

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

**NO. 82208**

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BETTY CHAN; and ASIAN AMERICAN REALTY & PROPERTY  
MANAGEMENT,

Electronically Filed  
May 26, 2021 05:33 p.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

Appellants,

vs.

WAYNE WU; JUDITH SULLIVAN; NEVADA REAL ESTATE CORP.; and  
JERRIN CHIU,

Respondents.

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**APPELLANTS' APPENDIX  
(Volume 4)**

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Appeal from

the Eighth Judicial District Court sitting in Clark County, Nevada

District Court Case No.: A-16-744109-C

District Court Judge: Hon. Eric Johnson

**R. DUANE FRIZELL, ESQ.**

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## **CERTIFICATE OF SERVICE**

I hereby certify pursuant to NRAP 25(c), that on May 26, 2021, I served a true and correct copy of the forgoing ***APPELLANTS' APPENDIX (Volume 4)***, together with any and all exhibits and attachments, via the Supreme Court's

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**Chan, et al. v. Wu, et al.**  
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<b>1</b>	11/21/2016	Affidavit of Service	Appx000023- Appx000026
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<b>1</b>	11/21/2016	Affidavit of Service	Appx000031- Appx000034
<b>1</b>	12/1/2016	Affidavit of Service	Appx000035- Appx000038
<b>1</b>	12/6/2016	Answer and Counterclaim	Appx000039- Appx000053
<b>1</b>	12/7/2016	Certificate of Service	Appx000054 - Appx000055
<b>1</b>	12/19/2016	Reply to Counterclaim	Appx000056- Appx000060
<b>1</b>	1/13/2017	Motion for Stay Pending Arbitration	Appx000061 - Appx000065
<b>1</b>	2/2/2017	Opposition to Motion to Stay Pending Arbitration and Countermotion to Dismiss with Prejudice or in the Alternative for Summary Judgment	Appx000066- Appx000077
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<b>1</b>		Exhibit 2 - Forms Associated with Purchase Agreement	Appx000080- Appx000107
<b>1</b>		Exhibit 3 - Addendum to Purchase Agreement and Escrow Instructions Sales Summary	Appx000108- Appx000110
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<b>1</b>		Exhibit 5 - Code of Ethics and Standards of Practice of the National Association of Realtors	Appx000114- Appx000117
<b>1</b>		Exhibit 6 - The Code of Ethics - Our Promise of Professionalism	Appx000118- Appx000121
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1	2/7/2017	Supplement to Opposition to Motion to Stay Pending Arbitration and Countermotion to Dismiss with Prejudice or in the Alternative for Summary Judgment	Appx000126- Appx000127
1		Exhibit 1 - Affidavit of Jerrin Chiu	Appx000128- Appx000131
1	2/10/2017	Amended Reply to Counterclaim	Appx000132- Appx000136
1	2/14/2017	Plaintiff/Counterdefendants Reply to Opposition to Motion to Stay Pending Arbitration and Opposition to Defendants/Counterclaimants Countermotion to Dismiss with Prejudice or in the Alternative for Summary Judgment	Appx000137- Appx000146
1		Exhibit - Declaration of Betty Chan in Support of Reply to Opposition to Motion to Stay Pending Arbitration and Opposition to Countermotion to Dismiss with Prejudice or in the Alternative for Summary Judgment	Appx000147- Appx000150
1	2/27/2017	Minutes of 02/27/2017 hearing, 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	Appx000151- Appx000152
1	3/30/2017	Order Granting Motion to Stay and Denying Motion to Dismiss and Motion for Summary Judgment	Appx000153- Appx000154
1	4/3/2017	Notice of Entry of Order Granting Motion to Stay and Denying Motion for summary Judgment	Appx000155- Appx000159
1	7/18/2018	Motion to Vacate or Modify Arbitration Award	Appx000160- Appx000175
1		Exhibit 1 - Code of Ethics and Standards of Practice of the National Association of Realtors Effective January 1, 2015	Appx000176- Appx000182
1		Exhibit 2 - Request and Agreement to Arbitrate (P00001 - P0044)	Appx000183- Appx000227
		<b>Volume No. 2</b>	
2		Exhibit 2 Continued- Request and Agreement to Arbitrate (P0045 - P0105)	Appx000228- Appx000288
2		Exhibit 3 - Response and Agreement to Arbitrate (D0001 - D0100)	Appx000289- Appx000389
2		Exhibit 4 - 04/20/2018 GLVAR letter to Nevada Real Estate Corporation	Appx000390- Appx000393

