

Notice

Betty Chan and Asian American Realty
& Property Management
4651 Spring Mountain Road
Las Vegas, NV 89102
702-222-0078
aarp09@gmail.com

Electronically Filed
Apr 29 2019 02:40 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

IN THE EIGHTH JUDICIAL DISTRICT COURT

OF THE STATE OF NEVADA IN AND FOR

THE COUNTY OF CLARK

BETTY CHAN and ASIAN AMERICAN
REALTY & PROPERTY MANAGEMENT,

Plaintiff,

vs.

WAYNE WU, JUDITH SULLIVAN,
NEVADA REAL ESTATE CORP., JERRIN
CHIU, KB HOME SALES-NEVADA INC.

Defendant

Case No.: A-16-744109-C
Dept No. XX

NOTICE OF APPEAL

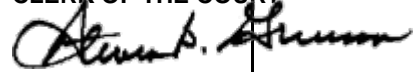
Date of Hearing: N/A
Time of Hearing: N/A

NOTICE OF APPEAL

Notice is hereby given that Betty Chan and Asian American Realty & Property Management, Plaintiffs above named, hereby appeals to the Supreme Court of Nevada from the Order granting Defendants/Counter Claimants' Countermotion to recognize Wu as the Procuring clause, for Summary judgment, and for attorneys fees entered in this action on the 22nd March 2019.

*Betty Chan and Asia American Realty
& Property Management*
Betty Chan and Asian American Realty
& Property Management, pro per.

RECEIVED
APR 22 2019
CLERK OF THE COURT



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

9
10 BETTY CHAN; ASIAN AMERICAN REALTY &
PROPERTY MANAGEMENT,

11 Plaintiff(s),

12 vs.

13 WAYNE WU; JUDITH SULLIVAN; NEVADA
14 REAL ESTATE CORP.; JERRIN CHIU; KB
15 HOMES SALES-NEVADA, INC.,

16 Defendant(s),

Case No: A-16-744109-C

Dept No: XX

17
18 **CASE APPEAL STATEMENT**

19 1. Appellant(s): Betty Chan; Asian American Realty & Property Management

20 2. Judge: Eric Johnson

21 3. Appellant(s): Betty Chan; Asian American Realty & Property Management

22 Counsel:

23
24 Betty Chan; Asian American Realty &
25 Property Management
26 4651 Spring Mountain Rd.
Las Vegas, NV 89102

27 4. Respondent (s): Wayne Wu; Judith Sullivan; Nevada Real Estate Corp.; Jerrin Chiu; KB
28 Homes Sales-Nevada, Inc.

Counsel:

Michael A. Olsen, Esq.
10155 W. Twain Ave., Ste 100
Las Vegas, NV 89147

5. Appellant(s)'s Attorney Licensed in Nevada: N/A
Permission Granted: N/A

Respondent(s)'s Attorney Licensed in Nevada: Yes
Permission Granted: N/A

6. Has Appellant Ever Been Represented by Appointed Counsel In District Court: No

7. Appellant Represented by Appointed Counsel On Appeal: N/A

8. Appellant Granted Leave to Proceed in Forma Pauperis**: N/A
***Expires 1 year from date filed*
Appellant Filed Application to Proceed in Forma Pauperis: No
Date Application(s) filed: N/A

9. Date Commenced in District Court: September 27, 2016

10. Brief Description of the Nature of the Action: Construction Defect

Type of Judgment or Order Being Appealed: Summary Judgment

11. Previous Appeal: No

Supreme Court Docket Number(s): N/A

12. Child Custody or Visitation: N/A

13. Possibility of Settlement: Unknown

Dated This 25 day of April 2019.

Steven D. Grierson, Clerk of the Court

/s/ Amanda Hampton

Amanda Hampton, Deputy Clerk
200 Lewis Ave
PO Box 551601
Las Vegas, Nevada 89155-1601
(702) 671-0512

cc: Betty Chan; Asian American Realty & Property Management

Heather S. Shuman
CLERK OF THE COURT

Case Appeal Statement

Betty Chan and Asian American Realty
& Property Management
4651 Spring Mountain Road
Las Vegas, NV 89102
702-222-0078
aarp09@gmail.com

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

BETTY CHAN and ASIAN AMERICAN
REALTY & PROPERTY MANAGEMENT,

Plaintiffs/Appellants,

vs.

WAYNE WU, JUDITH SULLIVAN,
NEVADA REAL ESTATE CORP., JERRIN
CHIU, KB HOME SALES-NEVADA INC.

Defendants/Respondents

Case No.: A-16-744109-C
Dept No. XX

Case Appeal Statement

Date of Hearing: N/A

Time of Hearing: N/A

Case Appeal Statement

1. Name of Appellants: Betty Chan and Asian American Realty & Property Management
2. Presiding Judge: Honorable Eric Johnson
3. Plaintiffs/ Appellants: Betty Chan and Asian American Realty & Property Management
Name of Counsel: TBD
(Due to former Counsel unexpected withdrawal, Appellants are still vigorously in search of the replacement attorney. Appellants have to submit this appeal today so as not to miss the deadline and therefore appearing pro per in the interim)
4. Defendants/Respondents:
Wayne Wu, Judith Sullivan, Jerrin Chiu. All represented by same Counsel.
Name and Address of Respondents' Counsel:
Attorney Michael Olsen/Blackrock Legal LLC
10155 W Twain Ave, #100 Las Vegas, NV 89147

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APR 22 2019

CLERK OF THE COURT

5. Attorney listed in 4 is a licensed Nevada Attorney
6. Appellant is not represented by appointed or retained Counsel in District Court
7. Appellant is actively seeking to retain a Counsel on appeal
8. Appellant is not granted leave to proceed in forma pauperis and has no intention doing so.
9. Date of Commencement in District Court: 09/27/2016
10. 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:

This is a commission dispute case:

Plaintiffs: Betty Chan, Broker of Asian American Realty

Defendant: Wayne Wu, Agent of Nevada Real Estate Corp

Buyer: Jerrin Chiu

Seller: KB Homes, Builder of New homes

Date	Event	Result
10/2/15	Plaintiff Chan confirmed Agency via email with Buyer Chiu	Appt set to show homes on 12/30/2015, Wed.
12/30/15 12pm	Plaintiff Chan show and register Buyer at KB home for commission. Buyer Chiu fell in love with plan 2	Only one lot available
12/31/15 10am Thursday	Buyer returned to KB and reserve that only lot with 10K deposit	Did not inform Plaintiff Chan
12/31/15	Buyer father called for kickback of 1% as was offered by another agent	Plaintiff Chan agreed to ¾% if she can do the loan, father said OK
1/2/16	Buyer father left a message to call him after vacation	Voice mail recorded
1/3/16	Plaintiff Chan email Buyer Chiu to check status	Buyer Chiu did not respond
1/8/16	Buyer Chiu signed the purchase contract with Defendant Wu. A KB doc stating agent must first show the house and register to get paid was fraudulently executed by both Defendant Wu and Buyer Chiu	So Defendant Wu can get on the contract and get the entire commission. He never showed and never registered before the contract signing.
1/15/16	Plaintiff Chan texted Buyer Chiu again who said he was not buying anymore and admitted that he knew	Plaintiff Chan informed Buyer Chiu as she already registered him with KB and he could not

	another agent	use another agent to buy the same house.
1/22-3/22/16	Plaintiff Chan learned the sale and trying to resolve with KB management and Buyer Chiu	To no avail. KB Counsel said it was not their business
3/18/16	Plaintiff Chan contacted GLVAR to file arbitration	GLVAR stated Arbitration occurs only when there is something to arbitrate and was told to file after commission disbursed sometime in May
3/22/16	Terminate Attorney Jeffrey Steffen because he was not hired by Plaintiff	
6/29/16	Retained EX GLVAR counsel Avece Higbee who failed to finalize settlement agreement accepted by both Plaintiff Chan and Defendant Wu due to the Defendant's Counsel 's sudden change of mind that he did not represent Buyer Chiu and could not execute on his behalf	Her service was terminated for obvious reason.
11/9/16-4/17/18	Attorney Todd Kennedy was retained for the GLVAR Arbitration for who should entitle the commission. Plaintiff Chan when at her turn to make statement but was denied due process for not allowing to respond to Defendant's written opposition and not allowed to produce the tape showing Buyer was not frustrated at all to prove their ungrounded accusation about they were mad because they could not reach Plaintiff Chan, and also was not able to address the fraudulent KB doc. Plaintiff Chan raised objection and asked those to be on record.	GLVAR award commission 75% to Defendant Wu from 100%. 25% to Plaintiff Chan from nothing. There was no explanation as why to split the commission. Instead of asking final Procedure Review with GLVAR, Plaintiff Chan chose the second alternative allowed to go for Legal Challenge.
7/18/18	Motion to vacate or Modify Arbitration Award filed by Plaintiffs' attorney	Case No. A-16-744109-C, hearing set 8/22/2018
8/6/18	Defendants Counsel file opposition and Countermotion to recognize Wu as the procuring cause, for Summary Judgment, and for	

	Attorney Fees	
8/15/2016	Plaintiff Attorney filed reply in support of Motion to vacate or modify Award and Opposition/Motion to Strike Improper Counter Motion	
8/22/2018	<p>Court believed the arbitration had done thoroughly to the fact and must have found something that Plaintiff only deserve 25%.</p> <p>Court stated the Award was not procured by fraud</p> <p>Further Court agreed with Defendants' Counsel Nevada Law does not prohibit splitting a commission and Plaintiff and therefore the Court allowed it.</p>	<p>Court denied motion and set hearing for Defendants' CounterMotion on 10/31/2018 and briefing scheduled</p> <p>Court ask the Defendants' to do the order and circulated to Plaintiffs' counsel before entry of order</p>
9/18/18	Entry of Order	Motion to vacate or modify GLVAR award was denied
9/18-10/31/18	<p>Retained Janiece Marshall to do the reconsideration and the Countermotion hearing. She missed the deadlines of filing of reconsideration and appeal.</p> <p>She has addressed to the Court about the fraudulent KB doc and had attracted the Court's attention.</p> <p>Defendants' Counsel interrupted to the Court stating the Order was already confirmed and all the appeal time already lapsed, so the remaining issue should be the Summary judgment and atty fees.</p> <p>Court was misled to believe the Defendants' Counsel's words and missed to address recognize Wu as the procuring "AGENT" part.</p>	<p>Court granted attorney fees but instructed to add Plaintiffs Counsel "the right to appeal as the Real estate award said if there are further legal proceedings..", which this is still a legal proceeding relating to KB Homes" and Defendants' opposition to that for Court's look at it</p> <p>Further, the Court instructed to circulate to Counsel before entry of Order</p>

	Defendants Counsel changed the words "cause " from heading to "agent" in the contents of supplement and at the hearing	
3/21/2019	Court granted Plaintiffs' Attorney's withdrawal despite Plaintiffs' opposition.	Attorney's filing for withdrawal was unexpected and had created so much hardship and damage for the Plaintiffs to locate another attorney in this later part of the litigation.
3/22/2019	It took Defendant's Counsel over 5 months to finally submitted the entry of order without circulating to counsel and the Plaintiffs and right after Plaintiffs' Counsel's withdrawal	Plaintiffs act as pro per immediately timely on 4/1/2019 filed a reconsideration and allowed time to respond so that they could get another attorney
4/4/19	Defendants filed motion of writ execution and asked for shortening time set for 4/17/2019	Hearing time set for 4/17/19, before Plaintiffs was served
4/5/2019	Plaintiffs were served for that motion	
4/8/2019	Plaintiffs immediately filed motion to ask for more time to get an attorney	Too late to stop the hearing
4/17/19	Plaintiffs had no choice but appearing as pro per and asked for continuance once again at the beginning of the hearing. Court rejected the need of an attorney stating Plaintiffs are not required to have an attorney and pushed hearing forward	Writ of execution granted. The Court allowed Plaintiffs till 4/26/2019 to have an attorney to write something for the Court to look at it. However the minutes stated the Court denied the reconsideration
4/22/19	Today is the last day to appeal the Order entered on 3/22/2019 for hearing held on 10/31/2018 for Defendants CounterMotion to recognize Wu as the procuring cause (the content became procuring agent), for Summary Judgment and for attorney fees	Plaintiffs' Purpose for this appeal is to have the Appeal Court to review whether 1) The fraudulent doc provided by the Defendants themselves and had been part of the submission from day one (in every brief submission)

