

CLERK OF THE COURT
Alvin B. Linn

Electronically Filed
Apr 15 2020 12:50 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

Case Number: A-16-744109-C

- 1 2. The District Court's Order on Plaintiffs' Motion to Formally Resolve Motion for
2 Reconsideration and to Certify Judgment as Final (filed Mar. 10, 2020; notice of
3 entry served and filed Mar. 10, 2019); and
4 3. All prior court judgments, orders, rulings, and decisions which the District Court
5 has already entered in this action and as to which Plaintiffs are aggrieved parties
6 as of the date indicated below.
7

8 DATED: April 6, 2020.

9 Respectfully submitted,

10 **FRIZELL LAW FIRM**
11 400 N. Stephanie St., Suite 265
 Henderson, Nevada 89014

12 By: /s/ R. Duane Frizell
13 **R. DUANE FRIZELL, ESQ.**
14 Nevada Bar No. 9807
15 Attorney for Plaintiffs/
16 Counter-Defendants
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CERTIFICATE OF SERVICE

I certify that on April 6, 2020, I caused the foregoing ***PLAINTIFFS' AMENDED NOTICE OF APPEAL*** to be served upon the following parties:

MICHAEL A. OLSEN, ESQ.
Nevada State Bar No. 6076
THOMAS R. GROVER, ESQ.
Nevada State Bar No. 12387
KEITH D. ROTSONG, ESQ.
Nevada State Bar No. 14944
BLACKROCK LEGAL, LLC
10155 W. Twain Ave., Suite 100
Las Vegas, Nevada 89147
Attorneys for Defendants/Counterclaimants
Wayne Wu, Judith Sullivan, Nevada Real
Estate Corp., and Jerrin Chiu

JANICE M. MICHAELS, ESQ.
Nevada State Bar No. 6062
WOOD SMITH HENNING & BERMAN, LLP
2881 Business Park Court, Suite 200
Las Vegas, Nevada 89128
Attorney for Defendant
KB Home Sales-Nevada Inc.

By causing a full, true and correct copy thereof to be sent, together with any and all exhibits and other attachments, by the following indicated method(s):

by mailing in a sealed, first-class postage-prepaid envelope, addressed to the above listed individuals, and deposited with the United State Postal Service;

X by electronic service through the Eighth Judicial District e-file/e-serve service;

by hand delivery;

by faxing to the attorney at his/her last known fax number;

by electronic mail to the last known e-mail address of the attorney/the party.

/s/ R. Duane Frizell

R. DUANE FRIZELL, ESQ.

Nevada Bar No. 9807
Attorney for Plaintiffs/
Counter-Defendants

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 **A744109**
 Number:
 Supreme Court No.: **78666**

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

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, Jerrin	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, Jerrin
	Nevada Real Estate Corp	Olsen, Michael A. <i>Retained</i> 702-855-5658(W)
	Sullivan, Judith	Olsen, Michael A.

CASE SUMMARY

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Retained
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	

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Reply to Counterclaim

01/06/2017



Motion to Amend

Filed By: Counter Defendant Chan, Betty
Counterdefendant's Motion to Amend Reply to Counterclaim and to Strike Initial Reply to Counterclaim from the Record

01/10/2017



Stipulation

Filed by: Counter Defendant Chan, Betty
Stipulation to Continue Early Case Conference

01/10/2017



Notice of Non Opposition

Filed By: Counter Claimant Wu, Wayne
Notice of Non-Opposition to Counterdefendant's Motion to Amend Reply to Counterclaim and to Strike Initial Reply to Counterclaim From the Record

01/11/2017



Certificate of Service

Filed by: Counter Claimant Wu, Wayne
Certificate of Service

01/13/2017



Motion to Stay

Filed By: Counter Defendant Chan, Betty
Motion for Stay Pending Arbitration

01/23/2017



Motion to Withdraw As Counsel

Filed By: Counter Defendant Chan, Betty
Motion to Withdraw as Counsel of Record for Plaintiffs Betty Chan and Asian American Realty and Property Management

02/02/2017



Opposition

Filed By: Counter Claimant Wu, Wayne
Opposition to Motion to Stay Pending Arbitration and Countermotion to Dismiss with Prejudice or in the Alternative for Summary Judgment

02/03/2017



Initial Appearance Fee Disclosure

Filed By: Counter Claimant Wu, Wayne
Initial Appearance Fee Disclosure

02/06/2017



Certificate of Service

Filed by: Counter Claimant Wu, Wayne
Certificate of Service

02/07/2017



Supplemental

Filed by: Counter Claimant Wu, Wayne
Supplement to Opposition to Motion to Stay Pending Arbitration and Countermotion to Dismiss with Prejudice or in the Alternative for Summary Judgment

02/07/2017



Certificate of Service

Filed by: Counter Claimant Wu, Wayne
Certificate of Service

02/09/2017



Order

Filed By: Counter Defendant Chan, Betty
Order to Amend Reply to Counterclaim and to Strike Initial Reply to Counterclaim from the Record.