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<b>3</b>		Exhibit 7 - 5/17/2018 Asian American Realty (Chan) letter to GLVAR	Appx000460- Appx000464
<b>3</b>	8/6/2018	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	Appx000465- Appx000492
<b>3</b>		Exhibit A - Gmail email 11/2/15	Appx000493- Appx000494
<b>3</b>		Exhibit B - Gmail email 11/2/15	Appx000495- Appx000496
<b>3</b>		Exhibit C - Affidavit of Jerrin Chiu	Appx000497- Appx000500
<b>3</b>		Exhibit D - City-Data.com Forum	Appx000501- Appx000502
<b>3</b>		Exhibit E - Forms Associated with Purchase Agreement	Appx000503- Appx000530
<b>3</b>		Exhibit F - Addendum to Purchase Agreement and Escrow Instructions	Appx000532 - Appx000533
<b>3</b>		Exhibit G - Gmail - 1/27/2016 Chan Email to Chiu	Appx000534- Appx000535
<b>3</b>		Exhibit H - 3/24/2016 Hall Letter to First American Title	Appx000536- Appx000538
<b>3</b>		Exhibit I - 2/5/16 Chan email to "aaroffer".	Appx000539- Appx000540
<b>3</b>		Exhibit J - 7/19/17 Myers email to Harper	Appx000541 - Appx000545
<b>3</b>		Exhibit K - 7/19/2017 Myers email to Harper	Appx000546- Appx000548
<b>3</b>		Exhibit L - 9/27/2016 Complaint	Appx000549- Appx000558
<b>3</b>		Exhibit M - 11/15/2016 Amended Complaint	Appx000559- Appx000367
<b>3</b>		Exhibit N - Duties Owed by a Nevada Real Estate Licensee	Appx000568- Appx000570
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<b>3</b>	8/15/2018	Reply in Support of Motion to Vacate or Modify Arbitration Award and Opposition/Motion to Strike Improper Countermotion	Appx000592- Appx000608
<b>3</b>		Exhibit 8 - Supplemental Declaration of Betty Chan	Appx000609- Appx000615
<b>3</b>	8/22/2018	Minutes of 8/22/2018 Hearing as to Plaintiff's Reply in Support of Motion to Vacate or Modify Arbitration and Opposition/Motion to Strike Improper Countermotion	Appx000616- Appx000617
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<b>3</b>	9/5/2018	First Supplement to Countermotion to Recognize Wu as the Procuring Cause, for Summary Judgment, and for Attorneys fees	Appx000649- Appx000661
<b>3</b>		Exhibit A - 05/01/2017 Minutes	Appx000662- Appx000664
<b>3</b>		Exhibit B - Request and Agreement to Arbitrate (P0001 - P0005)	Appx000665- Appx000670
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<b>3</b>		Exhibit D - face page only, exhibit missing	Appx000673
<b>3</b>	9/12/2018	Supplement to First Supplement to Countermotion to Recognize Wu as the Procuring Cause, for Summary Judgment, and for Attorney Fees	Appx000674- Appx000675
<b>3</b>		Exhibit D - Affidavit of Michael A. Olsen, Esq.	Appx000676- Appx000690
<b>3</b>	9/18/2018	Order Denying Motion to Vacate or Modify Arbitration Award	Appx000691- Appx000694
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4	10/25/2018	Plaintiffs/Counterdefendants Betty Chan and Asia American Realty & Property Management's Supplement to Plaintiffs Opposition Defendants/Counterclaimants Wayne Wu, Judicith 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 09/05/18) and (2) Supplement to First Supplement to Countermotion to Recognize Wu as the Procuring Cause fo Summary Judgment, and for Attorneys fees (Filed 09/12/18)	Appx000708- Appx000727
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4		Exhibit 4 - 11/2/2015 Chiu email to Chan	Appx000746- Appx000748
4		Exhibit 5 - 12/30 text string	Appx000749- Appx000750
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4	10/29/2018	Reply to Plaintiff/Counterdefendants Supplement to Plaintiffs Opposition to Defendants/Counterclaimants 91) First supplement to Countermotion to Recognize Wu as the Procuring Cause, for Summary Judgment, and for Attorneys Fees and (2) Supplement to First Supplement to Countermotion to Recognize Wu as the Procuring Cause for Summary Judgment, and for Attorney Fees	Appx000755- Appx000761
4	10/30/2018	Certificate of Service	Appx000762- Appx000763
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<b>4</b>	4/22/2019	Notice of Appeal	Appx000860
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<b>4</b>	5/1/2019	Transcript of Hearing: 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)	Appx000865- Appx000880
<b>4</b>	5/1/2019	Order on Plaintiffs' Motion to Stay Execution Pending Appeal	Appx000881- Appx000882
<b>4</b>	5/1/2019	Notice of Entry of Order on Plaintiff's Motion to Stay Execution Pending Appeal	Appx000883- Appx000886
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<b>4</b>		Exhibit 1 - Order Granting Defendants Countermotion for Summary Judgment and Attorney Fees and Costs	Appx000900- Appx000907



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<b>4</b>		Exhibit 4 - 4/1/2019 Minutes re Plaintiff's Motion for Reconsideration	Appx000921- Appx000923
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<b>4</b>		Exhibit 6 - 5/1/2019 Order on Plaintiffs' Motion to stay Execution Pending Appeal	Appx000926- Appx000928
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<b>5</b>		Exhibit 1 - 4/27/18 GLVAR letter to Nevada Real Estate Corp.	Appx000968- Appx000974
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<b>5</b>		Exhibit 7 - 2/5/2016 Chan email to "aaroffer"	Appx001004- Appx001005

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<b>5</b>		Exhibit 3 - Order Granting Defendants Countermotion for Summary Judgment and Attorney Fees and Costs	Appx001063- Appx001070
<b>5</b>		Exhibit 4 - Request and Agreement to Arbitrate (P0001 - P0003)	Appx001071- Appx001074
<b>5</b>		Exhibit 5 - 3/24/2016 Hall letter to First American Title	Appx001075- Appx001077
<b>5</b>		Exhibit 6 - 2/5/2016 Chan email to "aaroffer"	Appx001078- Appx001079
<b>5</b>		Exhibit 7 - 5/14/2020 Order Dismissing Appeal	Appx001080- Appx001084
<b>5</b>	6/9/2020	Supreme Court Clerk's Certificate, Judgment Dismissing Appeal	Appx001085- Appx001089
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<b>5</b>	7/8/2020	Plaintiff's Opposition to Defendant's Motion for summary Judgment, or in the Alternative, for Contractual Award of Attorney's Fees, for Writ of Execution on Plaintiff's Commissions Awarded by GLVAR Arbitration Panel and Release of Bond Deposited on Appeal and Countermotion for Summary Judgment on Defendants' Abuse of Process Counterclaim	Appx001097- Appx001120
<b>5</b>		Exhibit 1 - Order Granting Defendants Countermotion for Summary Judgment and Attorney Fees and Costs (filed Mar. 22, 2019)	Appx001121- Appx001128
<b>5</b>		Exhibit 2 - Motion to Vacate Entry of Order or Motion for Extension of Time to File	Appx001129- Appx001133
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<b>5</b>		Exhibit 4 - Minute Order (dated Apr. 1, 2019)	Appx001142- Appx001144
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<b>5</b>		Exhibit 6 - Order on Plaintiff's Motion to Stay Execution Pending Appeal (filed May 1, 2019)	Appx001147- Appx001149
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<b>5</b>		Exhibit 8 - Supreme Court's Order to Show Cause (filed Nov. 14, 2019)	Appx001156- Appx001158
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<b>6</b>		Exhibit 10 - Emails between counsel (Nov. 20, 2019 to Dec. 16, 2019)	Appx001169- Appx001173
<b>6</b>		Exhibit 11 - 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 (filed Aug. 6, 2018) [excerpts]	Appx001174- Appx001177
<b>6</b>		Exhibit 12 - Transcript (Oct. 31, 2018) [excerpts]	Appx001178- Appx001188

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6		Exhibit 16 - Text messages between Chan and Jana, an agent at KB Homes	Appx001206-Appx001207
6		Exhibit 17 - Order Dismissing Appeal (entered May 14, 2020)	Appx001208-Appx001212
6		Exhibit 18 - Defendants' Reply to Plaintiffs-Appellants Response to Order to Show Cause	Appx001213-Appx001229
6		Exhibit 19 - Email from Betty Chan to GLVAR giving notice of intent to appeal arbitration	Appx001230-Appx001231
6		Exhibit 20 - Email from Betty Chan to GLVAR requesting arbitration (dated June 11, 2016).	Appx001232-Appx001233
6		Exhibit 21 - Defendant Wayne Wu's agreement with KB Home Las Vegas Inc. (dated Jan. 8, 2016).	Appx001234-Appx001235
6	7/13/2020	Reply in Support of Motion for Summary Judgment, or in the alternative, for Contractual Award of Attorney's Fees, for Writ of Execution on Plaintiff's Commissions Awarded by GLVAR Arbitration Panel and Release of Bond Deposited on Appeal and Opposition to Countermotion for Summary Judgment on Defendant's Abuse of Process Counterclaim	Appx001236-Appx001249
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6		Exhibit 6 - the Code of Ethics - Our Promise of Professionalism	Appx001268-Appx001271
6		Exhibit 7 - Blackrock Legal Invoices	Appx001272-Appx001332
6	7/15/2020	Certificate of Service	Appx001333-Appx001334
6	7/21/2020	Minutes, All Pending Motions	Appx001335-Appx001336