		<p>can still be basis to recognize as Defendant Wu procuring cause (or agent whatever it is) for the commission?</p> <p>2) Arbitration dictates need to base on Nevada law, so</p> <p>a) whether using splitting commission allowed in other states as to determine for the law of Nevada fit the Arbitration requirement? or</p> <p>b) Does Nevada not prohibit splitting the commission is equal to the law of Nevada? We have ample of established opinion/cases from Supreme Court stating Only one is procuring clause and that ONE does not required to be present at the time of signing contract provided that there is no broken chain of events.</p> <p>3) The Judge was wrong not allowing Plaintiffs to have legal representation.</p> <p>Commission belonged to (Broker) Asian American Realty & Property Management, a Nevada S Corp and (Agent) Betty Chan is Corporate Broker “ A corporation is a separate legal entity. It's artificial so it can't represent itself.” And this is in line with what is on Eighth Judicial District Court web site.</p> <p>So based on the (3) above, all motions mentioned in April 17 hearing should have been reasonably be allowed to continue.</p>
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		<p>If the above 1 and 2 are considered and have substance to change the outcome, then appeal should be also considered.</p> <p>If Plaintiffs can grant a new hearing is a miracle but if the evidence of the fraudulent KB doc is recognized as award to procure by fraud then Wu cannot be a procuring cause or agent in their CounterMotion and cannot grant attorney fees or cost. Going to jail probably could become their award for lying under oath and before Court.</p>
4/22/2019	Because of so late in the litigation and burden of work for appeal, Plaintiffs have interviewed over 15 attorneys, searched Google, Nevada state bar, Martindale.com and have troubles locate one willing, but are still vigorously find one to submit the appeal docket. New attorney may have more legal points to add to Plaintiffs' notice of appeal.	

11. This case has not previously been the subject of an appeal to or original writ proceeding in the Supreme Court.
12. This Appeal does not involve child custody or visitation
13. This is a civil case and the appeal does not involve the possibility of settlement.

Dated this 22nd day of April, 2019

Betty Chen and Asian American Realty
Property Management
Signature of Plaintiffs, pro per
4651 Spring Mountain Road, LV, NV 89102
702-222-0078
Email: aarpm09@gmail.com

EIGHTH JUDICIAL DISTRICT COURT

CASE SUMMARY

CASE NO. A-16-744109-C

Betty Chan, Plaintiff(s)
vs.
Wayne Wu, Defendant(s)

§
§
§
§
§

Location: **Department 20**
 Judicial Officer: **Johnson, Eric**
 Filed on: **09/27/2016**
 Case Number History:
 Cross-Reference Case Number: **A744109**

CASE INFORMATION

Case Type: **Other Contract**

Case Status: **09/27/2016 Open**

DATE

CASE ASSIGNMENT

Current Case Assignment

Case Number A-16-744109-C
 Court Department 20
 Date Assigned 07/02/2018
 Judicial Officer Johnson, Eric

PARTY INFORMATION

Lead Attorneys

Plaintiff	Asian American Realty & Property Management	Frizell, R Duane <i>Retained</i> 702-657-6000(W)
	Chan, Betty	Frizell, R Duane <i>Retained</i> 702-657-6000(W)
Defendant	Chiu, Jerin	Olsen, Michael A. <i>Retained</i> 702-855-5658(W)
	KB Home Sales-Nevada Inc	Michaels, Janice M <i>Retained</i> 702-251-4100(W)
	Nevada Real Estate Corp	Olsen, Michael A. <i>Retained</i> 702-855-5658(W)
	Sullivan, Judith	Olsen, Michael A. <i>Retained</i> 702-855-5658(W)
	Wu, Wayne	Olsen, Michael A. <i>Retained</i> 702-855-5658(W)
Counter Claimant	Chiu, Jerin	Olsen, Michael A. <i>Retained</i> 702-855-5658(W)
	Nevada Real Estate Corp	Olsen, Michael A. <i>Retained</i> 702-855-5658(W)
	Sullivan, Judith	Olsen, Michael A. <i>Retained</i>

CASE SUMMARY**CASE NO. A-16-744109-C**

702-855-5658(W)

Wu, Wayne**Olsen, Michael A.***Retained*

702-855-5658(W)

**Counter
Defendant****Chan, Betty****Frizell, R Duane***Retained*

702-657-6000(W)

DATE	EVENTS & ORDERS OF THE COURT	INDEX
	<u>EVENTS</u>	
09/27/2016	 Complaint Filed By: Counter Defendant Chan, Betty <i>Complaint</i>	
11/15/2016	 Amended Complaint Filed By: Counter Defendant Chan, Betty <i>Amended Complaint</i>	
11/21/2016	 Affidavit of Service Filed By: Counter Defendant Chan, Betty <i>Affidavit of Service</i>	
11/21/2016	 Affidavit of Service Filed By: Counter Defendant Chan, Betty <i>Affidavit of Service</i>	
11/21/2016	 Affidavit of Service Filed By: Counter Defendant Chan, Betty <i>Affidavit of Service</i>	
11/21/2016	 Affidavit of Service Filed By: Counter Defendant Chan, Betty <i>Affidavit of Service</i>	
12/01/2016	 Affidavit of Service Filed By: Counter Defendant Chan, Betty <i>Affidavit of Service</i>	
12/06/2016	 Answer and Counterclaim Filed By: Counter Claimant Wu, Wayne <i>Answer and Counterclaim</i>	
12/06/2016	 Initial Appearance Fee Disclosure Filed By: Counter Claimant Wu, Wayne <i>Initial Appearance Fee Disclosure</i>	
12/07/2016	 Certificate of Service Filed by: Counter Claimant Wu, Wayne <i>Certificate of Service</i>	
12/19/2016	 Reply to Counterclaim Filed by: Counter Defendant Chan, Betty <i>Reply to Counterclaim</i>	

CASE SUMMARY

CASE NO. A-16-744109-C

01/06/2017	 Motion to Amend Filed By: Counter Defendant Chan, Betty <i>Counterdefendant's Motion to Amend Reply to Counterclaim and to Strike Initial Reply to Counterclaim from the Record</i>
01/10/2017	 Stipulation Filed by: Counter Defendant Chan, Betty <i>Stipulation to Continue Early Case Conference</i>
01/10/2017	 Notice of Non Opposition Filed By: Counter Claimant Wu, Wayne <i>Notice of Non-Opposition to Counterdefendant's Motion to Amend Reply to Counterclaim and to Strike Initial Reply to Counterclaim From the Record</i>
01/11/2017	 Certificate of Service Filed by: Counter Claimant Wu, Wayne <i>Certificate of Service</i>
01/13/2017	 Motion to Stay Filed By: Counter Defendant Chan, Betty <i>Motion for Stay Pending Arbitration</i>
01/23/2017	 Motion to Withdraw As Counsel Filed By: Counter Defendant Chan, Betty <i>Motion to Withdraw as Counsel of Record for Plaintiffs Betty Chan and Asian American Realty and Property Management</i>
02/02/2017	 Opposition Filed By: Counter Claimant Wu, Wayne <i>Opposition to Motion to Stay Pending Arbitration and Countermotion to Dismiss with Prejudice or in the Alternative for Summary Judgment</i>
02/03/2017	 Initial Appearance Fee Disclosure Filed By: Counter Claimant Wu, Wayne <i>Initial Appearance Fee Disclosure</i>
02/06/2017	 Certificate of Service Filed by: Counter Claimant Wu, Wayne <i>Certificate of Service</i>
02/07/2017	 Supplemental Filed by: Counter Claimant Wu, Wayne <i>Supplement to Opposition to Motion to Stay Pending Arbitration and Countermotion to Dismiss with Prejudice or in the Alternative for Summary Judgment</i>
02/07/2017	 Certificate of Service Filed by: Counter Claimant Wu, Wayne <i>Certificate of Service</i>
02/09/2017	 Order Filed By: Counter Defendant Chan, Betty <i>Order to Amend Reply to Counterclaim and to Strike Initial Reply to Counterclaim from the Record.</i>

CASE SUMMARY

CASE NO. A-16-744109-C

02/10/2017	 Amended Filed By: Counter Defendant Chan, Betty <i>Amended Reply to Counterclaim</i>
02/14/2017	 Reply to Opposition Filed by: Counter Defendant Chan, Betty <i>Plaintiffs Reply to Opposition to Motion to Stay Pending Arbitration and Opposition to Defendants Coutermotion to Dismiss with Prejudice or in the Alternative for Summary Judgment</i>
02/16/2017	 Stipulation and Order Filed by: Counter Defendant Chan, Betty <i>Stipulation and Order to Continue Hearing</i>
02/28/2017	 Notice of Hearing Filed By: Counter Defendant Chan, Betty <i>Notice of Hearing on Motion to Withdraw as Counsel of Record for Plaintiffs Betty Chan and Asian American Realty and Property Management</i>
03/30/2017	 Order Filed By: Counter Defendant Chan, Betty <i>Order Granting Motion to Stay and Denying Motion to Dismiss and Motion for Summary Judgment</i>
04/03/2017	 Notice of Entry of Order Filed By: Counter Defendant Chan, Betty <i>Notice of Entry of Order Granting Motion to Stay and Denying Motion for Summary Judgment</i>
04/17/2017	 Order Granting Motion Filed By: Counter Defendant Chan, Betty <i>Order Granting Motion to Withdraw as Counsel of Record for Plaintiffs Betty Chan and Asian American Realty & Property Management</i>
05/04/2017	 Notice of Appearance Party: Counter Defendant Chan, Betty <i>Notice of Appearance</i>
05/09/2017	 Notice of Entry of Order Filed By: Counter Defendant Chan, Betty; Plaintiff Asian American Realty & Property Management <i>Notice of Entry of Order Granting Motion to Withdraw as Counsel of Record for Plaintiffs</i>
07/02/2018	Case Reassigned to Department 20 <i>Reassigned From Judge Leavitt - Dept 12</i>
07/18/2018	 Motion to Vacate Filed By: Counter Defendant Chan, Betty; Plaintiff Asian American Realty & Property Management <i>MOTION TO VACATE OR MODIFY ARBITRATION AWARD</i>
08/06/2018	 Opposition and Countermotion Filed By: Counter Claimant Wu, Wayne <i>Opposition to Motion to Vacate or Modify Arbitration Award and Countermotion to Recognize Wu as the Procuring Cause, for Summary Judgment, and for Attorney Fees</i>

CASE SUMMARY

CASE NO. A-16-744109-C

08/07/2018	 Initial Appearance Fee Disclosure <i>Initial Appearance Fee Disclosure</i>
08/15/2018	 Reply in Support Filed By: Counter Defendant Chan, Betty; Plaintiff Asian American Realty & Property Management <i>Reply In Support Of Motion to Vacate or Modify Arbitration Award and Opposition to Countermotions</i>
08/21/2018	 Change of Address Filed By: Defendant KB Home Sales-Nevada Inc <i>Change of Address of Attorneys for Defendant KB Home Sales - Nevada, Inc.</i>
09/05/2018	 Supplement Filed by: Counter Claimant Wu, Wayne <i>First Supplement to Countermotion to Recognize Wu as the Procuring Cause, for Summary Judgment, and for Attorney Fees</i>
09/12/2018	 Supplement Filed by: Counter Claimant Wu, Wayne <i>Supplement to First Supplement to Countermotion to Recognize Wu as the Procuring Cause, for Summary Judgment, and for Attorney Fees</i>
09/18/2018	 Order Filed By: Counter Claimant Wu, Wayne <i>Order Denying Motion to Vacate or Modify Arbitration Award</i>
09/18/2018	 Notice of Entry of Order Filed By: Counter Claimant Wu, Wayne <i>Notice of Entry of Order</i>
09/20/2018	 Certificate of Service Filed by: Counter Claimant Wu, Wayne <i>Certificate of Service</i>
09/21/2018	 Certificate of Service Filed by: Counter Claimant Wu, Wayne <i>Certificate of Service</i>
09/25/2018	 Declaration Filed By: Counter Claimant Wu, Wayne <i>Declaration of Service</i>
10/04/2018	 Stipulation and Order Filed by: Counter Defendant Chan, Betty <i>Stipulation and Order Extending Briefing and Continuing Hearing</i>
10/09/2018	 Substitution of Attorney Filed by: Counter Defendant Chan, Betty <i>Substitution of Attorneys</i>
10/12/2018	 Motion to Extend Party: Counter Defendant Chan, Betty <i>Motion to Extend Briefing on Order Shortening Time and Continue Hearing Date</i>