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

04/25/2019



Writ Electronically Issued

Writ of Execution

04/26/2019



Notice of Motion

Notice of Motion; Order Shortening Time; Stay of Execution














04/26/2019



Notice of Entry of Order

CASE SUMMARY

CASE NO. A-16-744109-C

	<p>Filed By: Counter Defendant Chan, Betty; Plaintiff Asian American Realty & Property Management <i>NOTICE OF ENTRY OF NOTICE OF MOTION; ORDER SHORTENING TIME; STAY OF EXECUTION</i></p>
04/26/2019	<p> Certificate of Service Filed by: Counter Claimant Wu, Wayne <i>Certificate of Service</i></p>
04/29/2019	<p> Opposition <i>Partial Opposition to Plaintiff's Motion to Stay Execution</i></p>
04/29/2019	<p> Notice <i>Notice of Production of Documents in camera</i></p>
05/01/2019	<p> Certificate of Service Filed by: Counter Claimant Wu, Wayne <i>Certificate of Service</i></p>
05/01/2019	<p> Transcript of Proceedings <i>Defendant's Motion For Writ of Execution, April 17, 2019</i></p>
05/01/2019	<p> Order Filed By: Counter Defendant Chan, Betty; Plaintiff Asian American Realty & Property Management <i>ORDER ON PLAINTIFFS MOTION TO STAY EXECUTION PENDING APPEAL</i></p>
05/01/2019	<p> Notice of Entry of Order Filed By: Counter Defendant Chan, Betty; Plaintiff Asian American Realty & Property Management <i>NOTICE OF ENTRY OF ORDER ON PLAINTIFFS MOTION TO STAY EXECUTION PENDING APPEAL</i></p>
05/03/2019	<p> Order <i>Order Denying Plaintiffs' Motion to Reconsider Order Granting Motion to Withdraw and Late-Filed Opposition to Motion to Withdraw</i></p>
05/03/2019	<p> Miscellaneous Filing Filed by: Counter Defendant Chan, Betty; Plaintiff Asian American Realty & Property Management <i>Transcript Request Statement</i></p>
05/06/2019	<p> Notice of Entry of Order <i>Notice of Entry of Order Denying Plaintiffs' Motion to Reconsider Order Granting Motion to Withdraw and Late-Filed Opposition to Motion to Withdraw</i></p>
05/07/2019	<p> Notice of Posting Filed By: Counter Defendant Chan, Betty; Plaintiff Asian American Realty & Property Management <i>PLAINTIFFS NOTICE OF POSTING SUPERSEDEAS BOND</i></p>
12/11/2019	<p> Notice of Hearing <i>Notice of Hearing</i></p>
01/07/2020	<p> Motion</p>

CASE SUMMARY

CASE NO. A-16-744109-C

Filed By: Counter Defendant Chan, Betty

Plaintiffs' Motion to Formally Resolve Motion for Reconsideration and to Certify Judgment as Final (on an Application for an Order Shortening Time)

01/08/2020



Clerk's Notice of Hearing

Notice of Hearing

01/10/2020



Order Shortening Time

Filed By: Counter Defendant Chan, Betty

Notice of Motion; Order Shortening Time

01/16/2020



Opposition and Countermotion

Filed By: Counter Claimant Wu, Wayne; Counter Claimant Sullivan, Judith; Counter Claimant Nevada Real Estate Corp; Counter Claimant Chiu, Jerrin; Defendant KB Home Sales-Nevada Inc

Opposition to Plaintiff's Motion to Formally Resolve Motion for Reconsideration and to Certify Judgment as Final (on an Application for an Order Shortening Time) and Countermotion for Summary Judgment on Abuse of Process Claim

01/16/2020



Certificate of Service

Filed by: Counter Claimant Wu, Wayne; Counter Claimant Sullivan, Judith; Counter Claimant Chiu, Jerrin

Certificate of Service

01/22/2020



Reply in Support

Filed By: Counter Defendant Chan, Betty

Plaintiffs Reply in Support of Their Motion to Formally Resolve Motion for Reconsideration and to Certify Judgment as Final and Opposition to Countermotion for Summary Judgment on Abuse of Process Claim

03/10/2020



Order

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

Order on Plaintiff's Motion to Formally Resolve Motion for Reconsideration and to Certify Judgment as Final and Countermotion for Summary Judgment on Abuse or Process Claim

03/10/2020



Notice of Entry of Order

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

NOTICE OF ENTRY OF ORDER ON PLAINTIFFS MOTION TO FORMALLY RESOLVE MOTION FOR RECONSIDERATION AND TO CERTIFY JUDGMENT AS FINAL AND COUNTERMOTION FOR SUMMARY JUDGMENT ON ABUSE OF PROCESS CLAIM

04/06/2020



Amended Notice of Appeal

Party: Counter Defendant Chan, Betty

Plaintiffs Amended Notice of Appeal

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)

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

CASE SUMMARY

CASE NO. A-16-744109-C

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

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







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

Status Check: New Counsel For Plaintiffs

05/01/2017

CASE SUMMARY

CASE NO. A-16-744109-C

	 Status Check (8:30 AM) (Judicial Officer: Leavitt, Michelle) <i>Status Check: New Counsel For Plaintiffs</i> Off Calendar; Journal Entry Details: <i>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. ;</i>
08/22/2018	Motion (8:30 AM) (Judicial Officer: Johnson, Eric) <i>Plaintiffs' Motion to Vacate or Modify Arbitration Award</i> Denied;
08/22/2018	 Opposition and Countermotion (8:30 AM) (Judicial Officer: Johnson, Eric) 08/22/2018, 10/31/2018 <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</i> Matter Continued; Decision Made; Journal Entry Details: <i>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.;</i> Matter Continued; Decision Made;
08/22/2018	Response and Countermotion (8:30 AM) (Judicial Officer: Johnson, Eric) <i>Plaintiffs' Reply in Support of Motion to Vacate or Modify Arbitration Award and Opposition / Motion to Strike Improper Countermotion</i> 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;
10/17/2018	 Motion (10:30 AM) (Judicial Officer: Johnson, Eric) <i>Plaintiffs' Motion to Extend Briefing on Order Shortening Time and Continue Hearing Date</i> Denied;

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

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

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;


CASE SUMMARY

CASE NO. A-16-744109-C

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.;