**Chan, et al. v. Wu, et al.**  
**Nevada Supreme Court Case No. 82208 (8th Jud. Dist. Ct. Case No. A-16-744109-C)**  
**Appendix (Chronological Index)**

<b>VOL</b>	<b>DATE</b>	<b>DOCKET TEXT/DESCRIPTION</b>	<b>BATES NOS</b>
<b>6</b>	7/21/2020	Transcript of Hearing: All Pending Motions	Appx001337- Appx001354
<b>6</b>	8/11/2020	Memorandum for Production of Invoices for Attorney's Fees and Costs	Appx001355- Appx001363
<b>6</b>		Exhibit 1 - Submitted in camera	Appx001364
<b>6</b>	8/12/2020	Certificate of Service	Appx001365- Appx001366
<b>6</b>	8/12/2020	Notice of Production of Documents for In Camera Review	Appx001367- Appx001368
		<b>Volume No. 7</b>	
<b>7</b>		Exhibit 1 - Blackrock Invoices	Appx001369- Appx001401
<b>7</b>	8/13/2020	Certificate of Service	Appx001402- Appx001403
<b>7</b>	9/9/2020	Plaintiffs' Opposition to Defendants' Memorandum for Production of Invoices for Attorney's Fees and Costs and Countermotion to have Defendants' Invoices Filed and made Part of the Public Record	Appx001404- Appx001414
<b>7</b>	9/20/2020	Reply in Support of Memorandum for Production of Invoices for Attorney's Fees and Costs	Appx001415- Appx001425
<b>7</b>	9/11/2020	Certificate of Service	Appx001426- Appx001427
<b>7</b>	9/30/2020	Minute Order - all Pending Motions	Appx001428- Appx001429
<b>7</b>	9/30/2020	Transcript of Hearing: Plaintiff's Opposition to Defendant's Memorandum for Production of Invoices for Attorney's Fees and Costs and Countermotion to Have Defendant's Invoices Filed and made part of the Public Record.	Appx001430- Appx001452
<b>7</b>	11/18/2020	Transcript of Hearing: Order/Case Status	Appx001453- Appx001455
<b>7</b>	11/23/2020	Order Granting in Part Defendant's Motion for Summary Judgment, or in the Alternative, for Contractual Award of Attorney's Fees, for Writ of Execution on Plaintiff's Commissions Awarded by GLVAR Arbitration Panel, and Release of Bond Deposited on Appeal and Order Granting Plaintiffs' Countermotion for Summary Judgment	Appx001456- Appx001464
<b>7</b>	11/23/2020	Notice of Entry of Order	Appx001465- Appx001475

***Chan, et al. v. Wu, et al.***  
***Nevada Supreme Court Case No. 82208 (8th Jud. Dist. Ct. Case No. A-16-744109-C)***  
**Appendix (Chronological Index)**

<b>VOL</b>	<b>DATE</b>	<b>DOCKET TEXT/DESCRIPTION</b>	<b>BATES NOS</b>
<b>7</b>	11/24/2020	Certificate of Service	Appx001476- Appx001477
<b>7</b>	12/8/2020	Plaintiff's Notice of Appeal	Appx001478- Appx001480
<b>7</b>	12/8/2020	Plaintiff's Amended Notice of Appeal	Appx001481- Appx001483
<b>7</b>	12/9/2020	Court Minutes, Motion to Stay	Appx001484- Appx001485
<b>7</b>	12/9/2020	Transcript of Hearing: Plaintiffs' Motion to Stay Execution Pending Appeal (on an Ex Parte Application for an Order Shortening Time)	Appx001486- Appx001502
<b>7</b>	12/22/2020	Notice of Cross Appeal	Appx001503- Appx001504
<b>7</b>	12/22/2020	Certificate of Service	Appx001505- Appx001506
<b>7</b>	1/14/2021	Order on Plaintiffs' Motion to Stay Execution Pending Appeal	Appx001507- Appx001515
<b>7</b>	2/1/2021	Plaintiffs' Notice of Posting Supersedeas Bond	Appx001516- Appx001519
<b>7</b>	2/1/2021	Notice of Entry of Order on Plaintiff's Motion to Stay Execution Pending Appeal	Appx001520- Appx001530
<b>7</b>	5/26/2021	Register of Actions	Appx001531- Appx001539

**Chan, et al. v. Wu, et al.**  
**Nevada Supreme Court Case No. 82208 (8th Jud. Dist. Ct. Case No. A-16-744109-C)**  
**Appendix (Alphabetical Index)**

<b>VOL</b>	<b>DATE</b>	<b>DOCKET TEXT/DESCRIPTION</b>	<b>BATES NOS</b>
<b>1</b>	11/21/2016	Affidavit of Service	Appx000019- Appx000022
<b>1</b>	11/21/2016	Affidavit of Service	Appx000023- Appx000026
<b>1</b>	11/21/2016	Affidavit of Service	Appx000027- Appx000030
<b>1</b>	11/21/2016	Affidavit of Service	Appx000031- Appx000034
<b>1</b>	12/1/2016	Affidavit of Service	Appx000035- Appx000038
<b>1</b>	11/15/2016	Amended Complaint	Appx000011- Appx000018
<b>1</b>	2/10/2017	Amended Reply to Counterclaim	Appx000132- Appx000136
<b>1</b>	12/6/2016	Answer and Counterclaim	Appx000039- Appx000053
<b>1</b>	12/7/2016	Certificate of Service	Appx000054 - Appx000055
<b>1</b>	2/6/2017	Certificate of Service	Appx000122- Appx000123
<b>1</b>	2/7/2017	Certificate of Service	Appx000124- Appx000125
<b>4</b>	9/21/2018	Certificate of Service	Appx000702- Appx000703
<b>4</b>	10/30/2018	Certificate of Service	Appx000762- Appx000763
<b>4</b>	3/25/2019	Certificate of Service	Appx000832- Appx000833
<b>6</b>	7/15/2020	Certificate of Service	Appx001333- Appx001334
<b>6</b>	8/12/2020	Certificate of Service	Appx001365- Appx001366
<b>7</b>	8/13/2020	Certificate of Service	Appx001402- Appx001403