CASE SUMMARY

CASE NO. A-16-744109-C

10/15/2018	 Notice of Entry Filed By: Counter Defendant Chan, Betty <i>Notice of Entry of Order on Shortening Time</i>
10/15/2018	 Opposition <i>Opposition to Motion to Extend Briefing on Order Shortening Time and Continue Hearing</i>
10/25/2018	 Supplement Filed by: Counter Defendant Chan, Betty; Plaintiff Asian American Realty & Property Management <i>Plaintiffs/Counterdefendants Betty Chan and Asia American Realty & Property Management's Supplement to Plaintiffs Opposition Defendants/Counterclaimants Wayne Wu, Judith Sullivan, Nevada Real Estate Corp., Jerrin Chiu, KB Home Sales-Nevada, Inc.'s: (1) First Supplement to Countermotion to Recognize Wu as the Procuring Cause, for Summary Judgment, and for Attorney Fees (filed 09/15/18); and (2) Supplement to First Supplement to Countermotion to Recognize Wu as the Procuring Cause for Summary Judgment, and for Attorneys Fees (filed)9/12/18)</i>
10/29/2018	 Reply <i>Reply to Plaintiffs Supplement</i>
10/30/2018	 Certificate of Service Filed by: Counter Defendant Chan, Betty; Plaintiff Asian American Realty & Property Management <i>Certificate of Service</i>
10/31/2018	 Memorandum of Costs and Disbursements Filed By: Counter Claimant Wu, Wayne <i>Memorandum of Costs and Disbursements</i>
11/14/2018	 Transcript of Proceedings <i>Defendants and Counterclaimants Wayne Wu, Judith Sullivan, Nevada Real Estate Corp. and Jerrin Chiu's Opposition to Motion to Vacate or Modify Arbitration Award and Countermotion to Recognize Wu as the Procuring Cause, for Summary Judgment and for Attorney Fees, October 31, 2018</i>
12/31/2018	 Transcript of Proceedings <i>All Pending Motions, August 22, 2018</i>
01/03/2019	 Motion to Withdraw As Counsel Filed By: Counter Defendant Chan, Betty; Plaintiff Asian American Realty & Property Management <i>Motion to Withdraw As Counsel of Record</i>
01/25/2019	 Recorders Transcript of Hearing <i>Plaintiffs' Motion to Extend Briefing on Order Shortening Time and Continue Hearing Date, October 17, 2018</i>
01/29/2019	 Notice of Change of Firm Name Filed By: Counter Claimant Wu, Wayne <i>Notice of Change and Firm Name</i>
02/19/2019	 Motion <i>Motion to Reconsider Order Granting Motion to Withdraw and Late-Filed Opposition to Motion to Withdraw and New Motion to Get a New Court Hearing Date</i>

CASE SUMMARY

CASE NO. A-16-744109-C

03/08/2019	 Opposition to Motion <i>Gentile Cristalli Miller Armeni & Savarese's Opposition to Betty Chan and Asian American Realty and Property Management's Motion to Reconsider Order Granting Motion to Withdraw and Late Filed Opposition to Motion to Withdraw</i>
03/21/2019	 Order Granting Motion <i>Order Granting Motion to Withdraw As Counsel of Record</i>
03/21/2019	 Notice of Entry of Order <i>Notice of Entry of Order Granting Motion to Withdraw as Counsel of Record</i>
03/22/2019	 Order Filed By: Counter Claimant Wu, Wayne <i>Order Granting Defendants Countermotion for Summary Judgment and Attorneys Fees and Costs</i>
03/22/2019	 Notice of Entry of Order Filed By: Counter Claimant Wu, Wayne <i>Notice of Entry of Order</i>
03/25/2019	 Certificate of Service Filed by: Counter Claimant Wu, Wayne <i>Certificate of Service</i>
03/27/2019	 Ex Parte Order Filed By: Counter Claimant Wu, Wayne <i>Ex Parte Motion for an Order Shortening Time</i>
03/27/2019	 Motion for Writ of Attachment Filed By: Counter Claimant Wu, Wayne <i>Motion for Writ of Execution on Plaintiffs Commissions Awarded by GLVAR Arbitration Panel</i>
03/28/2019	 Motion for Writ of Attachment Filed By: Counter Claimant Wu, Wayne <i>Motion for Writ of Execution on Plaintiffs Commissions Awarded by GLVAR Arbitration Panel</i>
04/01/2019	 Response Filed by: Counter Defendant Chan, Betty; Plaintiff Asian American Realty & Property Management <i>Response to Attorney Janiece Marshall's opposition and request additional time to locate another attorney replacement</i>
04/01/2019	 Motion Filed By: Counter Defendant Chan, Betty <i>Motion to vacate entry of order or Motion for extension of time to file reconsideration to the entry of order granting Defendant countermotion</i>
04/04/2019	 Ex Parte Motion Filed By: Counter Claimant Wu, Wayne <i>Ex Parte Motion for an Order Shortening Time</i>
04/04/2019	 Notice of Entry of Order Filed By: Counter Claimant Wu, Wayne

CASE SUMMARY
CASE NO. A-16-744109-C

Notice of Entry of Order

04/05/2019



Certificate of Service

Filed by: Counter Claimant Wu, Wayne

Certificate of Service

04/07/2019



Opposition

Filed By: Counter Defendant Chan, Betty

motion to oppose Motion for writ of execution on Plaintiff's Commission awarded by GLVAR Arbitration Panel

04/08/2019



Motion

Filed By: Counter Defendant Chan, Betty

Motion to Vacate notice of Entry of Order Granting Shortening Time

04/14/2019



Supplement

Filed by: Counter Defendant Chan, Betty

Supplemental to Plaintiffs' Opposition to Writ of Execution Filed on 4/7/2019

04/15/2019



Supplement

Filed by: Counter Defendant Chan, Betty

Supplemental Attachment to plaintiffs's motion filed on 4/1/2019 for reconsideration

04/22/2019



Notice of Appeal

Filed By: Counter Defendant Chan, Betty; Plaintiff Asian American Realty & Property Management

Notice of Appeal

04/22/2019



Case Appeal Statement

Filed By: Counter Defendant Chan, Betty; Plaintiff Asian American Realty & Property Management

Case Appeal Statement

04/24/2019



Notice of Appearance

Party: Counter Defendant Chan, Betty

Notice of Appearance

04/24/2019



Motion for Stay of Execution

Filed By: Counter Defendant Chan, Betty

Plaintiffs Motion to Stay Execution Pending Appeal (on an Ex Parte Application for an Order Shortening Time)

04/25/2019



Case Appeal Statement

Filed By: Counter Defendant Chan, Betty; Plaintiff Asian American Realty & Property Management

Case Appeal Statement

DISPOSITIONS

03/22/2019

Summary Judgment (Judicial Officer: Johnson, Eric)

Debtors: Betty Chan (Plaintiff), Asian American Realty & Property Management (Plaintiff)

Creditors: Wayne Wu (Defendant), Judith Sullivan (Defendant), Nevada Real Estate Corp

(Defendant), Jerin Chiu (Defendant)

Judgment: 03/22/2019, Docketed: 03/22/2019

03/22/2019

Order (Judicial Officer: Johnson, Eric)

Debtors: Betty Chan (Plaintiff), Asian American Realty & Property Management (Plaintiff)

CASE SUMMARY

CASE NO. A-16-744109-C

Creditors: Wayne Wu (Defendant), Judith Sullivan (Defendant), Nevada Real Estate Corp (Defendant), Jerin Chiu (Defendant)
Judgment: 03/22/2019, Docketed: 03/22/2019
Total Judgment: 22,355.83

HEARINGS

02/06/2017



Motion to Amend (8:30 AM) (Judicial Officer: Leavitt, Michelle)

Counterdefendant's Motion to Amend Reply to Counterclaim and to Strike Initial Reply to Counterclaim from the Record

Granted;

Journal Entry Details:

Ms. Higbee not present. COURT ORDERED, Motion GRANTED. Prevailing party to prepare the order. CLERK'S NOTE: Ms. Higbee arrived late and was notified by Clerk regarding Court's ruling. Ms. Higbee provided a proposed order for Chambers. /// sj;

02/27/2017

Motion For Stay (8:30 AM) (Judicial Officer: Leavitt, Michelle)

Plaintiffs' Motion for Stay Pending Arbitration

Granted;

02/27/2017

Opposition and Countermotion (8:30 AM) (Judicial Officer: Leavitt, Michelle)

Defendants' and Counterclaimants' Opposition to Motion to Stay Pending Arbitration and Countermotion to Dismiss with Prejudice or in the Alternative for Summary Judgment

Denied;

02/27/2017



All Pending Motions (8:30 AM) (Judicial Officer: Leavitt, Michelle)

Matter Heard;

Journal Entry Details:

PLAINTIFFS' MOTION FOR STAY PENDING ARBITRATION...DEFENDANTS' AND COUNTERCLAIMANTS' OPPOSITION TO MOTION TO STAY PENDING ARBITRATION AND COUNTERMOTION TO DISMISS WITH PREJUDICE OR IN THE ALTERNATIVE FOR SUMMARY JUDGMENT Discussions regarding additional claims to be filed, and additional parties. Ms. Higbee argued the matter should not be dismissed, pending arbitration. Court noted there are parties and claims not addressing arbitration. Discussions as to commission dispute. Mr. Olsen argued as to direct violation of ethical rules, amount having exceeded and approaching \$15,000.00, GLVAR rules, and there having been no contact between buyer and Defendant. Further arguments were made regarding arbitration proceedings, KB Home Sales-Nevada Inc., having been seller of property, and the matter needing to be dismissed with prejudice, or summary judgment needing to be granted. Discussions as to Court having enough evidence for dismissal or to grant summary judgment, opposing counsel not having alleged otherwise, and Jerin Chiu not having had a contractual relationship with Plaintiff. Further arguments by Ms. Higbee as to alleged contact, violation of agreement, reduction of commission having been sought, there being no basis for summary judgment or a dismissal, and determination to be made at time of trial. COURT ORDERED, Motion for stay pending arbitration GRANTED. Ms. Higbee to prepare the order. ;

04/03/2017



Motion to Withdraw as Counsel (8:30 AM) (Judicial Officer: Leavitt, Michelle)

The Law Firm of Marquis Aurbach Coffing's Notice of Hearing on Motion to Withdraw as Counsel of Record for Plaintiffs Betty Chan and Asian American Realty and Property Management

MINUTES



Status Check (05/01/2017 at 8:30 AM) (Judicial Officer: Leavitt, Michelle)

Status Check: New Counsel For Plaintiffs

Granted;

Journal Entry Details:

COURT ORDERED, Motion GRANTED; counsel for Plaintiffs WITHDRAWN. FURTHER, matter SET for status check. Mr. Sansone to prepare the order, and to also include the status check hearing in the written order. 5/01/17 8:30 A.M. STATUS CHECK: NEW COUNSEL FOR PLAINTIFFS;

SCHEDULED HEARINGS

CASE SUMMARY

CASE NO. A-16-744109-C



Status Check (05/01/2017 at 8:30 AM) (Judicial Officer: Leavitt, Michelle)

Status Check: New Counsel For Plaintiffs

05/01/2017



Status Check (8:30 AM) (Judicial Officer: Leavitt, Michelle)

Status Check: New Counsel For Plaintiffs

Off Calendar;

Journal Entry Details:

Mr. Kennedy advised he did not file a notice yet, however, he is confirming as counsel for Plaintiffs today. Mr. Olsen advised this case was stayed, however, arbitration proceedings have not happened yet. Court stated that is up to Plaintiff. Court advised defense counsel if Plaintiff does not proceed, a motion to stay may be filed. COURT ORDERED, matter OFF CALENDAR. ;

08/22/2018

Motion (8:30 AM) (Judicial Officer: Johnson, Eric)

Plaintiffs' Motion to Vacate or Modify Arbitration Award

Denied;

08/22/2018



Opposition and Countermotion (8:30 AM) (Judicial Officer: Johnson, Eric)

08/22/2018, 10/31/2018

Defendants and Counterclaimants Wayne Wu, Judith Sullivan, Nevada Real Estate Corp., and Jerrin Chiu's Opposition to Motion to Vacate or Modify Arbitration Award and Countermotion to Recognize Wu as the Procuring Cause, for Summary Judgment, and for Attorney Fees

Matter Continued;

Decision Made;

Journal Entry Details:

Court advised it was not inclined to modify the Arbitration Order. Arguments by Ms. Marshall and Mr. Olsen in support of their respective positions. Following lengthy arguments, COURT ORDERED, Motion for Summary Judgment is GRANTED, however, the request for Attorney Fees is UNDER ADVISEMENT. Mr. Olsen to prepare the Order.;

Matter Continued;

Decision Made;

08/22/2018

Response and Countermotion (8:30 AM) (Judicial Officer: Johnson, Eric)

Plaintiffs' Reply in Support of Motion to Vacate or Modify Arbitration Award and Opposition / Motion to Strike Improper Countermotion

Denied;

08/22/2018



All Pending Motions (8:30 AM) (Judicial Officer: Johnson, Eric)

Matter Heard;

Journal Entry Details:

AS TO: PLAINTIFF'S REPLY IN SUPPORT OF MOTION TO VACATE OR MODIFY ARBITRATION AND OPPOSITION/MOTION TO STRIKE IMPROPER COUNTERMOTION: Arguments by Mr. Kennedy and Mr. Olsen in support of their respective positions. Following, Court stated its FINDINGS and ORDERED, Motion DENIED. Mr. Olsen to prepare the Order. **DEFENDANTS AND COUNTERCLAIMANTS WAYNE WU, JUDITH SULLIVAN, NEVADA REAL ESTATE CORP., AND JERRIN CHIU'S OPPOSITION TO MOTION TO VACATE OR MODIFY ARBITRATION AWARD AND COUNTERMOTION TO RECOGNIZE WU AS THE PROCURING CAUSE, FOR SUMMARY JUDGMENT AND FOR ATTORNEY FEES:** Arguments by Mr. Olsen and Mr. Kennedy in support of their respective positions. Mr. Olsen to supplement the billing records. Following, COURT ORDERED, the following briefing schedule: Mr. Olsen to file supplement as to the Motion for Summary Judgment and attorney fees by 9/5; Mr. Kennedy to reply by 9/19 and matter CONTINUED for argument. **PLAINTIFF'S MOTION TO VACATE OR MODIFY ARBITRATION AWARD:** Arguments by Mr. Kennedy and Mr. Olsen in support of their respective positions. Following, Court stated its FINDINGS and ORDERED, Motion DENIED. Mr. Olsen to prepare the Order. Mr. Olsen stated in regards to his Motion for Summary Judgment, there is still a claim against KB Homes for Breach of Contract. Court directed counsel to talk about this issue. 10/10/18 8:30 AM **DEFENDANTS AND COUNTERCLAIMANTS WAYNE WU, JUDITH SULLIVAN, NEVADA REAL ESTATE CORP., AND JERRIN CHIU'S OPPOSITION TO MOTION TO VACATE OR MODIFY ARBITRATION AWARD AND COUNTERMOTION TO RECOGNIZE WU AS THE PROCURING CAUSE, FOR SUMMARY JUDGMENT AND FOR ATTORNEY FEES;**

CASE SUMMARY

CASE NO. A-16-744109-C

10/17/2018



Motion (10:30 AM) (Judicial Officer: Johnson, Eric)

Plaintiffs' Motion to Extend Briefing on Order Shortening Time and Continue Hearing Date Denied;

Journal Entry Details:

Upon Court's inquiry, Mr. Cristalli advised he needs a continuance pursuant to the Motion. Objections by Mr. Olsen. Following colloquy, COURT ORDERED, Motion DENIED and ORDERED the following briefing schedule: Mr. Cristalli to file his response by 10/24; Mr. Olsen to file reply by 10/26. Further, future date of 10/31 STANDS.;

11/30/2018



Minute Order (11:30 AM) (Judicial Officer: Johnson, Eric)

Minute Order - No Hearing Held;

Journal Entry Details:

Plaintiffs' Motion to Vacate or Modify Arbitration Award was filed on July, 18, 2018. Defendants' Opposition and Countermotion to Recognize Wu as the Procuring Cause, for Summary Judgment, and for Attorney's Fees was filed on August 6, 2018. Both matters came on for a hearing before Department XX of the Eighth Judicial District Court, the Honorable Eric Johnson presiding, on August 22, 2018. At that time, Plaintiffs' Motion to Vacate or Modify Arbitration Award was DENIED and Defendant Wu was determined to be the procuring cause. Defendants' Countermotions for Summary Judgment and Attorney's Fees and Costs were continued to October 31, 2018. Defendants' Countermotions for Summary Judgment and for Attorney's Fees came on for hearing on October 31, 2018. At that time, Defendants' Countermotion for Summary Judgment was GRANTED. The Countermotion for Attorney's Fees and Costs was taken UNDER ADVISEMENT. After considering the pleadings and argument of counsel, the Court GRANTS Defendants' Motion for Attorney's Fees and Costs. The Court finds that the contractual provision contained in the Arbitration Agreement signed by both Plaintiff and Defendant provided that "In the event [a party does] not comply with the award and it is necessary for any party to obtain judicial confirmation and enforcement of the award against me, [the party] agree[s] to pay that party costs and reasonable attorney's fees incurred in obtaining such confirmation and enforcement." The Court further finds that provision was reasonable and enforceable. As costs were never challenged, the Court hereby ORDERS costs in the amount of \$920.83 pursuant to Defendants' Memorandum of Costs and Disbursements. The Court hereby ORDERS attorney's fees in the amount of \$21,435.00. The Court finds this amount is reasonable and actually incurred by Defendants in enforcing the arbitration award. The Court is awarding attorney fees after the entry of the arbitration award and Plaintiffs' filing of motion to vacate award, starting on July 25, 2018, 2018. The Court declines to award fees requested on the invoices dated December 31, 2016, January 31, 2017, and February 28, 2017, as the redactions made to Plaintiffs' counsel's billing records prevent the Court from determining if those fees were reasonable and necessary. The Court has reviewed the remaining fees and finds they were reasonable and appropriate for litigating the matter and in keeping with attorney fees for such work in Southern Nevada. The Court further finds that the Brunzell factors have been met for the reasons stated in Defendant's motion for attorney fees and exhibits. Counsel for Defendants is directed to prepare a proposed order including finding of facts and conclusions of law, in particular outlining the Brunzell factors and supporting facts included in their motion, and to circulate it to opposing counsel for approval as to form and content before submitting it to chambers for signature. Law Clerk to notify the parties.;

02/11/2019



Minute Order (8:30 AM) (Judicial Officer: Johnson, Eric)

Minute Order - No Hearing Held;

Journal Entry Details:

A Motion to Withdraw as Attorney of Record was filed by Michael V. Cristalli, Esq., & Janiece S. Marshall, Esq., of Gentile Cristalli Miller Armeni Savarese, counsel for the Plaintiff, on January 3, 2019. The matter was subsequently placed on the Calendar of Department XX on February 20, 2019. No opposition having been filed and good cause showing, pursuant to EDCR 2.20 and EDCR 2.23(c) the Court hereby GRANTS the Motion to Withdraw. The Court hereby VACATES the February 20, 2019 hearing. Withdrawing Attorneys are to prepare a proposed order listing all future deadlines and hearings and submit to chambers for signature. Withdrawing attorneys are also ordered to inform Plaintiff of the withdrawal as well as any future hearing dates. Law Clerk to notify the parties. ;

02/20/2019

CANCELED Motion to Withdraw as Counsel (8:30 AM) (Judicial Officer: Johnson, Eric)
Vacated

CASE SUMMARY

CASE NO. A-16-744109-C

04/01/2019

**Minute Order** (7:15 AM) (Judicial Officer: Johnson, Eric)*Minute Order Re: Plaintiff's Motion for Reconsideration*

Minute Order - No Hearing Held;

Journal Entry Details:

Plaintiffs Betty Chan and Asian American Realty & Property Management filed a Motion to Reconsider Order Granting Motion to Withdraw and Late-Filed Opposition to Motion to Withdraw on February 19, 2019. The matter was subsequently scheduled for hearing on April 3, 2019. After considering the pleadings and argument of counsel, the Court DENIES Plaintiffs' Motion to Reconsider Order Granting Motion to Withdraw and Late-Filed Opposition to Motion to Withdraw. The Court finds that Plaintiffs have not provided "substantially different evidence" or demonstrated that the Court's decision was "clearly erroneous" as required for a motion for reconsideration. Further, the Court finds that there is nothing pending in this litigation. The Court has granted Summary Judgment in favor of Defendants and dealt with all claims pending in this litigation. Therefore, allowing counsel to withdraw at this time does not place Plaintiffs in a materially adverse position. The Court further finds that counsel had good cause for withdrawing from this matter. The Court finds that there was a significant breakdown in both communication and in the attorney-client relationship such that the representation could not continue. Therefore, withdrawal was appropriate in this instance and the Court declines to reconsider its ruling. The Court hereby VACATES the April 3, 2019 hearing. Janiece Marshall, Esq., is directed to prepare a proposed order and submit it to chambers for signature. Law Clerk to notify the parties.;

04/03/2019

CANCELED Motion For Reconsideration (8:30 AM) (Judicial Officer: Johnson, Eric)*Vacated - per Law Clerk*

Plaintiff's Motion to Reconsider Order Granting Motion to Withdraw and Late-Filed Opposition to Motion to Withdraw and New Motion to Get a New Court Hearing Date

04/17/2019

**Motion** (8:30 AM) (Judicial Officer: Johnson, Eric)*Defendant's Motion for Writ of Execution*

Granted;

Journal Entry Details:

Ms. Chan stated she would like to hire an attorney. Court concurred, however, noted she has already had 4 attorneys and she knew this hearing was set for today. Ms. Chan advised she has an appointment tomorrow with an attorney. Mr. Olsen objected to a continuance as this is a stall tactic of Ms. Chan's, that he would request the funds being held by GLVAR be released. Following additional arguments by Ms. Chan, COURT ORDERED, Motion GRANTED and noted it will take effect on April 26, 2019. Court advised Ms. Chan that will give her time to seek counsel to review the Motion. Statements by Plaintiff as to her Motion for Reconsideration. Following statements by Ms. Chan, Court DENIED the Motion as there is no basis for reconsideration. Statements by Mr. Olsen as to additional attorney fees.;

