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Elizabeth A. Brown
Clerk of Supreme Court

11 **IN THE SUPREME COURT OF THE STATE OF NEVADA**

12 BETTY CHAN and ASIAN AMERICAN
13 REALTY & PORPERTY
MANAGEMENT,

14 Appellants

15 vs.

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

18 Respondents

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

22 Cross-Appellants

23 vs.

24 BETTY CHAN and ASIAN AMERICAN
REALTY & PORPERTY
MANAGEMENT,

25 Cross-Respondents

Case No. 82208

CASE APPEAL STATEMENT

26 Wayne Wu, Judith Sullivan, Nevada Real Estate Corp., and Jerrin Chiu (hereafter
27 “Cross-Appellants”) by and through their counsel of record, Michael A. Olsen, Esq. and Keith D.
28





1 Routsong, Esq. of the law firm of BLACKROCK LEGAL, LLC, hereby submits their Case Appeal
2 Statement, therein providing the following statement:

3 1. The names of Cross-Appellants filing this Case Appeal Statement:

4 Wayne Wu, Judith Sullivan, Nevada Real Estate Corp., Jerrin Chiu, and KB
5 Home Sakes – Nevada Inc.

6 2. Identify the judge issuing the decision, judgment, or order appealed from:

7 The Honorable Eric Johnson.

8 3. Identify each defendant and the name and address of counsel for each appellant:

9 Betty Chan and Asian American realty & Property Management

10 R. DUANE FRIZELL, ESQ.
11 FRIZELL LAW FIRM
12 400 N. Stephanie St., Suite 265
Henderson, Nevada 89014

13 Identify each appellant and the name and address of defendant's counsel, if
14 known, for each respondent (if the name of a respondent's appellate counsel is unknown,
15 indicate as much and provide the name and address of that respondent's trial counsel):

16 Wayne Wu, Judith Sullivan, Nevada Real Estate Corp., and Jerrin Chiu,

17 Defendants

18 MICHAEL A. OLSEN, ESQ.
19 BLACKROCK LEGAL, LLC
20 10155 W. Twain Ave., Suite 100
21 Las Vegas, Nevada 89147

22 Indicate whether any attorney identified above in response to question 3 or 4 is
23 not licensed to practice law in Nevada and, if so, whether the district court granted that
24 attorney permission to appear under SCR 42 (attach a copy of any district court order
25 granting such permission):

26 All attorneys in this matter are licensed to practice law in the State of Nevada.

27 4. Indicate whether cross-appellant was represented by appointment or retained
28 counsel in the district court:



1 Appellant was represented by Michael A. Olsen, Esq. and Keith Routsong, Esq.
2 from the law firm of Blackrock Legal, LLC as retained counsel in the District
3 Court.

4 5. Indicate whether cross-respondent is represented by appointed or retained counsel
5 on appeal:

6 Cross-Respondent is represented by R. Duane Frizell , Esq. from the law firm of
7 Frizell Law Firm, as retained counsel on Appeal.

8 6. Indicate whether appellant was granted leave to proceed in forma pauperis, and
9 the date of entry of the district court granting such leave:

10 No such leave was granted.

11 7. Indicate the date the proceedings commenced in the district court (e.g. date
12 complaint, indictment, information, or petition was filed):

13 Complaint, filed September 27, 2016

14 8. Provide a brief description of the nature of the action and result in the district
15 court, including the type of judgment or order being appealed and the relief granted by the
16 district court:

17 Cross-Respondents initially improperly filed this lawsuit in district court seeking to
18 collect commissions on a real estate transaction, despite having agreed with the Greater
19 Las Vegas Association of Realtors (“GLVAR”) to submit any and all such commission
20 related disputes to binding arbitration before the GLVAR. After filing in district court,
21 the Cross-Appellants threatened to file a motion to dismiss and to compel arbitration.
22 Having reviewed Cross-Appellants communication, Cross Respondents finally filed to
23 stay the district court proceedings and agreed to proceed with binding arbitration. Cross-
24 Respondents lost at arbitration and were only awarded a 25% interest in the commissions.
25 Thereafter Cross-Respondents filed a Motion challenging the arbitration award in district
26 court. The court below affirmed the arbitration award. Cross-Respondents then filed an
27 appeal of the lower court’s confirmation of the arbitration award and sought to have all
28

1 prior orders in this matter overturned. This Court dismissed the appeal based upon lack of
2 jurisdiction and, in the instance of the Order affirming the arbitration award, this court
3 indicated an appeal of that Order was untimely. Because the initial filing in district court
4 by Cross-Respondents was improper and was filed solely for the purpose of driving up
5 the costs of litigation, Cross-Appellants counterclaimed for abuse of process and sought
6 an award of all attorney's fees and costs. The Order entered on November 23, 2020
7 granted summary judgment against Cross-Appellant's on their claim for abuse of process
8 but awarded Cross-Appellants \$33,533.75 in attorney's fees and costs based upon the
9 Cross-Respondents breach of the arbitration agreement. This award constituted only a
10 portion of the fees and costs Cross-Appellants have incurred in seeking to collect on the
11 arbitration award. Cross-Appellants hereby appeal the Order insofar as it grants summary
12 judgment against Cross-Appellants on its claim for abuse of process and also challenges
13 the court's determination to award only a portion of the actual fees and costs incurred by
14 Cross-Appellants. It is Cross-Appellants position that based upon the clear and
15 undisputed evidence before the court, including the procedural history of the case, that
16 summary judgment should have been awarded in favor of Cross-Appellants on their
17 abuse of process claim and that all attorney's fees and costs incurred in this litigation
18 should have been awarded. Additionally, Cross-Appellants hereby appeal the order
19 entered on March 22, 2019 awarding only a portion of Cross-Appellants' fees and costs
20 in the amount of \$22,355.83. The full amount of attorney's fees and costs should be
21 awarded pursuant to the clear abuse of process in this matter.
22

23 9. Indicate whether the case has previously been the subject of an appeal to or an
24 original writ proceeding in the Supreme Court and, if so, the caption and Supreme Court docket
25 number of the prior proceeding:

26 This case has been the subject of a previous appeal, dismissed by this Court for
27 lack of jurisdiction. The caption is as follows:
28

1 BETTY CHAN and ASIAN AMERICAN REALTY & PROPERTY MANAGEMENT
2 (Plaintiffs-Appellants) v. WAYNE WU, JUDITH SULLIVAN, NEVADA REAL
3 ESTATE CORP., and JERRIN CHIU (Defendants-Respondents), Supreme Court Case
4 No. 78666

5 10. Indicate whether this appeal involves child custody or visitation:

6 This Appeal does not involve child custody or visitation.

7 11. If this is a civil case, indicate whether this appeal involves the possibility of
8 settlement:

9 A settlement conference was held in the previous appeal referenced in response to
10 paragraph (9) above. The conference was unsuccessful. At this time, it does not appear that a
11 settlement would be likely. On December 22, 2020, this Court issued a notice exempting the case
12 from the settlement program.

13 DATED this 4th day of January 2021.

14
15 **BLACKROCK LEGAL, LLC**

16
17 /s/ Keith D. Routsong
18 MICHAEL A. OLSEN, ESQ.
19 Nevada Bar No: 6076
20 THOMAS R. GROVER, ESQ.
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