***Chan, et al. v. Wu, et al.***  
***Nevada Supreme Court Case No. 82208 (8th Jud. Dist. Ct. Case No. A-16-744109-C)***  
**Appendix (Alphabetical Index)**

<b>VOL</b>	<b>DATE</b>	<b>DOCKET TEXT/DESCRIPTION</b>	<b>BATES NOS</b>
<b>7</b>	9/11/2020	Certificate of Service	Appx001426- Appx001427
<b>7</b>	11/24/2020	Certificate of Service	Appx001476- Appx001477
<b>7</b>	12/22/2020	Certificate of Service	Appx001505- Appx001506
<b>1</b>	9/27/2016	Complaint	Appx000001- Appx000010
<b>7</b>	12/9/2020	Court Minutes, Motion to Stay	Appx001484- Appx001485
<b>3</b>	9/5/2018	First Supplement to Countermotion to Recognize Wu as the Procuring Cause, for Summary Judgment, and for Attorneys fees	Appx000649- Appx000673
<b>6</b>	8/11/2020	Memorandum for Production of Invoices for Attorney's Fees and Costs	Appx001355- Appx001364
<b>4</b>	10/31/2018	Memorandum of Costs and Disbursements	Appx000764- Appx000779
<b>7</b>	9/30/2020	Minute Order - all Pending Motions	Appx001428- Appx001429
<b>1</b>	2/27/2017	Minutes of 02/27/2017 hearing, Plaintiffs' Motion for Stay Pending Arbitration--Defendants' and Counterclaimants' Opposition to Motion to Stay Pending Arbitration and	Appx000151- Appx000152
<b>3</b>	8/22/2018	Minutes of 8/22/2018 Hearing as to Plaintiff's Reply in Support of Motion to Vacate or Modify Arbitration and Opposition/Motion	Appx000616- Appx000617
<b>4</b>	5/1/2019	Minutes re Motion to Stay Execution on OST, Partial Opposition to Plaintiff's Motion to Stay Execution Pending Appeal (on an Ex	Appx000863- Appx000864
<b>5</b>	1/22/2020	Minutes re Plaintiffs' Motion to Formally Resolve Motion for Reconsideration and to Certify Judgment as Final (on an	Appx001006- Appx001007
<b>6</b>	7/21/2020	Minutes, All Pending Motions	Appx001335- Appx001336



***Chan, et al. v. Wu, et al.***  
***Nevada Supreme Court Case No. 82208 (8th Jud. Dist. Ct. Case No. A-16-744109-C)***  
**Appendix (Alphabetical Index)**

<b>VOL</b>	<b>DATE</b>	<b>DOCKET TEXT/DESCRIPTION</b>	<b>BATES NOS</b>
<b>1</b>	1/13/2017	Motion for Stay Pending Arbitration	Appx000061 - Appx000065
<b>5</b>	6/4/2020	Motion for Summary Judgment, or in the alternative, for Contractual Award of Attorney's Fees, for Writ of Execution on Plaintiff's Commissions Awarded by GLVAR Arbitration Panel and Release of bond Deposited on Appeal	Appx001034- Appx001084
<b>1</b>	7/18/2018	Motion to Vacate or Modify Arbitration Award	Appx000160- Appx000464
<b>4</b>	4/22/2019	Notice of Appeal	Appx000860
<b>4</b>	4/24/2019	Notice of Appearance	Appx000861- Appx000862
<b>7</b>	12/22/2020	Notice of Cross Appeal	Appx001503- Appx001504
<b>4</b>	9/18/2018	Notice of Entry of Order	Appx000695- Appx000701
<b>4</b>	3/22/2019	Notice of Entry of Order	Appx000823- Appx000831
<b>7</b>	11/23/2020	Notice of Entry of Order	Appx001465- Appx001475
<b>1</b>	4/3/2017	Notice of Entry of Order Granting Motion to Stay and Denying Motion for summary Judgment	Appx000155- Appx000159
<b>5</b>	3/10/2020	Notice of Entry of Order on Plaintiffs' Motion to formally Resolve Motion for Reconsideration and to Certify Judgment as Final	Appx001023- Appx001030

***Chan, et al. v. Wu, et al.***  
***Nevada Supreme Court Case No. 82208 (8th Jud. Dist. Ct. Case No. A-16-744109-C)***  
**Appendix (Alphabetical Index)**

<b>VOL</b>	<b>DATE</b>	<b>DOCKET TEXT/DESCRIPTION</b>	<b>BATES NOS</b>
<b>4</b>	5/1/2019	Notice of Entry of Order on Plaintiff's Motion to Stay Execution Pending Appeal	Appx000883- Appx000886
<b>7</b>	2/1/2021	Notice of Entry of Order on Plaintiff's Motion to Stay Execution Pending Appeal	Appx001520- Appx001530
<b>6</b>	8/12/2020	Notice of Production of Documents for In Camera Review	Appx001367- Appx001401
<b>1</b>	2/2/2017	Opposition to Motion to Stay Pending Arbitration and Countermotion to Dismiss with Prejudice or in the Alternative for	Appx000066- Appx000121
<b>3</b>	8/6/2018	Opposition to Motion to Vacate or Modify Arbitration Award and Countermotion to Recognize Wu as the Procuring Cause, for	Appx000465- Appx000591
<b>5</b>	1/16/2020	Opposition to Plaintiffs' Motion to Formally Resolve Motion for Reconsideration and to Certify Judgment as Final (on an Application for an Order shortening Time) and Countermotion	Appx000953- Appx001005
<b>3</b>	9/18/2018	Order Denying Motion to Vacate or Modify Arbitration Award	Appx000691- Appx000694
<b>4</b>	3/22/2019	Order Granting Defendants Countermotion for Summary Judgment and Attorney Fees and Costs	Appx000816- Appx000822
<b>7</b>	11/23/2020	Order Granting in Part Defendant's Motion for Summary Judgment, or in the Alternative, for Contractual Award of	Appx001456- Appx001464
<b>1</b>	3/30/2017	Order Granting Motion to Stay and Denying Motion to Dismiss and Motion for Summary Judgment	Appx000153- Appx000154
<b>5</b>	3/10/2020	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	Appx001018- Appx001022

***Chan, et al. v. Wu, et al.***  
***Nevada Supreme Court Case No. 82208 (8th Jud. Dist. Ct. Case No. A-16-744109-C)***  
**Appendix (Alphabetical Index)**