DATE

FINANCIAL INFORMATION

Counter Claimant Chiu, Jerin

Total Charges

30.00

Total Payments and Credits

30.00

Balance Due as of 4/25/2019**0.00****Counter Claimant** Nevada Real Estate Corp

Total Charges

30.00

Total Payments and Credits

30.00

Balance Due as of 4/25/2019**0.00****Counter Claimant** Sullivan, Judith

Total Charges

30.00

Total Payments and Credits

30.00

Balance Due as of 4/25/2019**0.00****Counter Claimant** Wu, Wayne

Total Charges

623.00

Total Payments and Credits

623.00

Balance Due as of 4/25/2019**0.00**

EIGHTH JUDICIAL DISTRICT COURT

CASE SUMMARY

CASE NO. A-16-744109-C

Plaintiff Asian American Realty & Property Management

Total Charges 30.00

Total Payments and Credits 30.00

Balance Due as of 4/25/2019 0.00

Counter Defendant Chan, Betty

Total Charges 350.00

Total Payments and Credits 350.00

Balance Due as of 4/25/2019 0.00

Counter Defendant Chan, Betty

Appeal Bond Balance as of 4/25/2019 **500.00**

XII

DISTRICT COURT CIVIL COVER SHEET

Clark County, Nevada

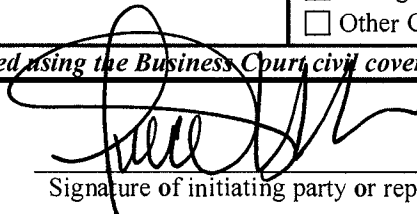
Case No. _____
(Assigned by Clerk's Office)**I. Party Information** (provide both home and mailing addresses if different)Plaintiff(s) (name/address/phone):
BETTY CHAN and ASIAN AMERICAN REALTY & PROPERTY
MANAGEMENTyAttorney (name/address/phone):
Avece M. Higbee, Esq. (NV Bar No. 3739)
Marquis Aurbach Coffing
10001 Park Run Drive
Las Vegas, NV 89145
(702) 382-0711Defendant(s) (name/address/phone):
WAYNE WU, JUDITH SULLIVAN, NEVADA REAL
ESTATE CORP., JERRIN CHIU, KB HOME SALES –
NEVADA INC., DOES I through X, and ROES I
through X

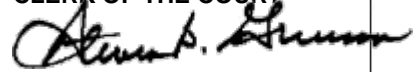
Attorney (name/address/phone):

II. Nature of Controversy (Please select the one most applicable filing type below)**Civil Case Filing Types**

Real Property	Torts	
Landlord/Tenant <input type="checkbox"/> Unlawful Detainer <input type="checkbox"/> Other Landlord/Tenant Title to Property <input type="checkbox"/> Judicial Foreclosure <input type="checkbox"/> Other Title to Property Other Real Property <input type="checkbox"/> Condemnation/Eminent Domain <input type="checkbox"/> Other Real Property	Negligence <input type="checkbox"/> Auto <input type="checkbox"/> Premises Liability <input type="checkbox"/> Other Negligence Malpractice <input type="checkbox"/> Medical/Dental <input type="checkbox"/> Legal <input type="checkbox"/> Accounting <input type="checkbox"/> Other Malpractice	Other Torts <input type="checkbox"/> Product Liability <input type="checkbox"/> Intentional Misconduct <input type="checkbox"/> Employment Tort <input type="checkbox"/> Insurance Tort <input checked="" type="checkbox"/> Other Tort
Probate Probate (select case type and estate value) <input type="checkbox"/> Summary Administration <input type="checkbox"/> General Administration <input type="checkbox"/> Special Administration <input type="checkbox"/> Set Aside <input type="checkbox"/> Trust/Conservatorship <input type="checkbox"/> Other Probate Estate Value <input type="checkbox"/> Over \$200,000 <input type="checkbox"/> Between \$100,000 and \$200,000 <input type="checkbox"/> Under \$100,000 or Unknown <input type="checkbox"/> Under \$2,500	Construction Defect & Contract Construction Defect <input type="checkbox"/> Chapter 40 <input type="checkbox"/> Other Construction Defect Contract Case <input type="checkbox"/> Uniform Commercial Code <input type="checkbox"/> Building and Construction <input type="checkbox"/> Insurance Carrier <input type="checkbox"/> Commercial Instrument <input type="checkbox"/> Collection of Accounts <input type="checkbox"/> Employment Contract <input checked="" type="checkbox"/> Other Contract p. m . w	Judicial Review/Appeal Judicial Review <input type="checkbox"/> Foreclosure Mediation Case <input type="checkbox"/> Petition to Seal Records <input type="checkbox"/> Mental Competency Nevada State Agency Appeal <input type="checkbox"/> Department of Motor Vehicle <input type="checkbox"/> Worker's Compensation <input type="checkbox"/> Other Nevada State Agency Appeal Other <input type="checkbox"/> Appeal from Lower Court <input type="checkbox"/> Other Judicial Review/Appeal
Civil Writ <input type="checkbox"/> Writ of Habeas Corpus <input type="checkbox"/> Writ of Mandamus <input type="checkbox"/> Writ of Quo Warrant <input type="checkbox"/> Writ of Prohibition <input type="checkbox"/> Other Civil Writ		Other Civil Filing Other Civil Filing <input type="checkbox"/> Compromise of Minor's Claim <input type="checkbox"/> Foreign Judgment <input type="checkbox"/> Other Civil Matters

Business Court filings should be filed using the Business Court civil coversheet.

9/26/16
Date

 Signature of initiating party or representative



ORDR

MICHAEL A. OLSEN, ESQ.

Nevada Bar No: 6076

THOMAS R. GROVER, ESQ.

Nevada Bar No. 12387

BLACKROCK LEGAL, LLC

10155 W. Twain Ave., Suite 100

Las Vegas, NV 89147

Telephone (702) 855-5658

Facsimile (702) 869-8243

mike@blackrocklawyers.com

tom@blackrocklawyers.com

Attorneys for Defendants/Counterclaimants

Wayne Wu, Judith Sullivan, Nevada

Real Estate Corp. and Jerrin Chiu

**DISTRICT COURT
CLARK COUNTY, NEVADA**

BETTY CHAN and ASIAN AMERICAN
REALTY & PROPERTY MANAGEMENT,

Plaintiffs/Counterdefendants,

v.

WAYNE WU, JUDITH SULLIVAN,
NEVADA REAL ESTATE CORP., JERRIN
CHIU, KB HOME SALES – NEVADA INC.,

Defendants/Counterclaimants.

) Case No: A-16-744109-C

) Dept. No: XX

) **ORDER GRANTING
DEFENDANTS**

) **COUNTERMOTION FOR
SUMMARY JUDGMENT AND
ATTORNEY FEES AND COSTS**

APPEARANCES

- Michael A. Olsen, Esq. of Goodsell & Olsen, LLP, on behalf of Wayne Wu,
Judith Sullivan, Nevada Real Estate Corp., and Jerrin Chiu,
Defendants/Counterclaimants (hereinafter “Defendants”).
- Janiece S. Marshall, Esq. of Gentile Cristalli Miller Armeni Savarese on behalf of
Betty Chan and Asian American Realty & Property Management,
Plaintiffs/Counterdefendants (hereinafter “Plaintiffs”).

1 This matter came on for hearing on October 31, 2018 before the Honorable Eric Johnson
2 presiding on the Defendants *Countermotion for Summary Judgment, and for Attorney Fees [and*
3 *costs]* (hereafter “Countermotion”) and Plaintiffs *Opposition to recognize Wu as the Procuring*
4 *Cause, for Summary Judgment, and for Attorney Fees*. The Court having read and considered the
5 papers and pleadings on file, having heard oral arguments made at the time of hearing, and good
6 cause appearing, therefore the Court makes the following findings of fact and conclusions of
7 law:
8

9
10 **FINDINGS OF FACTS AND CONCLUSIONS OF LAW**

11 1. The underlying dispute in this matter involves realtor commission funds totaling
12 \$13,795.32 for the real estate transaction on January 8, 2016 for the purchase of the home
13 located at 477 Cabral Peak Street, Las Vegas, Nevada 89138, APN # 137-34-119-012 by Dr.
14 Jerrin Chiu. This matter came before a GLVAR arbitration panel on April 17, 2018. The
15 arbitration panel heard all evidence and arguments of the parties and found that Wu (respondent)
16 was to be paid the \$10,346.49 of the commission funds due from the sale and Betty Chan
17 (complainant) was to be paid \$3448.83.
18

19 **A. COUNTERMOTION FOR SUMMARY JUDGMENT GRANTED**

20 2. This matter initially came on for hearing on August 22, 2018 before the
21 Honorable Eric Johnson regarding Plaintiffs *Motion to Vacate or Modify Arbitration Award*
22 (hereafter “Motion to Vacate”), and Defendants *Opposition to Motion to Vacate or Modify*
23 *Arbitration Award and Countermotion to Recognize Wu as the Procuring Cause, for Summary*
24 *Judgment, and for Attorney Fees* (hereafter “Countermotion”).
25

26 3. During the August 22, 2018 hearing, this Court denied Plaintiffs Motion to Vacate
27 or Modify Arbitration award finding: “that Nevada law does not prohibit splitting a commission
28 between two individuals both claiming to be the procuring cause and therefore

1 Plaintiffs/Counterdefendants have failed to meet their burden of demonstrating clear and
2 convincing evidence of a violation under any of the standards asserted in the Motion to Vacate
3 that would justify modifying or vacating the Award.” *See September 18, 2108 Order Denying*
4 *Motion to Vacate or Modify Arbitration Award.*

5
6 4. During that same August 22, 2018 hearing the Court further found that Wayne
7 Wu was the procuring cause and: “That pursuant to NRS 38.241(4) and NRS 38.242(2) the
8 Arbitration Award of the GLVAR arbitration panel is CONFIRMED; and That the Counter-
9 Motion seeking summary judgment and an award of attorney fees is taken under advisement,
10 with supplemental briefing to be filed by the Defendants/Counterclaimants by September 5,
11 2018.” *Id.* The Court hereby affirms its Order dated on or about September 18, 2018 Denying
12 Plaintiffs Motion to Vacate or Modify Arbitration Award and finding Wu to be the procuring
13 cause. The Court further notes the allowable time frame for Plaintiffs to file a Motion to
14 Reconsider the September 18, 2018 Order has passed.

15
16
17 5. The Court set the remaining Countermotion for Summary Judgment and For
18 Attorney’s fees and Costs to be heard on October 31, 2018, at which time all supplemental
19 briefing regarding the Defendants Countermotion for Summary Judgment and for Attorney’s
20 fees and costs, along with the Opposition to the same, was considered.

21
22 6. NRCP 56(c) provides that summary judgment shall be rendered if “the pleadings,
23 depositions, answers to interrogatories, and admissions on file, together with the affidavits, if
24 any, show that there is no genuine issue as to any material fact and that the moving party is
25 entitled to judgment as a matter of law.” The Nevada Supreme Court stated that a factual dispute
26 is “genuine” when the evidence is such that a rational trier of fact could return a verdict for the
27 nonmoving party. *Wood v. Safeway, Inc.*, 121 P.3d 1026 (2005). Once the moving party has
28 shown that there is no genuine dispute as to material facts, the burden shifts to the nonmoving

1 party to set forth specific facts demonstrating the existence of a genuine issue for trial or have
2 summary judgment entered against that party. In meeting this burden, the nonmoving party, "is
3 not entitled to build a case on the gossamer threads of whimsy, speculation and conjecture." *Id.*

4
5 7. The Arbitration Panel's award resolved all disputes the plaintiffs had against these
6 defendants, Wu, Sullivan, Nevada Real Estate Corp and Chiu. For the reasons stated above the
7 award is confirmed and Wu is confirmed as the procuring cause. This resolves the Plaintiff's
8 request for declaratory relief and claim of unjust enrichment. Because there are no genuine issues
9 as to any material fact left to be decided against these defendants in this case, summary judgment
10 in favor of the defendants is proper.
11

12 **B. COUNTERMOTION FOR ATTORNEY FEES AND COSTS GRANTED**

13 8. Defendants requested the Court award them their attorney fees and costs. After
14 considering the pleadings and arguments of counsel, attorney fees and cost are awarded in the
15 amounts of \$920.83 for costs and \$21,435.00 for legal fees.
16

17 9. The Court finds that the Defendants fees are reasonable and were actually
18 incurred in the confirmation and enforcement of the award of the Arbitration Panel. The Court
19 finds that the contractual provision contained in the Arbitration Agreement signed by both
20 Plaintiff and Defendant provided that "In the event [a party does] not comply with the award and
21 it is necessary for any party to obtain judicial confirmation and enforcement of the award against
22 me, [the party] agree[s] to pay that party costs and reasonable attorney's fees incurred in
23 obtaining such confirmation and enforcement."
24

25 10. The Court further finds that provision was reasonable and enforceable. As costs
26 were never challenged, the Court hereby ORDERS costs in the amount of \$920.83 pursuant to
27 Defendants' Memorandum of Costs and Disbursements, which was unopposed.
28

11. The Court hereby ORDERS attorney's fees in the amount of \$21,435.00. The Court finds this amount is reasonable and actually incurred by Defendants in enforcing the arbitration award. The Court is awarding attorney fees after the entry of the arbitration award and Plaintiffs' filing of its Motion to Vacate or Modify Arbitration Award, starting on July 25, 2018. The Court declines to award fees requested on the invoices dated December 31, 2016, January 31, 2017, and February 28, 2017, as the redactions made to Plaintiffs' counsel's billing records prevent the Court from determining if those fees were reasonable and necessary. The Court has reviewed the remaining fees and finds they were reasonable and appropriate for litigating the matter and in keeping with attorney fees for such work in Southern Nevada. The Court further finds that the Brunzell factors have been met for the reasons stated in Defendant's Countermotion for Attorney Fees and Costs as set forth below.

