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*Attorneys for Plaintiff*

**DISTRICT COURT**  
**CLARK COUNTY, NEVADA**

**FIELDEN HANSON ISAACS MIYADA**  
**ROBISON YEH, LTD.,**  
  
**Plaintiffs,**  
  
**vs.**  
  
**DEVIN CHERN TANG, M.D., SUN**  
**ANESTHESIA SOLUTIONS, A Nevada**  
**Corporation, DOE Defendants I-X,**  
  
**Defendants.**

Case No.: A-18-783054-C  
Dept.: 16

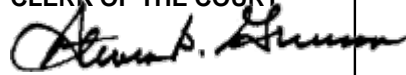
**CASE APPEAL STATEMENT**

Honorable Timothy C. Williams

Plaintiff Fielden Hanson Isaacs Miyada Robison Yeh, Ltd. ("Fielden Hanson"), by and through its attorneys, the law firm of Dickinson Wright PLLC, hereby submits this Case Appeal Statement as follows:

- 1. Name of Appellant filing this case appeal statement:**  
Fielden Hanson Isaacs Miyada Robison Yeh, Ltd.
- 2. Identify the judge issuing the decision, judgment, or order appealed from:**  
District Court Judge Timothy C. Williams, Department 16.

///  
///  
///



Electronically Filed  
Mar 20 2019 02:57 p.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

**3. Counsel for Appellant:**

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**4. Respondents and Counsel for Respondents:**

Devin Chern Tang, M.D. and Sun Solutions Anesthesia

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**5. Is any attorney identified above in response to question 3 or 4 not licensed to practice law in Nevada?**

All counsel are licensed to practice law in Nevada.

**6. Was appellant represented by appointed or retained counsel in the district court?**

Appellant was represented by retained counsel.

**7. Is appellant represented by appointed or retained counsel on appeal?**

Appellant is represented by retained counsel.

**8. Was appellant granted leave to proceed in forma pauperis?**

N/A.

**9. The date the proceedings commenced in the district court:**

October 18, 2018

**10. A brief description of the nature of the action and result in the district court, including the type of judgment or order being appealed and the relief granted by the district court:**

1           **A.      Factual History**

2           In December 2016, Dr. Tang executed a Physician-Track Employment Agreement  
3 (“Employment Agreement”) as a condition of his continued employment with Plaintiff. The  
4 Employment Agreement contained a Non-Competition Clause that reasonably sought to prevent  
5 Dr. Tang from providing anesthesia and pain management services at medical facilities where he  
6 had performed services for Plaintiff during the term of the Employment Agreement. Dr. Tang  
7 agreed that the Non-Competition Clause was reasonable and consented to entry of injunctive relief  
8 to enforce the Non-Competition Clause. Furthermore, the parties agreed that if a court ever  
9 determined any provision of the Non-Competition Clause was unreasonable, that court must  
10 enforce the remainder of the agreement and revise the offending provision such that it would  
11 become enforceable.

12           In or around March 2018, Dr. Tang provided Plaintiff with 90 days’ notice of his intent to  
13 terminate his employment with Plaintiff in the manner provided by the Employment Agreement.  
14 In or around June 2018, Dr. Tang’s notice period expired, and his employment with Plaintiff was  
15 terminated.

16           After ceasing his employment with Plaintiff, Dr. Tang continued to work as an  
17 anesthesiologist in Clark County and performed anesthesia services at numerous medical facilities  
18 in violation of the Non-Competition Clause.

19           **B.      Procedural History**

20           Plaintiff filed its Complaint and requested a preliminary injunction precluding Dr. Tang  
21 from continuing to violate the Non-Competition Clause during the pendency of the action. Dr.  
22 Tang filed an answer and alleged the Non-Competition Clause was void because the geographic  
23 restrictions were vague.

24           After a hearing on Plaintiff’s Motion for Preliminary Injunction, the Court entered its Order  
25 Denying Preliminary Injunction. In its Order, the Court incorrectly concluded that the  
26 Employment Agreement: (1) “fails to designate facilities or a geographic boundary where Dr. Tang  
27 is prohibited from working and/or soliciting business with any specificity” and (2) “lacks any  
28

1 geographic limitation or qualifying language distinguishing the particular Facilities or customers  
2 to which it applies.”

3 The Court then compounded its inaccurate factual finding by concluding that it “does not  
4 have authority to ‘blue pencil’ the Non-Competition Clause of the Employment Agreement  
5 because the amendment to NRS Chapter 613, more particularly NRS 613.195(5), does not apply  
6 retroactively to agreements entered into prior to the enactment of the amendment, which  
7 agreements are governed by *Golden Rd. Motor Inn, Inc. v. Islam*, 132 Nev. Adv. Op. 49, 376 P.3d  
8 151 (2016).” Based on this legal conclusion, the Court refused to modify the Non-Competition  
9 Clause to reflect a specific geographic restriction it would have found reasonable.

10 Plaintiff then filed a motion for reconsideration, which remains pending at this time.

11 **11. Has this case previously been the subject of an appeal to or original writ proceeding**  
12 **in the Supreme Court?**

13 No

14 **12. Does this appeal involve child custody or visitation?**

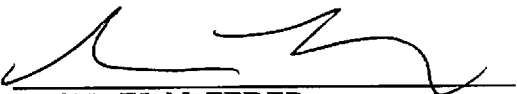
15 This appeal does not involve child custody or visitation.

16 **13. Does this appeal involve the possibility of settlement?**

17 This appeal has a possibility of settlement.

18  
19 DATED this 19<sup>th</sup> day of March 2019.

20 DICKINSON WRIGHT PLLC

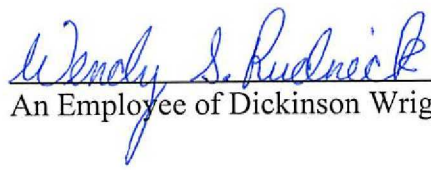
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26 Attorneys for Plaintiff  
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CERTIFICATE OF SERVICE

The undersigned, an employee of Dickinson Wright PLLC, hereby certifies that on the 19th day of March 2019, a copy of **CASE APPEAL STATEMENT** to be transmitted by electronic service in accordance with Administrative Order 14.2, to all interested parties, through the Court's Odyssey E-File & Serve system addressed to:

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