05/01/2019 **Motion to Stay** (8:30 AM) (Judicial Officer: Johnson, Eric)
Motion to Stay Execution on OST
 Granted;

05/01/2019 **Opposition and Countermotion** (8:30 AM) (Judicial Officer: Johnson, Eric)
Partial Opposition to Plaintiff's Motion to Stay Execution Pending Appeal (On an Ex Parte Application for an Order Shortening Time) and Demand for Supersedeas Bond and Countermotion to Amend Order
 Granted in Part;


05/01/2019  **All Pending Motions** (8:30 AM) (Judicial Officer: Johnson, Eric)
 Matter Heard;
 Journal Entry Details:
MOTION TO STAY EXECUTION ON OST...PARTIAL OPPOSITION TO PLAINTIFF'S MOTION TO STAY EXECUTION PENDING APPEAL (ON AN EX PARTE APPLICATION FOR AN ORDER SHORTENING TIME) AND DEMAND FOR SUPERSEDEAS BOND AND COUNTERMOTION TO AMEND ORDER Statements by Mr. Frizell and Mr. Olsen in support of their respective positions. Colloquy as to the posting of a bond. Mr. Olsen argued for 3x's the amount of the Judgment. Opposition by Mr. Frizell. Court noted it is inclined to grant 1 1/2x's the Judgment. Following additional colloquy, Court directed the bond be posted by 5/10. Further, Motion to Stay Execution is GRANTED and Partial Opposition to Plaintiff's Motion is GRANTED-IN-PART. Mr. Frizell provided an Order with the approval of Mr. Olsen that was SIGNED IN OPEN COURT.;

01/22/2020 **Motion** (8:30 AM) (Judicial Officer: Johnson, Eric)

EIGHTH JUDICIAL DISTRICT COURT

CASE SUMMARY

CASE NO. A-16-744109-C

	<i>Plaintiffs' Motion to Formally Resolve Motion for Reconsideration and to Certify Judgment as Final (on an Application for an Order Shortening Time)</i> Denied;
01/22/2020	Opposition and Countermotion (8:30 AM) (Judicial Officer: Johnson, Eric) <i>Opposition to Plaintiff's Motion to Formally Resolve Motion for Reconsideration and to Certify Judgment as Final (on an Application for an Order Shortening Time) and Countermotion for Summary Judgment on Abuse of Process Claim</i> Granted in Part;
01/22/2020	 All Pending Motions (8:30 AM) (Judicial Officer: Johnson, Eric) Matter Heard; Journal Entry Details: <i>PLAINTIFFS' MOTION TO FORMALLY RESOLVE MOTION FOR RECONSIDERATION AND TO CERTIFY JUDGMENT AS FINAL (ON AN APPLICATION FOR AN ORDER SHORTENING TIME)...OPPOSITION TO PLAINTIFF'S MOTION TO FORMALLY RESOLVE MOTION FOR RECONSIDERATION AND TO CERTIFY JUDGMENT AS FINAL (ON AN APPLICATION FOR AN ORDER SHORTENING TIME) AND COUNTERMOTION FOR SUMMARY JUDGMENT ON ABUSE OF PROCESS CLAIM Conference at the Bench. Court advised it does not believe it has jurisdiction as this case is on appeal. Arguments by Mr. Frizell and Mr. Olsen in support of their respective positions. Following, COURT ORDERED, Plaintiff's Motion is DENIED and Defendant's Motion is GRANTED IN PART/ DENIED IN PART. Mr. Frizell to prepare the Order.;</i>
06/17/2020	Status Check (8:30 AM) (Judicial Officer: Johnson, Eric) <i>Status Check: Appeal</i>

DATE

FINANCIAL INFORMATION

Counter Claimant Chiu, Jerrin	
Total Charges	30.00
Total Payments and Credits	30.00
Balance Due as of 4/8/2020	0.00
Counter Claimant Nevada Real Estate Corp	
Total Charges	30.00
Total Payments and Credits	30.00
Balance Due as of 4/8/2020	0.00
Counter Claimant Sullivan, Judith	
Total Charges	30.00
Total Payments and Credits	30.00
Balance Due as of 4/8/2020	0.00
Counter Claimant Wu, Wayne	
Total Charges	833.00
Total Payments and Credits	633.00
Balance Due as of 4/8/2020	200.00
Plaintiff Asian American Realty & Property Management	
Total Charges	30.00
Total Payments and Credits	30.00
Balance Due as of 4/8/2020	0.00
Counter Defendant Chan, Betty	
Total Charges	350.00
Total Payments and Credits	350.00
Balance Due as of 4/8/2020	0.00
Plaintiff Asian American Realty & Property Management	
Supersedeas Bond Balance as of 4/8/2020	33,533.75
Counter Defendant Chan, Betty	
Appeal Bond Balance as of 4/8/2020	500.00

CASE SUMMARY

CASE NO. A-16-744109-C

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):

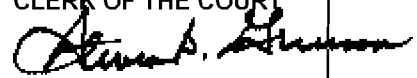
II. Nature of Controversy (Please select the one most applicable filing type below)**Civil Case Filing Types**

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

R. DUANE FRIZELL, ESQ.

Nevada Bar No. 9807

FRIZELL LAW FIRM

400 N. Stephanie St., Suite 265

Henderson, Nevada 89014

Office (702) 657-6000

Facsimile (702) 657-0065

dfrizell@frizelllaw.com

Attorney for Plaintiffs/

Counter-Defendants

**EIGHTH JUDICIAL DISTRICT COURT
CLARK COUNTY, NEVADA**

BETTY CHAN and ASIAN
AMERICAN REALTY &
PROPERTY MANAGEMENT,

Plaintiffs,

vs.