12. When determining an award of attorneys' fees and costs, Nevada courts have long relied upon the factors in *Brunzell v. Golden Gate Nat'l Bank*. These four factors analyze (1) the qualities of the advocate: his ability, his training, education, experience, professional standing and skill; (2) the character of the work to be done: its difficulty, its intricacy, its importance, time and skill required, the responsibility imposed and the prominence and character of the parties where they affect the importance of litigation; (3) the work actually performed by the lawyer: the skill, time and attention given to the work; (4) the result: whether the attorney was successful and what benefits were derived.

13. **Brunzell Factor #1:** "the qualities of the advocate: his ability, his training, education, experience, professional standing and skill". Counsel for Defendants, Michael A. Olsen, Esq. is a founding partner of his firm and has been a member of the State Bar of Nevada for over twenty years. He is a graduate of Utah State University and BYU's J. Reuben Clark Law School. His abilities as an advocate have been recognized through numerous awards and honors,

1 and Mr. Olsen's abilities have been honed through, among other experience, regular appearances
2 in the Eighth Judicial District Court on contested matters.

3 14. **Brunzell Factor #2:** "the character of the work to be done: its difficulty, its
4 intricacy, its importance, time and skill required, the responsibility imposed and the prominence
5 and character of the parties where they affect the importance of the litigation" This matter
6 involved complex legal issues including a determination of procuring cause and whether the
7 Arbitration Panel exceeded its authority pursuant to Nevada statute. Because the Plaintiff elected
8 to contest the validity of the Arbitration award it became incumbent on Defendant to defend the
9 award and have it confirmed by the Court. Defendant was successful in confirming and
10 enforcing the Arbitration Award.
11

12 15. **Brunzell Factor #3:** "the work actually performed by the lawyer: the skill, time
13 and attention given to the work". The Plaintiffs attempt to set aside the Arbitration Award and to
14 further litigate against the Defendants has required investment of a substantial amount of time
15 and effort to prepare and provide a proper defense, including against motion practice initiated by
16 the Plaintiffs. The fees and costs awarded were reasonably incurred in defending the actions
17 taken by Plaintiffs in this matter as set forth in detail above.
18

19 16. **Brunzell Factor #4:** "the result: whether the attorney was successful and what
20 benefits were derived". Defendants were ultimately successful in upholding and enforcing the
21 Arbitration Award, recognizing Wu as the procuring cause and thereby securing summary
22 judgment in favor of the Defendants.
23

24 17. While "good judgment would dictate that each of these factors be given
25 consideration by the trier of fact and that no one element should predominate or be given undue
26 weight," each factor strongly supports an award of attorneys' fees and costs in the favor of
27 Defendants.
28

1 **IT IS HEREBY ORDERED, AJUDICATED, AND DECREED:**

2 a. That the September 18, 2018 Order is affirmed wherein Wu was determined the
3 procuring cause and the Arbitration Award was confirmed.

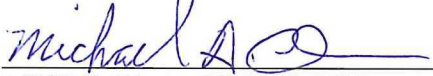
4 b. That the *Countermotion for Summary Judgment* is GRANTED

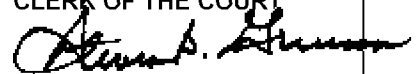
5 c. That the *Motion for Attorney's Fees and Costs* is GRANTED and that Attorney's
6 fees in the amount of \$21,435.00 and Costs in the amount of \$920.83 are hereby awarded
7 to Defendants.
8

9
10 IT IS SO ORDERED this 19 ^{MARCH} of ~~FEBRUARY~~ 2019.

11
12
13 
14 _____
15 DISTRICT COURT JUDGE SS
16 ERIC JOHNSON

17 Prepared and submitted by:

18 
19 MICHAEL A. OLSEN, ESQ.
20 Nevada Bar No. 6076
21 THOMAS R. GROVER, ESQ.
22 Nevada Bar No. 12387
23 **GOODSELL & OLSEN, LLP**
24 Attorneys for Wayne Wu, Judith Sullivan,
25 Nevada Real Estate Corp. and Jerrin Chiu
26
27
28



1 **NEOJ**
2 MICHAEL A. OLSEN, ESQ.
3 Nevada Bar No. 6076
4 THOMAS R. GROVER, ESQ.
5 Nevada Bar No. 12387
6 **BLACKROCK LEGAL, LLC**
7 10155 W. Twain Ave. Ste. 100
8 Las Vegas, Nevada 89147
9 Tel: (702) 855-5658
10 Fax: (702) 869-8243

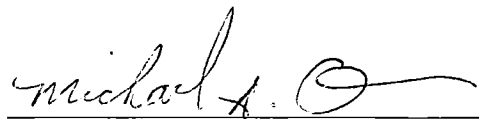
8 **DISTRICT COURT**
9 **CLARK COUNTY, NEVADA**

9 BETTY CHAN and ASIAN AMERICAN) Case No: A-16-744109-C
10 REALTY & PROPERTY MANAGEMENT,)
11) Dept. No: XX
12 Plaintiffs/Counterdefendants,)
13 v.)
14)
15 WAYNE WU, JUDITH SULLIVAN,)
16 NEVADA REAL ESTATE CORP., JERRIN)
17 CHIU, KB HOME SALES – NEVADA INC.,)
18)
19 Defendants/Counterclaimants.)

16 **NOTICE OF ENTRY OF ORDER**

17 PLEASE TAKE NOTICE that the **ORDER GRANTING DEFENDANTS**
18 **COUNTERMOTION FOR SUMMARY JUDGMENT AND ATTORNEY FEES AND**
19 **COSTS** was entered on the Court's record on the 22nd day of March, 2019. A copy of said
20 Order is attached hereto as Exhibit "1".
21

22 DATED this 22nd day of March, 2019.



23 MICHAEL A. OLSEN, ESQ.
24 Nevada Bar No. 6076
25 THOMAS R. GROVER, ESQ.
26 Nevada Bar No. 12387
27 **BLACKROCK LEGAL, LLC**
28 10155 W. Twain Ave., Suite 100
Las Vegas, NV 89147



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EXHIBIT “1”

Steven D. Grierson

ORDR

MICHAEL A. OLSEN, ESQ.

Nevada Bar No: 6076

THOMAS R. GROVER, ESQ.

Nevada Bar No. 12387

BLACKROCK LEGAL, LLC

10155 W. Twain Ave., Suite 100

Las Vegas, NV 89147

Telephone (702) 855-5658

Facsimile (702) 869-8243

mike@blackrocklawyers.com

tom@blackrocklawyers.com

Attorneys for Defendants/Counterclaimants

Wayne Wu, Judith Sullivan, Nevada

Real Estate Corp. and Jerrin Chiu

**DISTRICT COURT
CLARK COUNTY, NEVADA**

BETTY CHAN and ASIAN AMERICAN
REALTY & PROPERTY MANAGEMENT,

Plaintiffs/Counterdefendants,

v.

WAYNE WU, JUDITH SULLIVAN,
NEVADA REAL ESTATE CORP., JERRIN
CHIU, KB HOME SALES – NEVADA INC.,

Defendants/Counterclaimants.

) Case No: A-16-744109-C

) Dept. No: XX

) **ORDER GRANTING**

) **DEFENDANTS**

) **COUNTERMOTION FOR**

) **SUMMARY JUDGMENT AND**

) **ATTORNEY FEES AND COSTS**

)

)

APPEARANCES

- Michael A. Olsen, Esq. of Goodsell & Olsen, LLP, on behalf of Wayne Wu,
Judith Sullivan, Nevada Real Estate Corp., and Jerrin Chiu,
Defendants/Counterclaimants (hereinafter “Defendants”).
- Janiece S. Marshall, Esq. of Gentile Cristalli Miller Armeni Savarese on behalf of
Betty Chan and Asian American Realty & Property Management,
Plaintiffs/Counterdefendants (hereinafter “Plaintiffs”).

1 This matter came on for hearing on October 31, 2018 before the Honorable Eric Johnson
2 presiding on the Defendants *Countermotion for Summary Judgment, and for Attorney Fees [and*
3 *costs]* (hereafter “Countermotion”) and Plaintiffs *Opposition to recognize Wu as the Procuring*
4 *Cause, for Summary Judgment, and for Attorney Fees*. The Court having read and considered the
5 papers and pleadings on file, having heard oral arguments made at the time of hearing, and good
6 cause appearing, therefore the Court makes the following findings of fact and conclusions of
7 law:
8

9 **FINDINGS OF FACTS AND CONCLUSIONS OF LAW**

10
11 1. The underlying dispute in this matter involves realtor commission funds totaling
12 \$13,795.32 for the real estate transaction on January 8, 2016 for the purchase of the home
13 located at 477 Cabral Peak Street, Las Vegas, Nevada 89138, APN # 137-34-119-012 by Dr.
14 Jerrin Chiu. This matter came before a GLVAR arbitration panel on April 17, 2018. The
15 arbitration panel heard all evidence and arguments of the parties and found that Wu (respondent)
16 was to be paid the \$10,346.49 of the commission funds due from the sale and Betty Chan
17 (complainant) was to be paid \$3448.83.
18

19 **A. COUNTERMOTION FOR SUMMARY JUDGMENT GRANTED**

20 2. This matter initially came on for hearing on August 22, 2018 before the
21 Honorable Eric Johnson regarding Plaintiffs *Motion to Vacate or Modify Arbitration Award*
22 (hereafter “Motion to Vacate”), and Defendants *Opposition to Motion to Vacate or Modify*
23 *Arbitration Award and Countermotion to Recognize Wu as the Procuring Cause, for Summary*
24 *Judgment, and for Attorney Fees* (hereafter “Countermotion”).
25

26 3. During the August 22, 2018 hearing, this Court denied Plaintiffs Motion to Vacate
27 or Modify Arbitration award finding: “that Nevada law does not prohibit splitting a commission
28 between two individuals both claiming to be the procuring cause and therefore

1 Plaintiffs/Counterdefendants have failed to meet their burden of demonstrating clear and
2 convincing evidence of a violation under any of the standards asserted in the Motion to Vacate
3 that would justify modifying or vacating the Award.” *See September 18, 2108 Order Denying*
4 *Motion to Vacate or Modify Arbitration Award.*

5
6 4. During that same August 22, 2018 hearing the Court further found that Wayne
7 Wu was the procuring cause and: “That pursuant to NRS 38.241(4) and NRS 38.242(2) the
8 Arbitration Award of the GLVAR arbitration panel is CONFIRMED; and That the Counter-
9 Motion seeking summary judgment and an award of attorney fees is taken under advisement,
10 with supplemental briefing to be filed by the Defendants/Counterclaimants by September 5,
11 2018.” *Id.* The Court hereby affirms its Order dated on or about September 18, 2018 Denying
12 Plaintiffs Motion to Vacate or Modify Arbitration Award and finding Wu to be the procuring
13 cause. The Court further notes the allowable time frame for Plaintiffs to file a Motion to
14 Reconsider the September 18, 2018 Order has passed.

15
16
17 5. The Court set the remaining Countermotion for Summary Judgment and For
18 Attorney’s fees and Costs to be heard on October 31, 2018, at which time all supplemental
19 briefing regarding the Defendants Countermotion for Summary Judgment and for Attorney’s
20 fees and costs, along with the Opposition to the same, was considered.