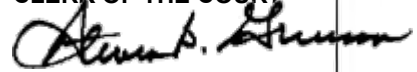
<b>VOL</b>	<b>DATE</b>	<b>DOCKET TEXT/DESCRIPTION</b>	<b>BATES NOS</b>
<b>4</b>	5/1/2019	Order on Plaintiffs' Motion to Stay Execution Pending Appeal	Appx000881- Appx000882
<b>7</b>	1/14/2021	Order on Plaintiffs' Motion to Stay Execution Pending Appeal	Appx001507- Appx001515
<b>1</b>	2/14/2017	Plaintiff/Counterdefendants Reply to Opposition to Motion to Stay Pending Arbitration and Opposition to	Appx000137- Appx000150
<b>5</b>	4/6/2020	Plaintiff's Amended Notice of Appeal	Appx001031-
<b>7</b>	12/8/2020	Plaintiff's Amended Notice of Appeal	Appx001481- Appx001483
<b>4</b>	1/7/2020	Plaintiffs' Motion to Formally Resolve Motion for Reconsideration and to Certify Judgment as Final (on an Application for an Order Shortening Time)	Appx000892- Appx000952
<b>7</b>	12/8/2020	Plaintiff's Notice of Appeal	Appx001478- Appx001480
<b>4</b>	5/7/2019	Plaintiffs' Notice of Posting Supersedeas Bond	Appx000887- Appx000891
<b>7</b>	2/1/2021	Plaintiffs' Notice of Posting Supersedeas Bond	Appx001516- Appx001519
<b>7</b>	9/9/2020	Plaintiffs' Opposition to Defendants' Memorandum for Production of Invoices for Attorney's Fees and Costs and	Appx001404- Appx001414
<b>5</b>	7/8/2020	Plaintiff's Opposition to Defendant's Motion for summary Judgment, or in the Alternative, for Contractual Award of	Appx001097- Appx001235
<b>4</b>	10/25/2018	Plaintiffs/Counterdefendants Betty Chan and Asia American Realty & Property Management's Supplement to Plaintiffs	Appx000708- Appx000754
<b>7</b>	5/26/2021	Register of Actions	Appx001531- Appx001539
<b>5</b>	6/9/2020	Remittitur	Appx001090

***Chan, et al. v. Wu, et al.***  
***Nevada Supreme Court Case No. 82208 (8th Jud. Dist. Ct. Case No. A-16-744109-C)***  
**Appendix (Alphabetical Index)**

<b>VOL</b>	<b>DATE</b>	<b>DOCKET TEXT/DESCRIPTION</b>	<b>BATES NOS</b>
<b>7</b>	9/20/2020	Reply in Support of Memorandum for Production of Invoices for Attorney's Fees and Costs	Appx001415- Appx001425
<b>6</b>	7/13/2020	Reply in Support of Motion for Summary Judgment, or in the alternative, for Contractual Award of Attorney's Fees, for Writ of	Appx001236- Appx001332
<b>3</b>	8/15/2018	Reply in Support of Motion to Vacate or Modify Arbitration Award and Opposition/Motion to Strike Improper Countermotion	Appx000592- Appx000615
<b>1</b>	12/19/2016	Reply to Counterclaim	Appx000056- Appx000060
<b>4</b>	10/29/2018	Reply to Plaintiff/Counterdefendants Supplement to Plaintiffs Opposition to Defendants/Counterclaimants 91) First supplement to Countermotion to Recognize Wu as the Procuring Cause, for Summary Judgment, and for Attorneys Fees and (2) Supplement to First Supplement to Countermotion	Appx000755- Appx000761
<b>3</b>	9/12/2018	Supplement to First Supplement to Countermotion to Recognize Wu as the Procuring Cause, for Summary Judgment, and for	Appx000674- Appx000690
<b>1</b>	2/7/2017	Supplement to Opposition to Motion to Stay Pending Arbitration and Countermotion to Dismiss with Prejudice or in the Alternative for Summary Judgment	Appx000126- Appx000131
<b>5</b>	6/9/2020	Supreme Court Clerk's Certificate, Judgment Dismissing Appeal	Appx001085- Appx001089
<b>3</b>	8/22/2018	Transcript of Hearing: All Pending Motions	Appx000618- Appx000648
<b>5</b>	1/22/2020	Transcript of Hearing: All Pending Motions	Appx001008- Appx001017
<b>6</b>	7/21/2020	Transcript of Hearing: All Pending Motions	Appx001337- Appx001354
<b>4</b>	10/31/2018	Transcript of Hearing: Defendants and Counterclaimants Wayne Wu, Judith Sullivan, Nevada Real Estate Corp. and Jerrin Chiu's	Appx000780- Appx000815
<b>4</b>	4/17/2019	Transcript of Hearing: Defendants' Motion for Writ of Execution	Appx000834- Appx000859
<b>4</b>	5/1/2019	Transcript of Hearing: Motion to Stay Execution on OST, Partial Opposition to Plaintiff's Motion to Stay Execution Pending	Appx000865- Appx000880
<b>7</b>	11/18/2020	Transcript of Hearing: Order/Case Status	Appx001453- Appx001455
<b>4</b>	10/17/2018	Transcript of Hearing: Plaintiffs' Motion to Extend Briefing on Order Shortening Time and continue Hearing Date	Appx000704- Appx000707

***Chan, et al. v. Wu, et al.***  
***Nevada Supreme Court Case No. 82208 (8th Jud. Dist. Ct. Case No. A-16-744109-C)***  
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<b>VOL</b>	<b>DATE</b>	<b>DOCKET TEXT/DESCRIPTION</b>	<b>BATES NOS</b>
<b>7</b>	12/9/2020	Transcript of Hearing: Plaintiffs' Motion to Stay Execution Pending Appeal (on an Ex Parte Application for an Order	Appx001486-Appx001502
<b>5</b>	6/30/2020	Transcript of Hearing: Plaintiff's Motion to Strike or in the Alternative to Extend Briefing and Continue the Hearing On	Appx001091-Appx001096
<b>7</b>	9/30/2020	Transcript of Hearing: Plaintiff's Opposition to Defendant's Memorandum for Production of Invoices for Attorney's Fees and	Appx001430-Appx001452



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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	)	Case No: A-16-744109-C
REALTY & PROPERTY MANAGEMENT,	)	
	)	Dept. No: XX
Plaintiffs/Counterdefendants,	)	
v.	)	<b>NOTICE OF ENTRY OF ORDER</b>
	)	
WAYNE WU, JUDITH SULLIVAN,	)	
NEVADA REAL ESTATE CORP., JERRIN	)	
CHIU, KB HOME SALES – NEVADA INC.,	)	
	)	
Defendants/Counterclaimants.	)	

**NOTICE OF ENTRY OF ORDER**

PLEASE TAKE NOTICE that the **ORDER DENYING MOTION TO VACATE OR  
MODIFY ARBITRATION AWARD** was entered on the Court's record on the 18<sup>th</sup> day of  
September, 2018. A copy of said Order is attached hereto as Exhibit "1".