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

Defendants.

§ CASE NO: A-16-744109-C

DEPT NO: 20

Hearing Date: 1/22/2020

Hearing Time: 8:30 a.m.

And All Related Claims

**ORDER ON PLAINTIFFS' MOTION TO FORMALLY RESOLVE MOTION FOR
RECONSIDERATION AND TO CERTIFY JUDGMENT AS FINAL
—AND—
COUNTERMOTION FOR SUMMARY JUDGMENT
ON ABUSE OF PROCESS CLAIM**

On January 22, 2020, the Court heard Plaintiffs' Motion to Formally Resolve Motion for Reconsideration and to Certify Judgment as Final (filed Jan. 7, 2020) [the "Motion to Resolve"] and Defendants' Countermotion for Summary Judgment on Abuse of Process Claim (filed Jan. 16, 2020) [the "Countermotion"]. Having reviewed the Motion to Resolve, the Countermotion, and the other pleadings and papers on file in this action, and having considered the arguments of counsel at the hearing, the Court finds just, good, and sufficient cause for GRANTING in part and DENYING in part the Motion to Resolve and for DENYING in all respects the

1 Countermotion. In this connection, the Court hereby enters the following Findings, Conclusions,
2 and Order:

3 **FINDINGS OF FACT**

4 The Court hereby makes the following FINDINGS OF FACT:

5 1. On March 22, 2019, the Court ruled upon a separate countermotion and entered
6 its Order Granting Defendants Countermotion for Summary Judgment and Attorney Fees and
7 Costs ("MSJ Order").

8 2. On April 1, 2019, Plaintiffs, who were representing themselves *pro se* at the time,
9 filed their Motion to Vacate Entry of Order or Motion for Extension of Time to File
10 Reconsideration to the Entry of Order Granting Defendants Counter Motion for Summary
11 Judgment and Attorney Fees and Costs ("Motion for Reconsideration").

12 3. In their Motion for Reconsideration, Plaintiffs sought only an extension of time to
13 find a new attorney who could review this Court's MSJ Order and then file an actual motion for
14 reconsideration on the merits. Plaintiffs requested two alternative means to achieve this end: (1)
15 vacate the Summary Judgment Order for one month or (2) extend the time to file a motion for
16 reconsideration on the merits. (Id.). Here are Plaintiffs' exact words:

17 ... Plaintiff Betty Chan and Asian American Realty and Property Management
18 respectfully requests this Court to vacate the entry of order so Plaintiff can have a month
19 to locate an attorney to review before the entry of order as originally ordered by the
20 Court. Or in the alternative Plaintiff is requesting the Court to grant a reconsideration of
21 the Order and allow extension of reconsideration time ... so that [Plaintiffs'] can locate a
22 replacement attorney and put this reconsideration on hold until then if the request is
23 granted.

24 4. The Court never ruled on the Motion for Reconsideration.

25 5. In the MSJ Order, this Court ruled "[t]hat the September 18, 2018 Order is
26 affirmed wherein Wu was determined the procuring cause and the Arbitration Award was
27 confirmed."

6. On April 22, 2019, Plaintiffs, who were still representing themselves *pro se*, filed their Notice of Appeal in this action.

7. When Plaintiffs filed their appeal, the counterclaim for abuse of process of Defendants Wayne Wu, Judith Sullivan, Nevada Real Estate Corp. and Jerrin Chiu (collectively “Defendants”) was still pending and had not yet been adjudicated.

8. On November 14, 2019, in the appeal, the Supreme Court issued an Order to Show Cause (“OSC”) as to why the appeal should not be dismissed because of the pending Motion for Reconsideration, which this Court had not “formally resolved.”

9. In the OSC, the Supreme Court stated that all that is required to cure the potential jurisdictional defect is “a written, file-stamped order resolving” the Motion for Reconsideration.

10. To the extent the foregoing Findings of Fact may be characterized as Conclusions of Law, they are hereby deemed to be such Conclusions.

CONCLUSIONS OF LAW

The Court hereby makes the following CONCLUSIONS OF LAW:

A. As explained in the Supreme Court’s OSC, the appeal may have been prematurely taken because of the Motion for Reconsideration, which Plaintiffs filed when they were representing themselves *pro se*. This Court may resolve issues relating to any such prematurity.

A premature notice of appeal does not divest the district court of jurisdiction.... If ... a written order or judgment, or a written disposition of the last-remaining timely motion listed in Rule 4(a)(4), is entered before dismissal of the premature appeal, the notice of appeal shall be considered filed on the date of and after entry of the order, judgment or written disposition of the last-remaining timely motion.

NRAP 4(a)(6). Thus, this Court may resolve the issue of appealability.

B. The Court concludes that it has jurisdiction and may rule upon the Motion for Reconsideration, and to that extent, Plaintiffs' Motion to Resolve should be GRANTED.

C. The Court concludes that, in substance and form, Plaintiffs' Motion for Reconsideration lacks merit, presents no new facts or law, and is therefore DENIED.

1 D. Because an appeal has been taken, the Court concludes that it does not have
2 jurisdiction to adjudicate Defendants' counterclaim for abuse of process. *See Foster v. Dingwall*,
3 126 Nev. 49, 52, 228 P.3d 453, 454-455 (2010) ("This court has repeatedly held that the timely
4 filing of a notice of appeal "divests the district court of jurisdiction to act and vests jurisdiction
5 in this court.""). Accordingly, Defendants' Countermotion should be DENIED.

