 3 (a)(1), Form 2
- ☐ Order
- ☐ Notice of Entry of Order

---

**NEVADA RULES OF APPELLATE PROCEDURE 3 (a) (3) states:**

"The district court clerk must file appellant's notice of appeal despite perceived deficiencies in the notice, including the failure to pay the district court or Supreme Court filing fee. The district court clerk shall apprise appellant of the deficiencies in writing, and shall transmit the notice of appeal to the Supreme Court in accordance with subdivision (e) of this Rule with a notation to the clerk of the Supreme Court setting forth the deficiencies. Despite any deficiencies in the notice of appeal, the clerk of the Supreme Court shall docket the appeal in accordance with Rule 12."

*Please refer to Rule 3 for an explanation of any possible deficiencies.*

---

*\*\*Per District Court Administrative Order 2012-01, in regards to civil litigants, "...all Orders to Appear in Forma Pauperis expire one year from the date of issuance." You must reapply for in Forma Pauperis status.*

# Certification of Copy

State of Nevada }  
County of Clark } SS:

I, Steven D. Grierson, the Clerk of the Court of the Eighth Judicial District Court, Clark County, State of Nevada, does hereby certify that the foregoing is a true, full and correct copy of the hereinafter stated original document(s):

NOTICE OF APPEAL; CASE APPEAL STATEMENT; DISTRICT COURT DOCKET ENTRIES; CIVIL COVER SHEET; ORDER GRANTING DEFENDANTS' MOTION FOR SUMMARY JUDGMENT; NOTICE OF ENTRY OF ORDER; DISTRICT COURT MINUTES; NOTICE OF DEFICIENCY

TOWER HOMES, LLC,

Plaintiff(s),

vs.

WILLIAM H. HEATON; NITZ, WALTON &  
HEATON, LTD.,

Defendant(s),

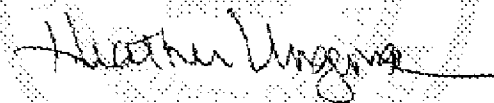
Case No: A663341

Dept No: XXVI

now on file and of record in this office.

IN WITNESS THEREOF, I have hereunto  
Set my hand and Affixed the seal of the  
Court at my office, Las Vegas, Nevada  
This 29 day of May 2014.

Steven D. Grierson, Clerk of the Court



Heather Ungermann, Deputy Clerk

152 Clerk of the Nevada State Supreme Court  
05/28/14 Notice of Appeal - Tower Homes/Nitz  
1500.415

250.00

250.00

05/28/14

57620

Gross:

250.00

Ded:

0.00

Net: 250.00

57620

PRINCE & KEATING, LLP

OPERATING ACCOUNT

3230 SOUTH BUFFALO DR., SUITE 108

LAS VEGAS, NEVADA 89117

(702) 228-6900



94-1771224



3986 South Durango Drive  
Las Vegas, NV 89147

NUMBER

05/28/14

DATE

\*\*\*\*\*\$250.00

AMOUNT

\*\*\* TWO HUNDRED FIFTY & 00/100 DOLLARS

PAY  
TO THE  
ORDER  
OF

Clerk of the Nevada State Supreme Court

⑈057620⑈ ⑆122401778⑆ 7502465901⑈