DATED this 18<sup>th</sup> day of September, 2018.

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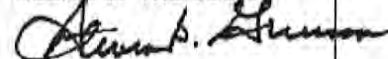
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/s/Thomas R. Grover, Esq.  
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THOMAS R. GROVER, ESQ.  
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## **EXHIBIT 1**



**ORD**

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[mike@goodsellolsen.com](mailto:mike@goodsellolsen.com)[roman@goodsellolsen.com](mailto:roman@goodsellolsen.com)*Attorneys for Defendants/Counterclaimants**Wayne Wu, Judith Sullivan, Nevada Real Estate Corp.**and Jerrin Chiu***DISTRICT COURT  
CLARK COUNTY, NEVADA**BETTY CHAN and ASIAN AMERICAN  
REALTY & PROPERTY MANAGEMENT,

Plaintiffs/Counterdefendants,

v.

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

Defendants/Counterclaimants.

Case No: A-16-744109-C

Dept. No: XX

**ORDER DENYING MOTION TO  
VACATE OR MODIFY  
ARBITRATION AWARD****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.

Todd E. Kennedy, Esq. of Kennedy & Couvillier, PLLC on behalf of Betty Chan and Asian American Realty & Property Management, Plaintiffs/Counterdefendants.

This matter came on for hearing on August 22, 2018 before the Honorable Eric Johnson regarding Plaintiffs/Counterdefendants' *Motion to Vacate or Modify Arbitration Award* (hereafter "Motion to Vacate"), and Defendants/Counterclaimants' *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* (hereafter "Countermotion"). The Court

1 having read and considered the papers and pleadings on file, having heard oral arguments made  
2 at the time of hearing, and good cause appearing, therefore the Court makes the following  
3 findings of fact and conclusions of law:

4 **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

5 1. Because Betty Chan, Wayne Wu, and Judith Sullivan are all Realtors, the parties  
6 recognize that the underlying dispute in this matter involving commission funds totaling  
7 \$13,795.32 was required to be submitted to the Greater Las Vegas Association of Realtors  
8 (hereafter "GLVAR") for binding arbitration. Plaintiff/Counterdefendant Betty Chan submitted  
9 her *Request and Agreement to Arbitrate (Member)* (hereafter "Agreement to Arbitrate") to the  
10 GLVAR seeking arbitration of the dispute.

11 2. The Agreement to Arbitrate contained express consent to arbitrate the dispute  
12 between the parties through the GLVAR in accordance with the *Code of Ethics and Arbitration*  
13 *Manual* subscribed to by Realtors.

14 3. This matter proceeded to an arbitration before a GLVAR arbitration panel on  
15 April 17, 2018.

16 4. Plaintiffs/Counterdefendants have brought their Motion to Vacate seeking to  
17 overturn or modify the arbitration award (hereafter "Award") that was duly entered by the  
18 GLVAR arbitration panel on April 27, 2018. The Award determined, that of the \$13,795.32 in  
19 total commission, \$3,228.83 was to be paid to Betty Chan and that the remaining \$10,346.49 was  
20 to be paid to Defendant/Counterclaimant Wayne Wu.

21 5. Specifically, Plaintiffs/Counterdefendants have attempted to assert the Award  
22 should be modified based on statutory and common law grounds, including that the GLVAR  
23 purportedly exceeded its authority to arbitrate, acted in an arbitrary and capricious manner,  
24 demonstrated manifest disregard for the law, or that the Award was procured by fraud.  
25

1           6.       Notwithstanding, the Court finds that Nevada law does not prohibit splitting a  
2 commission between two individuals both claiming to be the procuring cause and therefore  
3 Plaintiffs/Counterdefendants have failed to meet their burden of demonstrating clear and  
4 convincing evidence of a violation under any of the standards asserted in the Motion to Vacate  
5 that would justify modifying or vacating the Award.

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

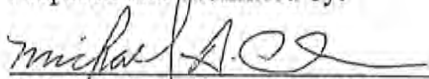
- 15           a.       That the *Motion to Vacate or Modify Arbitration Award* is DENIED.
- 16           b.       That pursuant to NRS 38.241(4) and NRS 38.242(2) the Arbitration Award of the  
17 GLVAR arbitration panel is CONFIRMED.
- 18           c.       That the Counter-Motion seeking summary judgment and an award of attorney  
19 fees is taken under advisement, with supplemental briefing to be filed by the  
20 Defendants/Counterclaimants by September 5, 2018;
- 21           d.       That Plaintiffs/Counterclaimants shall have until September 19, 2018 to submit  
22 any responsive briefing regarding the Counter-Motion as supplemented.
- 23           e.       AND THAT a hearing on the Countermotion for Summary Judgment and for  
24 Attorney's fees shall be held on October 10, 2018 at 8:30 a.m.
- 25

f. It is further ordered that the stay ordered by the Court pending resolution of the arbitration is lifted.

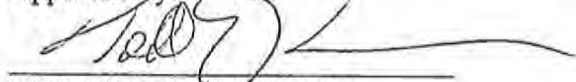
IT IS SO ORDERED this 14 <sup>SEPT</sup> of ~~AUGUST~~ 2018.

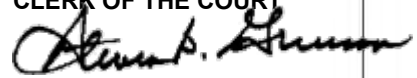
  
DISTRICT COURT JUDGE  
ERIC JOHNSON *kal*

Prepared and submitted by:

  
MICHAEL A. OLSEN, ESQ.  
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**DISTRICT COURT  
CLARK COUNTY, NEVADA**

BETTY CHAN and ASIAN AMERICAN ) Case No: A-16-744109-C  
REALTY & PROPERTY MANAGEMENT, )  
 ) Dept. No: XX  
 )  
Plaintiffs/Counterclaimants, )  
v. )

**CERTIFICATE OF SERVICE**

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

I hereby certify that on September 21st, 2018, I served a copy of the **NOTICE OF ENTRY OF ORDER DENYING MOTION TO VACATE OR MODIFY ARBITRATION AWARD** was served via electronic service pursuant to Administrative Order 14-2 and NEFCR 9 upon those parties on the master service list:

///

///

///

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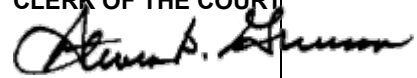
7 and a copy of the same was deposited in the U.S. Mail, on September 21st, 2018, postage  
8 prepaid, addressed to:

9 Todd Kennedy  
10 3271 E. Warm Springs Rd.  
11 Las Vegas, NV 89120

Janice Michaels  
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Suite 200

  
An Employee of Goodsell & Olsen





1 RTRAN

2  
3  
4  
5 DISTRICT COURT  
6 CLARK COUNTY, NEVADA

7  
8 BETTY CHAN, et al.,  
9 Plaintiffs,

CASE#: A-16-744109-C  
DEPT. XX

10 vs.