6 E. Because the Court may not adjudicate Defendants' counterclaim for abuse of
7 process, it also concludes that it may not certify the MSJ Order as being final as to all of
8 Plaintiffs' and Defendants' claims and counterclaims under NRCP 54(b). *See Foster*, 126 Nev.
9 at 52, 228 P.3d at 454-455. Therefore, to the extent that Plaintiffs' Motion seeks to have this
10 Court so certify the MSJ Order, such Motion should be DENIED.

11 F. To the extent the foregoing Conclusions of Law may be characterized as Findings
12 of Fact, they are hereby deemed to be such Findings.
13

14 **ORDER**

15 IT IS THEREFORE ORDERED as follows:

16 i. Plaintiffs' Motion to Formally Resolve Motion for Reconsideration and to Certify
17 Judgment as Final (filed Jan. 7, 2020) ["Motion to Resolve"] is hereby GRANTED in part and
18 DENIED in part, as follows:
19

20 a. Plaintiffs' Motion to Resolve is GRANTED to the extent that it requests
21 this Court to rule upon Plaintiff's previous Motion to Vacate Entry of
22 Order or Motion for Extension of Time to File Reconsideration to the
23 Entry of Order Granting Defendants Counter Motion for Summary
24 Judgment and Attorney Fees and Costs (filed Apr. 1, 2019) ["Motion for
25 Reconsideration"]; and
26

27 b. in all other respects, Plaintiff's Motion to Resolve is DENIED.

28 ii. Plaintiffs' Motion for Reconsideration is in all respects hereby DENIED.

1 iii. Defendants' Countermotion for Summary Judgment on Abuse of Process Claim
2 (filed Jan. 16, 2020) [the "Countermotion"] is in all respects hereby DENIED.

3 IT IS SO ORDERED.

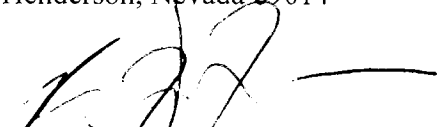
4 Date: 2-14, 2020

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8 DISTRICT COURT JUDGE
Case No. A-16-744109-C

9 ERIC JOHNSON

10 *Submitted by:*

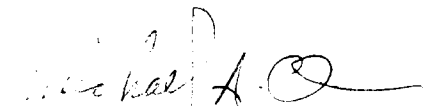
11 **FRIZELL LAW FIRM**
12 400 N. Stephanie St., Suite 265
Henderson, Nevada 89014

13
14 By: 
15 **R. DUANE FRIZELL, ESQ.**
Nevada Bar. No 9807
16 Attorney for Plaintiffs

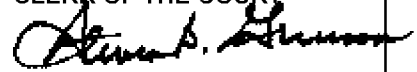
17 Date: 2-10-2020

18 *Approved:*

19 **BLACKROCK LEGAL, LLC**
10155 W. Twain Ave., Suite 100
Las Vegas, NV 89147

20
21 By: 
22 **MICHAEL A. OLSEN, ESQ.**
Nevada Bar No. 6076
23 Attorney for Plaintiffs

24 Date: 2/7/20



NEOJ
R. DUANE FRIZELL, ESQ.
Nevada Bar No. 9807
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Facsimile (702) 657-0065
dfrizell@frizelllaw.com
*Attorney for Plaintiffs/
Counter-Defendants*

**EIGHTH JUDICIAL DISTRICT COURT
CLARK COUNTY, NEVADA**

BETTY CHAN and ASIAN
AMERICAN REALTY &
PROPERTY MANAGEMENT,

Plaintiffs,

vs.

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

Defendants.

§ CASE NO: A-16-744109-C
§
§ DEPT NO: 20
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**NOTICE OF ENTRY OF ORDER ON PLAINTIFFS' MOTION TO FORMALLY
RESOLVE MOTION FOR RECONSIDERATION AND TO CERTIFY JUDGMENT AS
FINAL
—AND—
COUNTERMOTION FOR SUMMARY JUDGMENT
ON ABUSE OF PROCESS CLAIM**

PLEASE TAKE NOTICE that on the 10th day of March 2020, an ORDER ON
PLAINTIFFS' MOTION TO FORMALLY RESOLVE MOTION FOR RECONSIDERATION
AND TO CERTIFY JUDGMENT AS FINAL —AND— COUNTERMOTION FOR SUMMARY
JUDGMENT ON ABUSE OF PROCESS CLAIM was entered in the above-captioned matter. A

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///

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///

1 true and correct copy of same is attached hereto.
2

3 DATED this March 10, 2020.

4 **FRIZELL LAW FIRM**
5 400 N. Stephanie St., Suite 265
6 Henderson, Nevada 89014
7 Telephone: (702) 657-6000

8 By: /s/ R. Duane Frizell
9 R. DUANE FRIZELL, ESQ.
10 Nevada Bar No. 9807
11 *Attorneys for Plaintiffs/*
12 *Counter-Defendants*
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CERTIFICATE OF SERVICE

I hereby certify that I am a citizen of the United States and am employed in Clark County, Nevada, where this service occurs. I am over the age of eighteen years and not a party to the within entitled action; my business address is 400 N. Stephanie St., Suite 265, Henderson, Nevada 89014.