21
22 6. NRCP 56(c) provides that summary judgment shall be rendered if “the pleadings,
23 depositions, answers to interrogatories, and admissions on file, together with the affidavits, if
24 any, show that there is no genuine issue as to any material fact and that the moving party is
25 entitled to judgment as a matter of law.” The Nevada Supreme Court stated that a factual dispute
26 is “genuine” when the evidence is such that a rational trier of fact could return a verdict for the
27 nonmoving party. *Wood v. Safeway, Inc.*, 121 P.3d 1026 (2005). Once the moving party has
28 shown that there is no genuine dispute as to material facts, the burden shifts to the nonmoving

1 party to set forth specific facts demonstrating the existence of a genuine issue for trial or have
2 summary judgment entered against that party. In meeting this burden, the nonmoving party, "is
3 not entitled to build a case on the gossamer threads of whimsy, speculation and conjecture." *Id.*

4
5 7. The Arbitration Panel's award resolved all disputes the plaintiffs had against these
6 defendants, Wu, Sullivan, Nevada Real Estate Corp and Chiu. For the reasons stated above the
7 award is confirmed and Wu is confirmed as the procuring cause. This resolves the Plaintiff's
8 request for declaratory relief and claim of unjust enrichment. Because there are no genuine issues
9 as to any material fact left to be decided against these defendants in this case, summary judgment
10 in favor of the defendants is proper.
11

12 **B. COUNTERMOTION FOR ATTORNEY FEES AND COSTS GRANTED**

13 8. Defendants requested the Court award them their attorney fees and costs. After
14 considering the pleadings and arguments of counsel, attorney fees and cost are awarded in the
15 amounts of \$920.83 for costs and \$21,435.00 for legal fees.
16

17 9. The Court finds that the Defendants fees are reasonable and were actually
18 incurred in the confirmation and enforcement of the award of the Arbitration Panel. The Court
19 finds that the contractual provision contained in the Arbitration Agreement signed by both
20 Plaintiff and Defendant provided that "In the event [a party does] not comply with the award and
21 it is necessary for any party to obtain judicial confirmation and enforcement of the award against
22 me, [the party] agree[s] to pay that party costs and reasonable attorney's fees incurred in
23 obtaining such confirmation and enforcement."
24

25 10. The Court further finds that provision was reasonable and enforceable. As costs
26 were never challenged, the Court hereby ORDERS costs in the amount of \$920.83 pursuant to
27 Defendants' Memorandum of Costs and Disbursements, which was unopposed.
28

1 11. The Court hereby ORDERS attorney's fees in the amount of \$21,435.00. The
2 Court finds this amount is reasonable and actually incurred by Defendants in enforcing the
3 arbitration award. The Court is awarding attorney fees after the entry of the arbitration award and
4 Plaintiffs' filing of its Motion to Vacate or Modify Arbitration Award, starting on July 25, 2018.
5 The Court declines to award fees requested on the invoices dated December 31, 2016, January
6 31, 2017, and February 28, 2017, as the redactions made to Plaintiffs' counsel's billing records
7 prevent the Court from determining if those fees were reasonable and necessary. The Court has
8 reviewed the remaining fees and finds they were reasonable and appropriate for litigating the
9 matter and in keeping with attorney fees for such work in Southern Nevada. The Court further
10 finds that the Brunzell factors have been met for the reasons stated in Defendant's Countermotion
11 for Attorney Fees and Costs as set forth below.
12

13
14 12. When determining an award of attorneys' fees and costs, Nevada courts have long
15 relied upon the factors in *Brunzell v. Golden Gate Nat'l Bank*. These four factors analyze (1) the
16 qualities of the advocate: his ability, his training, education, experience, professional standing
17 and skill; (2) the character of the work to be done: its difficulty, its intricacy, its importance, time
18 and skill required, the responsibility imposed and the prominence and character of the parties
19 where they affect the importance of litigation; (3) the work actually performed by the lawyer: the
20 skill, time and attention given to the work; (4) the result: whether the attorney was successful and
21 what benefits were derived.
22
23

24 13. **Brunzell Factor #1:** "the qualities of the advocate: his ability, his training,
25 education, experience, professional standing and skill". Counsel for Defendants, Michael A.
26 Olsen, Esq. is a founding partner of his firm and has been a member of the State Bar of Nevada
27 for over twenty years. He is a graduate of Utah State University and BYU's J. Reuben Clark Law
28 School. His abilities as an advocate have been recognized through numerous awards and honors,

1 and Mr. Olsen's abilities have been honed through, among other experience, regular appearances
2 in the Eighth Judicial District Court on contested matters.

3 14. **Brunzell Factor #2:** "the character of the work to be done: its difficulty, its
4 intricacy, its importance, time and skill required, the responsibility imposed and the prominence
5 and character of the parties where they affect the importance of the litigation" This matter
6 involved complex legal issues including a determination of procuring cause and whether the
7 Arbitration Panel exceeded its authority pursuant to Nevada statute. Because the Plaintiff elected
8 to contest the validity of the Arbitration award it became incumbent on Defendant to defend the
9 award and have it confirmed by the Court. Defendant was successful in confirming and
10 enforcing the Arbitration Award.
11

12 15. **Brunzell Factor #3:** "the work actually performed by the lawyer: the skill, time
13 and attention given to the work". The Plaintiffs attempt to set aside the Arbitration Award and to
14 further litigate against the Defendants has required investment of a substantial amount of time
15 and effort to prepare and provide a proper defense, including against motion practice initiated by
16 the Plaintiffs. The fees and costs awarded were reasonably incurred in defending the actions
17 taken by Plaintiffs in this matter as set forth in detail above.
18

19 16. **Brunzell Factor #4:** "the result: whether the attorney was successful and what
20 benefits were derived". Defendants were ultimately successful in upholding and enforcing the
21 Arbitration Award, recognizing Wu as the procuring cause and thereby securing summary
22 judgment in favor of the Defendants.
23

24 17. While "good judgment would dictate that each of these factors be given
25 consideration by the trier of fact and that no one element should predominate or be given undue
26 weight," each factor strongly supports an award of attorneys' fees and costs in the favor of
27 Defendants.
28

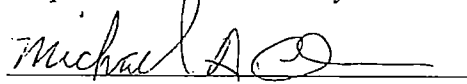
1 **IT IS HEREBY ORDERED, AJUDICATED, AND DECREED:**

- 2 a. That the September 18, 2018 Order is affirmed wherein Wu was determined the
3 procuring cause and the Arbitration Award was confirmed.
4
5 b. That the *Countermotion for Summary Judgment* is GRANTED
6
7 c. That the *Motion for Attorney's Fees and Costs* is GRANTED and that Attorney's
8 fees in the amount of \$21,435.00 and Costs in the amount of \$920.83 are hereby awarded
9 to Defendants.

10 IT IS SO ORDERED this 19 ^{MARCH} of ~~FEBRUARY~~ 2019.

11
12
13 
14 DISTRICT COURT JUDGE ^{SS}
15 ERIC JOHNSON

16
17 Prepared and submitted by:

18 
19 MICHAEL A. OLSEN, ESQ.
20 Nevada Bar No. 6076
21 THOMAS R. GROVER, ESQ.
22 Nevada Bar No. 12387
23 **GOODSELL & OLSEN, LLP**
24 Attorneys for Wayne Wu, Judith Sullivan,
25 Nevada Real Estate Corp. and Jerrin Chiu
26
27
28

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Contract

COURT MINUTES

February 06, 2017

A-16-744109-C Betty Chan, Plaintiff(s)
vs.
Wayne Wu, Defendant(s)

February 06, 2017 8:30 AM Motion to Amend

HEARD BY: Leavitt, Michelle **COURTROOM:** RJC Courtroom 14D

COURT CLERK: Susan Botzenhart

RECORDER: Kristine Santi

REPORTER:

PARTIES

PRESENT: Higbee, Avece Marie Attorney
Olsen, Michael A. Attorney

JOURNAL ENTRIES

- Ms. Higbee not present. COURT ORDERED, Motion GRANTED. Prevailing party to prepare the order.

CLERK'S NOTE: Ms. Higbee arrived late and was notified by Clerk regarding Court's ruling. Ms. Higbee provided a proposed order for Chambers. /// sj

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Contract**COURT MINUTES****February 27, 2017**

A-16-744109-C Betty Chan, Plaintiff(s)
vs.
Wayne Wu, Defendant(s)

February 27, 2017 8:30 AM All Pending Motions

HEARD BY: Leavitt, Michelle **COURTROOM:** RJC Courtroom 14D

COURT CLERK: Susan Botzenhart

RECORDER: Kristine Santi

REPORTER:

PARTIES

PRESENT: Higbee, Avece Marie Attorney
 Olsen, Michael A. Attorney

JOURNAL ENTRIES

- PLAINTIFFS' MOTION FOR STAY PENDING ARBITRATION...DEFENDANTS' AND COUNTERCLAIMANTS' OPPOSITION TO MOTION TO STAY PENDING ARBITRATION AND COUNTERMOTION TO DISMISS WITH PREJUDICE OR IN THE ALTERNATIVE FOR SUMMARY JUDGMENT

Discussions regarding additional claims to be filed, and additional parties. Ms. Higbee argued the matter should not be dismissed, pending arbitration. Court noted there are parties and claims not addressing arbitration. Discussions as to commission dispute. Mr. Olsen argued as to direct violation of ethical rules, amount having exceeded and approaching \$15,000.00, GLVAR rules, and there having been no contact between buyer and Defendant. Further arguments were made regarding arbitration proceedings, KB Home Sales-Nevada Inc., having been seller of property, and the matter needing to be dismissed with prejudice, or summary judgment needing to be granted. Discussions as to Court having enough evidence for dismissal or to grant summary judgment, opposing counsel not having alleged otherwise, and Jerin Chiu not having had a contractual relationship with Plaintiff. Further arguments by Ms. Higbee as to alleged contact, violation of agreement, reduction of commission having been sought, there being no basis for summary judgment or a dismissal, and determination to be made at time of trial. COURT ORDERED, Motion for stay

pending arbitration GRANTED. Ms. Higbee to prepare the order.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Contract

COURT MINUTES

April 03, 2017

A-16-744109-C Betty Chan, Plaintiff(s)
vs.
Wayne Wu, Defendant(s)

**April 03, 2017 8:30 AM Motion to Withdraw as
Counsel**

HEARD BY: Leavitt, Michelle

COURTROOM: RJC Courtroom 14D

COURT CLERK: Susan Botzenhart

RECORDER: Kristine Santi

REPORTER:

PARTIES

PRESENT: Sansone, Neil M.

JOURNAL ENTRIES

- COURT ORDERED, Motion GRANTED; counsel for Plaintiffs WITHDRAWN. FURTHER, matter SET for status check. Mr. Sansone to prepare the order, and to also include the status check hearing in the written order.

5/01/17 8:30 A.M. STATUS CHECK: NEW COUNSEL FOR PLAINTIFFS

**DISTRICT COURT
CLARK COUNTY, NEVADA****Other Contract****COURT MINUTES****May 01, 2017**

A-16-744109-C	Betty Chan, Plaintiff(s)
	vs.
	Wayne Wu, Defendant(s)

May 01, 2017	8:30 AM	Status Check
---------------------	----------------	---------------------

HEARD BY: Leavitt, Michelle	COURTROOM: RJC Courtroom 14D
------------------------------------	-------------------------------------

COURT CLERK: Susan Botzenhart**RECORDER:** Kristine Santi**REPORTER:****PARTIES**

PRESENT:	Kennedy, Todd E.	Attorney
	Olsen, Michael A.	Attorney

JOURNAL ENTRIES

- Mr. Kennedy advised he did not file a notice yet, however, he is confirming as counsel for Plaintiffs today. Mr. Olsen advised this case was stayed, however, arbitration proceedings have not happened yet. Court stated that is up to Plaintiff. Court advised defense counsel if Plaintiff does not proceed, a motion to stay may be filed. COURT ORDERED, matter OFF CALENDAR.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Contract

COURT MINUTES

August 22, 2018

A-16-744109-C Betty Chan, Plaintiff(s)
vs.
Wayne Wu, Defendant(s)

August 22, 2018 8:30 AM All Pending Motions

HEARD BY: Johnson, Eric **COURTROOM:** RJC Courtroom 12A

COURT CLERK: Linda Skinner

RECORDER: Angie Calvillo

REPORTER:

PARTIES

PRESENT: Kennedy, Todd E. Attorney
Olsen, Michael A. Attorney

JOURNAL ENTRIES

- AS TO:

PLAINTIFF'S REPLY IN SUPPORT OF MOTION TO VACATE OR MODIFY ARBITRATION AND OPPOSITION/MOTION TO STRIKE IMPROPER COUNTERMOTION: Arguments by Mr. Kennedy and Mr. Olsen in support of their respective positions. Following, Court stated its FINDINGS and ORDERED, Motion DENIED. Mr. Olsen to prepare the Order.