11 WAYNE WU, et al.,  
12 Defendants,

13  
14 BEFORE THE HONORABLE ERIC JOHNSON, DISTRICT COURT JUDGE  
15 WEDNESDAY, OCTOBER 17, 2018

16 **RECORDER'S TRANSCRIPT OF HEARING:**  
17 **PLAINTIFFS' MOTION TO EXTEND BRIEFING ON ORDER**  
18 **SHORTENING TIME AND CONTINUE HEARING DATE**

19 APPEARANCES:

20 For the Plaintiffs: MICHAEL CRISTALLI, ESQ.

21 For the Defendants: MICHAEL A. OLSEN, ESQ.

22  
23  
24  
25 RECORDED BY: ANGIE CALVILLO, COURT RECORDER

1 Las Vegas, Nevada, Wednesday, October 17, 2018

2  
3 [Hearing began at 11:27 a.m.]  
4

5 THE COURT: Betty Chan versus Wayne Wu, case number  
6 A744109. Counsel, please note your appearances for the record.

7 MR. CRISTALLI: Good morning, Your Honor. Attorney  
8 Michael Cristalli on behalf of Betty Chan, and Asia [sic] America Realty  
9 and Property Management.

10 MR. OLSEN: Good morning, Your Honor. Michael Olsen, bar  
11 number 6076, on behalf of the Defendants Wayne Wu, Judith Sullivan,  
12 Nevada Real Estate and Jerin Chiu.

13 THE COURT: All right. So this was on for an extend briefing.  
14 We're on -- I guess set to hear this next on the 31<sup>st</sup>. And you want to  
15 have until when to do briefing?

16 MR. CRISTALLI: Your Honor, the request was 15 days --

17 THE COURT: Right.

18 MR. CRISTALLI: -- from the date of the filing of the request.  
19 The request was filed, I believe, on the 12<sup>th</sup> if I'm not mistaken. And --

20 THE COURT: Okay.

21 MR. CRISTALLI: Yeah.

22 [Court and Clerk confer]

23 THE COURT: So, I mean -- and you want to keep the 31<sup>st</sup>,  
24 right?

25 MR. OLSEN: Well, yes, Your Honor. And I just need to point



1 out that this is now the fourth change of counsel in this case. And  
2 I --

3 THE COURT: I'm not shocked and amazed. But --

4 MR. OLSEN: I already granted an extension that resulted in  
5 the stipulation that we filed previously, because I got a call from Mr.  
6 Kennedy saying that he was going to be substituting out and Ms.  
7 Marshall was going to substitute in, and that she needed three more  
8 weeks to prepare the response of pleading to our supplement. And I  
9 said, "Well how about a week? I mean, you should be able to get it  
10 done in a week." And he said, "No, no, she's got two weeks of  
11 depositions, so we need a three week continuance."

12 And I knew that my clients would not be happy about  
13 this, but I went ahead as a professional courtesy and granted that.  
14 Unfortunately, this is not Counsel's fault. But the party -- Ms. Chan, has  
15 done this now four times. And each time it delays the proceedings and it  
16 cost my client money, and here I am again here today running up more  
17 fees.

18 THE COURT: Yeah, I understand. I guess --

19 MR. CRISTALLI: And, Your Honor --

20 THE COURT: If I -- if I gave you to the 24<sup>th</sup> of October, that's  
21 12 days, I mean -- and -- you know -- how much time do you think you'll  
22 need to do a reply? Usually, we give no more than a week. But, I  
23 mean --

24 MR. OLSEN: Two days.

25 THE COURT: Two days, all right. I'll give you 'til the 24<sup>th</sup> of

1 October; I'll give you 'til Friday the 26<sup>th</sup>, and we'll keep this on calendar  
2 for the 31<sup>st</sup>.

3 MR. OLSEN: Thank you.

4 THE COURT: Does it sound like a compromise, Mr. Cristalli?

5 MR. CRISTALLI: Yes, Your Honor, that's fine. Thank you.

6 THE COURT: Okay. All right.

7 MR. CRISTALLI: All right.

8 THE COURT: We'll work it that way.

9 MR. OLSEN: Thanks.

10 MR. CRISTALLI: I appreciate it.

11 THE COURT: Alrighty.

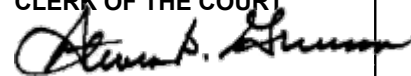
12 [Hearing concluded at 11:30 a.m.]

13 \* \* \* \* \*

14  
15 ATTEST: I do hereby certify that I have truly and correctly transcribed  
16 the audio/video proceedings in the above-entitled case to the best of my  
17 ability.

18 

19 Angie Calvillo  
20 Court Recorder/Transcriber  
21  
22  
23  
24  
25



1 **SUPP**

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14 *Attorneys for Plaintiffs/Counterdefendants*

15 *Betty Chan and Asian American Realty & Property*

16 **DISTRICT COURT**

17 **CLARK COUNTY, NEVADA**

18 BETTY CHAN and ASIA AMERICAN  
19 REALTY & PROPERTY MANAGEMENT,

20 Plaintiffs/Counterdefendants,

21 vs.

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

25 Defendants/Counterclaimants.

CASE NO. A-16-744109-C  
DEPT. XX

**PLAINTIFFS/COUNTERDEFENDANTS  
BETTY CHAN AND ASIA AMERICAN  
REALTY & PROPERTY**

**MANAGEMENT'S SUPPLEMENT TO  
PLAINTIFFS OPPOSITION**

**DEFENDANTS/COUNTERCLAIMANTS**

**WAYNE WU, JUDICITH 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  
ATORNEY FEES (FILED 09/05/18) AND  
(2) SUPPLEMENT TO FIRST  
SUPPLEMENT TO CUNTERMOTION TO  
RECOGNIZE WU AS THE PROCURING  
CAUSE FOR SUMMARY JUDGMENT ,  
AND FOR ATTORNEYS FEEES (FILED  
09/12/18)**

**Hearing Date: 10/31/2018**

**Hearing Time: 10:30 a.m.**

1 Plaintiffs/Counterdefendants Betty Chan and Asian American Realty &  
2 Property Management, by and through counsel, the law firm of Gentile  
3 Cristalli Miller Armeni Savarese, submit their supplement to their opposition  
4 to Defendants/Counterclaimants: (1) FIRST SUPPLEMENT TO  
5 COUNTERMOTION TO RECOGNIZE WU AS THE PROCURING CAUSE, FOR  
6 SUMMARY JUDGMENT, AND FOR ATTORNEY FEES (Defendants' "First  
7 Supplement", filed September 5, 2018) and (2) SUPPLEMENT TO FIRST  
8 SUPPLEMENT TO COUNTERMOTION TO RECOGNIZE WU AS THE PROCURING  
9 CAUSE FOR SUMMARY JUDGMENT, AND FOR ATTORNEYS FEES (Defendant's  
10 Supplement to First Supplement, filed September 12, 2018), pursuant to  
11 this Court's Minute Ordered dated August 22, 2018.