On March 10, 2020, I served the foregoing ***NOTICE OF ENTRY OF ORDER ON PLAINTIFFS' MOTION TO FORMALLY RESOLVE MOTION FOR RECONSIDERATION AND TO CERTIFY JUDGMENT AS FINAL —AND— COUNTERMOTION FOR SUMMARY JUDGMENT ON ABUSE OF PROCESS CLAIM*** on interested party(ies) in this action, as follows:

MICHAEL A. OLSEN, ESQ.
Nevada State Bar No. 6076
THOMAS R. GROVER, ESQ.
Nevada State Bar No. 12387
KEITH D. ROTSONG, ESQ.
Nevada State Bar No. 14944
BLACKROCK LEGAL, LLC
10155 W. Twain Ave., Suite 100
Las Vegas, Nevada 89147
Attorneys for Defendants/Counterclaimants
Wayne Wu, Judith Sullivan, Nevada Real
Estate Corp., and Jerrin Chiu

JANICE M. MICHAELS, ESQ.
Nevada State Bar No. 6062
WOOD SMITH HENNING & BERMAN, LLP
2881 Business Park Court, Suite 200
Las Vegas, Nevada 89128
Attorney for Defendant
KB Home Sales-Nevada Inc.

By causing a full, true and correct copy thereof to be sent, together with any and all exhibits and other attachments, by the following indicated method(s):

by mailing in a sealed, first-class postage-prepaid envelope, addressed to the above listed individuals, and deposited with the United State Postal Service;

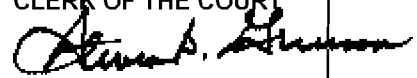
X by electronic service through the Eighth Judicial District e-file/e-serve service;

by hand delivery;

by faxing to the attorney at his/her last known fax number;

by electronic mail to the last known e-mail address of the attorney/the party.

/s/ Aiqin Niu
Aiqin Niu, an employee of
Frizell Law Firm, PLLC



ORDR

R. DUANE FRIZELL, ESQ.

Nevada Bar No. 9807

FRIZELL LAW FIRM

400 N. Stephanie St., Suite 265

Henderson, Nevada 89014

Office (702) 657-6000

Facsimile (702) 657-0065

dfrizell@frizelllaw.com

Attorney for Plaintiffs/

Counter-Defendants

**EIGHTH JUDICIAL DISTRICT COURT
CLARK COUNTY, NEVADA**

BETTY CHAN and ASIAN
AMERICAN REALTY &
PROPERTY MANAGEMENT,

Plaintiffs,

vs.

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

Defendants.

§ CASE NO: A-16-744109-C

DEPT NO: 20

Hearing Date: 1/22/2020

Hearing Time: 8:30 a.m.

And All Related Claims

**ORDER ON PLAINTIFFS' MOTION TO FORMALLY RESOLVE MOTION FOR
RECONSIDERATION AND TO CERTIFY JUDGMENT AS FINAL**

—AND—

**COUNTERMOTION FOR SUMMARY JUDGMENT
ON ABUSE OF PROCESS CLAIM**

On January 22, 2020, the Court heard Plaintiffs' Motion to Formally Resolve Motion for Reconsideration and to Certify Judgment as Final (filed Jan. 7, 2020) [the "Motion to Resolve"] and Defendants' Countermotion for Summary Judgment on Abuse of Process Claim (filed Jan. 16, 2020) [the "Countermotion"]. Having reviewed the Motion to Resolve, the Countermotion, and the other pleadings and papers on file in this action, and having considered the arguments of counsel at the hearing, the Court finds just, good, and sufficient cause for GRANTING in part and DENYING in part the Motion to Resolve and for DENYING in all respects the

1 Countermotion. In this connection, the Court hereby enters the following Findings, Conclusions,
2 and Order:

3 **FINDINGS OF FACT**

4 The Court hereby makes the following FINDINGS OF FACT:

5 1. On March 22, 2019, the Court ruled upon a separate countermotion and entered
6 its Order Granting Defendants Countermotion for Summary Judgment and Attorney Fees and
7 Costs ("MSJ Order").

8 2. On April 1, 2019, Plaintiffs, who were representing themselves *pro se* at the time,
9 filed their Motion to Vacate Entry of Order or Motion for Extension of Time to File
10 Reconsideration to the Entry of Order Granting Defendants Counter Motion for Summary
11 Judgment and Attorney Fees and Costs ("Motion for Reconsideration").

12 3. In their Motion for Reconsideration, Plaintiffs sought only an extension of time to
13 find a new attorney who could review this Court's MSJ Order and then file an actual motion for
14 reconsideration on the merits. Plaintiffs requested two alternative means to achieve this end: (1)
15 vacate the Summary Judgment Order for one month or (2) extend the time to file a motion for
16 reconsideration on the merits. (Id.). Here are Plaintiffs' exact words:

17 ... Plaintiff Betty Chan and Asian American Realty and Property Management
18 respectfully requests this Court to vacate the entry of order so Plaintiff can have a month
19 to locate an attorney to review before the entry of order as originally ordered by the
20 Court. Or in the alternative Plaintiff is requesting the Court to grant a reconsideration of
21 the Order and allow extension of reconsideration time ... so that [Plaintiffs'] can locate a
22 replacement attorney and put this reconsideration on hold until then if the request is
23 granted.

24 4. The Court never ruled on the Motion for Reconsideration.

25 5. In the MSJ Order, this Court ruled "[t]hat the September 18, 2018 Order is
26 affirmed wherein Wu was determined the procuring cause and the Arbitration Award was
27 confirmed."

6. On April 22, 2019, Plaintiffs, who were still representing themselves *pro se*, filed their Notice of Appeal in this action.

7. When Plaintiffs filed their appeal, the counterclaim for abuse of process of Defendants Wayne Wu, Judith Sullivan, Nevada Real Estate Corp. and Jerrin Chiu (collectively “Defendants”) was still pending and had not yet been adjudicated.

8. On November 14, 2019, in the appeal, the Supreme Court issued an Order to Show Cause (“OSC”) as to why the appeal should not be dismissed because of the pending Motion for Reconsideration, which this Court had not “formally resolved.”