DEFENDANTS AND COUNTERCLAIMANTS WAYNE WU, JUDITH SULLIVAN, NEVADA REAL ESTATE CORP., AND JERRIN CHIU'S OPPOSITION TO MOTION TO VACATE OR MODIFY ARBITRATION AWARD AND COUNTERMOTION TO RECOGNIZE WU AS THE PROCURING CAUSE, FOR SUMMARY JUDGMENT AND FOR ATTORNEY FEES: Arguments by Mr. Olsen and Mr. Kennedy in support of their respective positions. Mr. Olsen to supplement the billing records. Following, COURT ORDERED, the following briefing schedule:

Mr. Olsen to file supplement as to the Motion for Summary Judgment and attorney fees by 9/5;
Mr. Kennedy to reply by 9/19 and matter CONTINUED for argument.

PLAINTIFF'S MOTION TO VACATE OR MODIFY ARBITRATION AWARD: Arguments by Mr. Kennedy and Mr. Olsen in support of their respective positions. Following, Court stated its FINDINGS and ORDERED, Motion DENIED. Mr. Olsen to prepare the Order.

Mr. Olsen stated in regards to his Motion for Summary Judgment, there is still a claim against KB Homes for Breach of Contract. Court directed counsel to talk about this issue.

10/10/18 8:30 AM DEFENDANTS AND COUNTERCLAIMANTS WAYNE WU, JUDITH SULLIVAN, NEVADA REAL ESTATE CORP., AND JERRIN CHIU'S OPPOSITION TO MOTION TO VACATE OR MODIFY ARBITRATION AWARD AND COUNTERMOTION TO RECOGNIZE WU AS THE PROCURING CAUSE, FOR SUMMARY JUDGMENT AND FOR ATTORNEY FEES

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Contract

COURT MINUTES

October 17, 2018

A-16-744109-C Betty Chan, Plaintiff(s)
vs.
Wayne Wu, Defendant(s)

October 17, 2018 10:30 AM Motion

HEARD BY: Johnson, Eric **COURTROOM:** RJC Courtroom 12A

COURT CLERK: Linda Skinner

RECORDER: Angie Calvillo

REPORTER:

PARTIES

PRESENT: Cristalli, Michael Attorney
Olsen, Michael A. Attorney

JOURNAL ENTRIES

- Upon Court's inquiry, Mr. Cristalli advised he needs a continuance pursuant to the Motion. Objections by Mr. Olsen. Following colloquy, COURT ORDERED, Motion DENIED and ORDERED the following briefing schedule:

Mr. Cristalli to file his response by 10/24;

Mr. Olsen to file reply by 10/26.

Further, future date of 10/31 STANDS.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Contract

COURT MINUTES

October 31, 2018

A-16-744109-C Betty Chan, Plaintiff(s)
vs.
Wayne Wu, Defendant(s)

**October 31, 2018 10:30 AM Opposition and
Counter motion**

HEARD BY: Johnson, Eric

COURTROOM: RJC Courtroom 12A

COURT CLERK: Linda Skinner

RECORDER: Angie Calvillo

REPORTER:

PARTIES

PRESENT: Marshall, Janiece S Attorney
Olsen, Michael A. Attorney

JOURNAL ENTRIES

- Court advised it was not inclined to modify the Arbitration Order. Arguments by Ms. Marshall and Mr. Olsen in support of their respective positions. Following lengthy arguments, COURT ORDERED, Motion for Summary Judgment is GRANTED, however, the request for Attorney Fees is UNDER ADVISEMENT. Mr. Olsen to prepare the Order.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Contract**COURT MINUTES****November 30, 2018**

A-16-744109-C Betty Chan, Plaintiff(s)
vs.
Wayne Wu, Defendant(s)

November 30, 2018 11:30 AM Minute Order

HEARD BY: Johnson, Eric**COURTROOM:** RJC Courtroom 12A**COURT CLERK:** Linda Skinner**RECORDER:****REPORTER:****PARTIES****PRESENT:**

JOURNAL ENTRIES

- Plaintiffs' Motion to Vacate or Modify Arbitration Award was filed on July, 18, 2018. Defendants' Opposition and Countermotion to Recognize Wu as the Procuring Cause, for Summary Judgment, and for Attorney's Fees was filed on August 6, 2018. Both matters came on for a hearing before Department XX of the Eighth Judicial District Court, the Honorable Eric Johnson presiding, on August 22, 2018. At that time, Plaintiffs' Motion to Vacate or Modify Arbitration Award was DENIED and Defendant Wu was determined to be the procuring cause. Defendants' Countermotions for Summary Judgment and Attorney's Fees and Costs were continued to October 31, 2018.

Defendants' Countermotions for Summary Judgment and for Attorney's Fees came on for hearing on October 31, 2018. At that time, Defendants' Countermotion for Summary Judgment was GRANTED. The Countermotion for Attorney's Fees and Costs was taken UNDER ADVISEMENT.

After considering the pleadings and argument of counsel, the Court GRANTS Defendants' Motion for Attorney's Fees and Costs. The Court finds that the contractual provision contained in the Arbitration Agreement signed by both Plaintiff and Defendant provided that "In the event [a party does] not comply with the award and it is necessary for any party to obtain judicial confirmation and enforcement of the award against me, [the party] agree[s] to pay that party costs and reasonable attorney's fees incurred in obtaining such confirmation and enforcement." The Court further finds

that provision was reasonable and enforceable.

As costs were never challenged, the Court hereby ORDERS costs in the amount of \$920.83 pursuant to Defendants' Memorandum of Costs and Disbursements.

The Court hereby ORDERS attorney's fees in the amount of \$21,435.00. The Court finds this amount is reasonable and actually incurred by Defendants in enforcing the arbitration award. The Court is awarding attorney fees after the entry of the arbitration award and Plaintiffs' filing of motion to vacate award, starting on July 25, 2018, 2018. The Court declines to award fees requested on the invoices dated December 31, 2016, January 31, 2017, and February 28, 2017, as the redactions made to Plaintiffs' counsel's billing records prevent the Court from determining if those fees were reasonable and necessary. The Court has reviewed the remaining fees and finds they were reasonable and appropriate for litigating the matter and in keeping with attorney fees for such work in Southern Nevada. The Court further finds that the Brunzell factors have been met for the reasons stated in Defendant's motion for attorney fees and exhibits.

Counsel for Defendants is directed to prepare a proposed order including finding of facts and conclusions of law, in particular outlining the Brunzell factors and supporting facts included in their motion, and to circulate it to opposing counsel for approval as to form and content before submitting it to chambers for signature.

Law Clerk to notify the parties.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Contract

COURT MINUTES

February 11, 2019

A-16-744109-C Betty Chan, Plaintiff(s)
vs.
Wayne Wu, Defendant(s)

February 11, 2019 8:30 AM Minute Order

HEARD BY: Johnson, Eric

COURTROOM: RJC Courtroom 12A

COURT CLERK: Linda Skinner

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- A Motion to Withdraw as Attorney of Record was filed by Michael V. Cristalli, Esq., & Janiece S. Marshall, Esq., of Gentile Cristalli Miller Armeni Savarese, counsel for the Plaintiff, on January 3, 2019. The matter was subsequently placed on the Calendar of Department XX on February 20, 2019. No opposition having been filed and good cause showing, pursuant to EDCR 2.20 and EDCR 2.23(c) the Court hereby GRANTS the Motion to Withdraw.

The Court hereby VACATES the February 20, 2019 hearing. Withdrawing Attorneys are to prepare a proposed order listing all future deadlines and hearings and submit to chambers for signature. Withdrawing attorneys are also ordered to inform Plaintiff of the withdrawal as well as any future hearing dates.

Law Clerk to notify the parties.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Contract

COURT MINUTES

April 01, 2019

A-16-744109-C Betty Chan, Plaintiff(s)
vs.
Wayne Wu, Defendant(s)

April 01, 2019 7:15 AM Minute Order

HEARD BY: Johnson, Eric **COURTROOM:** RJC Courtroom 12A

COURT CLERK: Linda Skinner

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- Plaintiffs Betty Chan and Asian American Realty & Property Management filed a Motion to Reconsider Order Granting Motion to Withdraw and Late-Filed Opposition to Motion to Withdraw on February 19, 2019. The matter was subsequently scheduled for hearing on April 3, 2019.

After considering the pleadings and argument of counsel, the Court DENIES Plaintiffs' Motion to Reconsider Order Granting Motion to Withdraw and Late-Filed Opposition to Motion to Withdraw. The Court finds that Plaintiffs have not provided "substantially different evidence" or demonstrated that the Court's decision was "clearly erroneous" as required for a motion for reconsideration. Further, the Court finds that there is nothing pending in this litigation. The Court has granted Summary Judgment in favor of Defendants and dealt with all claims pending in this litigation. Therefore, allowing counsel to withdraw at this time does not place Plaintiffs in a materially adverse position.

The Court further finds that counsel had good cause for withdrawing from this matter. The Court finds that there was a significant breakdown in both communication and in the attorney-client relationship such that the representation could not continue. Therefore, withdrawal was appropriate in this instance and the Court declines to reconsider its ruling.

The Court hereby VACATES the April 3, 2019 hearing. Janiece Marshall, Esq., is directed to prepare a proposed order and submit it to chambers for signature.

Law Clerk to notify the parties.

April 17, 2019

PRINT DATE: 04/25/2019 Page 15 of 15 Minutes Date: February 06, 2017

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; CASE APPEAL STATEMENT; DISTRICT COURT DOCKET ENTRIES; CIVIL COVER SHEET; ORDER GRANTING DEFENDANTS COUNTERMOTION FOR SUMMARY JUDGMENT AN ATTORNEY FEES AND COSTS; NOTICE OF ENTRY OF ORDER; DISTRICT COURT MINUTES

BETTY CHAN; ASIAN AMERICAN REALTY
& PROPERTY MANAGEMENT,

Plaintiff(s),

vs.

WAYNE WU; JUDITH SULLIVAN; NEVADA
REAL ESTATE CORP.; JERRIN CHIU; KB
HOMES SALES-NEVADA, INC.,

Defendant(s),

Case No: A-16-744109-C

Dept No: XX

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 25 day of April 2019.

Steven D. Grierson, Clerk of the Court



Amanda Hampton, Deputy Clerk

Notice to Purchaser: In the event this check is lost, misplaced or stolen, a sworn statement and 90-day waiting period will be required prior to replacement. This check should be negotiated within 90 days.

Void After 90 Days

91-170/1221

Date 04/22/19 01:22:16 PM

NAZ

PLAZA BRANCH

0008 0007086 0082

Pay



BANK OF AMERICA
TWO FIVE ZERO DOLLARS

****\$250.00****

****Two Hundred Fifty and 00/100 Dollars****

To The
Order Of SUPREME COURT

RE: A-16-44109-C

Remitter (Purchased By): BETTY CHAN

Bank of America, N.A.
PHOENIX, AZ

[Signature]
AUTHORIZED SIGNATURE

⑈0143613440⑈ ⑆122101706⑆ 457002931720⑈

THE ORIGINAL DOCUMENT HAS A REFLECTIVE WATERMARK ON THE BACK. HOLD AT AN ANGLE TO VIEW WHEN CHECKING THE ENDORSEMENTS.