9. In the OSC, the Supreme Court stated that all that is required to cure the potential jurisdictional defect is “a written, file-stamped order resolving” the Motion for Reconsideration.

10. To the extent the foregoing Findings of Fact may be characterized as Conclusions of Law, they are hereby deemed to be such Conclusions.

CONCLUSIONS OF LAW

The Court hereby makes the following CONCLUSIONS OF LAW:

A. As explained in the Supreme Court’s OSC, the appeal may have been prematurely taken because of the Motion for Reconsideration, which Plaintiffs filed when they were representing themselves *pro se*. This Court may resolve issues relating to any such prematurity.

A premature notice of appeal does not divest the district court of jurisdiction.... If ... a written order or judgment, or a written disposition of the last-remaining timely motion listed in Rule 4(a)(4), is entered before dismissal of the premature appeal, the notice of appeal shall be considered filed on the date of and after entry of the order, judgment or written disposition of the last-remaining timely motion.

NRAP 4(a)(6). Thus, this Court may resolve the issue of appealability.

B. The Court concludes that it has jurisdiction and may rule upon the Motion for Reconsideration, and to that extent, Plaintiffs' Motion to Resolve should be GRANTED.

C. The Court concludes that, in substance and form, Plaintiffs' Motion for Reconsideration lacks merit, presents no new facts or law, and is therefore DENIED.

1 D. Because an appeal has been taken, the Court concludes that it does not have
2 jurisdiction to adjudicate Defendants' counterclaim for abuse of process. *See Foster v. Dingwall*,
3 126 Nev. 49, 52, 228 P.3d 453, 454-455 (2010) ("This court has repeatedly held that the timely
4 filing of a notice of appeal "divests the district court of jurisdiction to act and vests jurisdiction
5 in this court.""). Accordingly, Defendants' Countermotion should be DENIED.

6 E. Because the Court may not adjudicate Defendants' counterclaim for abuse of
7 process, it also concludes that it may not certify the MSJ Order as being final as to all of
8 Plaintiffs' and Defendants' claims and counterclaims under NRCP 54(b). *See Foster*, 126 Nev.
9 at 52, 228 P.3d at 454-455. Therefore, to the extent that Plaintiffs' Motion seeks to have this
10 Court so certify the MSJ Order, such Motion should be DENIED.

11 F. To the extent the foregoing Conclusions of Law may be characterized as Findings
12 of Fact, they are hereby deemed to be such Findings.
13

14 ORDER

15 IT IS THEREFORE ORDERED as follows:

16 i. Plaintiffs' Motion to Formally Resolve Motion for Reconsideration and to Certify
17 Judgment as Final (filed Jan. 7, 2020) ["Motion to Resolve"] is hereby GRANTED in part and
18 DENIED in part, as follows:
19

20 a. Plaintiffs' Motion to Resolve is GRANTED to the extent that it requests
21 this Court to rule upon Plaintiff's previous Motion to Vacate Entry of
22 Order or Motion for Extension of Time to File Reconsideration to the
23 Entry of Order Granting Defendants Counter Motion for Summary
24 Judgment and Attorney Fees and Costs (filed Apr. 1, 2019) ["Motion for
25 Reconsideration"]; and
26

27 b. in all other respects, Plaintiff's Motion to Resolve is DENIED.

28 ii. Plaintiffs' Motion for Reconsideration is in all respects hereby DENIED.

1 iii. Defendants' Countermotion for Summary Judgment on Abuse of Process Claim
2 (filed Jan. 16, 2020) [the "Countermotion"] is in all respects hereby DENIED.

3 IT IS SO ORDERED.

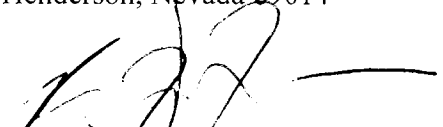
4 Date: 2-14, 2020

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7
8 DISTRICT COURT JUDGE
Case No. A-16-744109-C

9 ERIC JOHNSON

10 *Submitted by:*

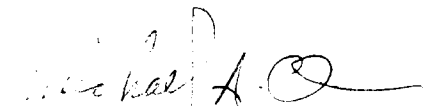
11 **FRIZELL LAW FIRM**
12 400 N. Stephanie St., Suite 265
Henderson, Nevada 89014

13
14 By: 
15 **R. DUANE FRIZELL, ESQ.**
Nevada Bar. No 9807
Attorney for Plaintiffs

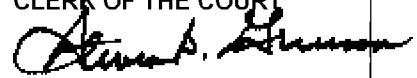
16 Date: 2-10-2020

17 *Approved:*

18 **BLACKROCK LEGAL, LLC**
19 10155 W. Twain Ave., Suite 100
Las Vegas, NV 89147

20
21 By: 
22 **MICHAEL A. OLSEN, ESQ.**
Nevada Bar No. 6076
Attorney for Plaintiffs

23 Date: 2/7/20



ORDR

MICHAEL A. OLSEN, ESQ.

Nevada Bar No: 6076

THOMAS R. GROVER, ESQ.

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mike@blackrocklawyers.com

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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 20 16. **Brunzell Factor #4:** "the result: whether the attorney was successful and what
21 benefits were derived". Defendants were ultimately successful in upholding and enforcing the
22 Arbitration Award, recognizing Wu as the procuring cause and thereby securing summary
23 judgment in favor of the Defendants.
24

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

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

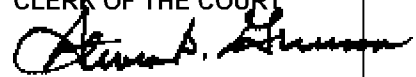
5 c. That the *Motion for Attorney's Fees and Costs* is GRANTED and that Attorney's
6 fees in the amount of \$21,435.00 and Costs in the amount of \$920.83 are hereby awarded
7 to Defendants.
8

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
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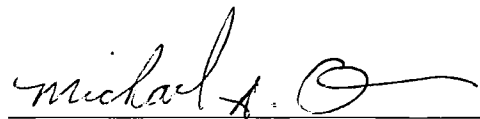
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12
13 **DISTRICT COURT**
14 **CLARK COUNTY, NEVADA**

15 BETTY CHAN and ASIAN AMERICAN) Case No: A-16-744109-C
16 REALTY & PROPERTY MANAGEMENT,)
17) Dept. No: XX
18 Plaintiffs/Counterdefendants,)
19 v.)
20)
21 WAYNE WU, JUDITH SULLIVAN,)
22 NEVADA REAL ESTATE CORP., JERRIN)
23 CHIU, KB HOME SALES – NEVADA INC.,)
24)
25 Defendants/Counterclaimants.)

26 **NOTICE OF ENTRY OF ORDER**

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

31 DATED this 22nd day of March, 2019.

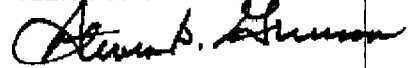


32 MICHAEL A. OLSEN, ESQ.
33 Nevada Bar No. 6076
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35 Nevada Bar No. 12387
36 **BLACKROCK LEGAL, LLC**
37 10155 W. Twain Ave., Suite 100
38 Las Vegas, NV 89147



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EXHIBIT “1”



ORDR

MICHAEL A. OLSEN, ESQ.

Nevada Bar No: 6076

THOMAS R. GROVER, ESQ.

Nevada Bar No. 12387

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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

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) Dept. No: XX

)

) **ORDER GRANTING**

)

) **DEFENDANTS**

)

) **COUNTERMOTION FOR**

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) **SUMMARY JUDGMENT AND**

)

) **ATTORNEY FEES AND COSTS**

)

)

APPEARANCES

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Judith Sullivan, Nevada Real Estate Corp., and Jerrin Chiu,
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- Janiece S. Marshall, Esq. of Gentile Cristalli Miller Armeni Savarese on behalf of
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1 This matter came on for hearing on October 31, 2018 before the Honorable Eric Johnson
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4 *Cause, for Summary Judgment, and for Attorney Fees*. The Court having read and considered the
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8

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

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22 (hereafter “Motion to Vacate”), and Defendants *Opposition to Motion to Vacate or Modify*
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26 3. During the August 22, 2018 hearing, this Court denied Plaintiffs Motion to Vacate
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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,
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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
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3 not entitled to build a case on the gossamer threads of whimsy, speculation and conjecture." *Id.*

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5 7. The Arbitration Panel's award resolved all disputes the plaintiffs had against these
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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
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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
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12

13
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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 of ^{MARCH}~~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: 04/08/2020 Page 15 of 17 Minutes Date: February 06, 2017

May 01, 2019

Minutes Date: February 06, 2017

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Contract

COURT MINUTES

January 22, 2020

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

January 22, 2020 8:30 AM All Pending Motions

HEARD BY: Johnson, Eric

COURTROOM: RJC Courtroom 12A

COURT CLERK: Linda Skinner

RECORDER: Angie Calvillo

REPORTER:

PARTIES

PRESENT: Frizell, R Duane Attorney
 Olsen, Michael A. Attorney

JOURNAL ENTRIES

- PLAINTIFFS' MOTION TO FORMALLY RESOLVE MOTION FOR RECONSIDERATION AND TO CERTIFY JUDGMENT AS FINAL (ON AN APPLICATION FOR AN ORDER SHORTENING TIME)...OPPOSITION TO PLAINTIFF'S MOTION TO FORMALLY RESOLVE MOTION FOR RECONSIDERATION AND TO CERTIFY JUDGMENT AS FINAL (ON AN APPLICATION FOR AN ORDER SHORTENING TIME) AND COUNTERMOTION FOR SUMMARY JUDGMENT ON ABUSE OF PROCESS CLAIM

Conference at the Bench. Court advised it does not believe it has jurisdiction as this case is on appeal. Arguments by Mr. Frizell and Mr. Olsen in support of their respective positions. Following, COURT ORDERED, Plaintiff's Motion is DENIED and Defendant's Motion is GRANTED IN PART/ DENIED IN PART. Mr. Frizell to prepare the Order.

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):

PLAINTIFFS' AMENDED NOTICE OF APPEAL; DISTRICT COURT DOCKET ENTRIES; CIVIL COVER SHEET; ORDER GRANTING DEFENDANTS COUNTERMOTION FOR SUMMARY JUDGMENT AND ATTORNEY FEES AND COSTS; NOTICE OF ENTRY OF ORDER; ORDER ON PLAINTIFFS' MOTION TO FORMALLY RESOLVE MOTION FOR RECONSIDERATION AND TO CERTIFY JUDGMENT AS FINAL -AND- COUNTERMOTION FOR SUMMARY JUDGMENT ON ABUSE OF PROCESS CLAIM; NOTICE OF ENTRY OF ORDER ON PLAINTIFFS' MOTION TO FORMALLY RESOLVE MOTION FOR RECONSIDERATION AND TO CERTIFY JUDGMENT AS FINAL -AND- COUNTERMOTION FOR SUMMARY JUDGMENT ON ABUSE OF PROCESS CLAIM; 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),

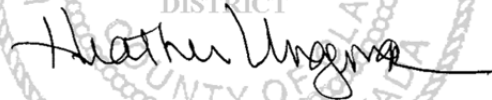
Case No: A-16-744109-C

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 8 day of April 2020.

Steven D. Grierson, Clerk of the Court



Heather Ungermann, Deputy Clerk