12 This Supplement is based on the attached exhibits, pleadings and  
13 papers on file and any oral argument this Court may permit.

14 Dated this 24 day of October, 2018.

15  
16 GENTILE CRISTALLI  
MILLER ARMENI SAVARESE

17  
18   
MICHAEL V. CRISTALLI, ESQ.  
Nevada Bar No. 6266  
19 JANIECE S. MARSHALL, ESQ.  
20 Nevada Bar No. 4686  
21 410 South Rampart Blvd., Suite 420  
Las Vegas, Nevada 89145  
22 Attorneys for  
Plaintiffs/Counterdefendants

23 **MEMORANDUM OF POINTS AND AUTHORITIES**

24  
25 **I. PROCEDURAL SETATEMENT OF FACTS**

26 1. On August 22, 2018, this Court heard arguments on various motions.  
27 See Court Minutes dated August 22, 2018.

1           2. At that hearing, this Court ordered Defendants/Counterclaimants to file  
2 a supplement to their Opposition to Plaintiff's Motion to Vacate or Modify  
3 Arbitration Award and Countermotion to Recognize Wu as the Procuring  
4 Cause, for Summary Judgment and For Attorneys' Fees by September 5,  
5 2018 ("Defendants' First Supplement").

6           3. Defendants filed their First Supplement on September 5, 2018.

7           4. Defendants filed their Supplement to First Supplement on September  
8 12, 2018, without seeking leave of this Court. See Supplement.

9           5. Defendants' Supplement to First Supplement attaches their attorneys'  
10 fees billings that Defendant fail to attach to their First Supplement but were  
11 ordered by the Court to be provided on September 5, 2018. See  
12 Supplement.

13           6. The Court further ordered Plaintiffs/Counterdefendants to file a  
14 Supplement to Plaintiffs' Opposition to Defendants' September 5, 2018  
15 Supplement by September 19, 2018.

16           7. On September 12, 2018, and without leave of this Court, Defendants  
17 filed a Supplement to Defendants' First Supplement.

18           8. On October 9, 2018, the law firm of GENTILE CRISTALLI MILLER  
19 substituted in as counsel for Plaintiffs/Counterdefendants. See Substitution  
20 of Counsel.

21           9. Counsel for Defendant refused the law firm of GENTILE CRISTALLI  
22 MILLER an extension of time, requested due to Attorney Marshall's extended  
23 leave of absence from October 4, 2018 to October 22, 2018 due to her  
24 mother's heart surgery in California.

25           10. This Court granted Plaintiffs' Motion for an extension of time to file  
26 this Opposition due to GENTILE CRISTALLI MILLER only recently substituting  
27 in on this three-year dispute and due to Attorney Marshall having to take an  
28

1 extended leave of absence to care for her mother following her mother's  
2 heart surgery in California. Attorney Marshall was unable to return to the  
3 office until the week of October 22, 2018 and has been preparing for a 10  
4 day trial starting on November 13, 2018 in *King v. Desert Palace*, Case No.  
5 A-13-69109-C as well as preparing for, deposing witnesses and defending  
6 the deposition of Plaintiff/Counterdefendant Michael Kane in *Kane v. Just for*  
7 *Show*, Case No. A—17-7499116-B (discovery closes on October 31, 2018).

## 8 **II. STATEMENT OF FACTS**

### 9 **A. Plaintiff Chan Found Defendant Chiu the KB Home He** 10 **Purchased and Was the Real Estate Agent Who Took Defendant** 11 **Chiu to KB Homes Model Homes and the Sales Office on His** 12 **Very First Visit to KB Homes**

13  
14 1. Plaintiff Betty Chan has been a licensed real estate in the State of  
15 Nevada since March 7, 1993, License #25444. See Declaration of Betty  
16 Chan, attached hereto as Exhibit 1.

17 2. Ms. Chan, in her twenty-five years as a licensed realtor, has never  
18 been disciplined by the Real Estate Division. See Exhibit 1, Chan  
19 Declaration.

20 3. Ms. Chan first started representing Defendant Jerrin Chiu and  
21 his father, Kwang Chiu, in 2013, when Defendant Chiu purchased his  
22 first home in Las Vegas. *Id.* See also Exhibit 2, DECLARATION OF BETTY  
23 CHAN IN SUPPORT OF REPLY TO OPPOSITION TO COUNTERMOTION TO  
24 DISMISS WITH PREJUDICE OR IN THE ALTERNATIVE FOR SUMMARY  
25 JUDGMENT dated February 14, 2017, and Exhibit 3, SUPPLEMENTAL  
26 DECLARATION OF BETTY CHAN, dated August 15, 2018.

1 4. Ms. Chan continued as Defendant Chiu's realtor in 2014 and 2015  
2 when Defendant requested that Ms. Chan represent him in a search for his  
3 purchase of a second home. *Id.*

4 5. On or about October 2, 2015, Dr. Kwang Chiu contacted Chan  
5 to make an appointment for him and his son, Defendant Chiu, to see  
6 homes in December 2015. *Id. See also Exhibit 5.*

7 6. Ms. Chan agreed to represent Defendant Chiu as the buyer.

8 7. On or about November 2, 2015, Defendant Chiu begin emailing  
9 and texting Ms. Chang, requesting that she represent him and show  
10 him and his Family properties on December 30 and 31, 2015, the  
11 only days that his father could go with him to see the homes. *Id.*  
12 *See also Exhibit 5, Text Messages Dated December 30, 2015*  
13 *between Defendant Chiu and Ms. Chan.*

14 8. On or about November 11, 2015, Defendant Chiu emailed Ms.  
15 Chan regarding his intention to purchase a house and listed out the  
16 criteria. *See Exhibits 1-3.*

17 9. On or about November 28, 2015, Defendant Chiu emailed Ms.  
18 Chan concerning the location of a particular house he wanted to see.  
19 *Id.*

20 10. On or about November 29, 2015, Ms. Chan responded  
21 regarding the viewing of the particular house. *Id.*

22 11. Prior to showing properties to Defendant Chiu and his  
23 father on December 30, 2015, Ms. Chan prepared for the showings  
24 by researching resale properties that met the Chius' requirements,  
25 pulling the listings from the MLS, scheduling appointments and  
26  
27  
28

1 preparing a driving route to minimize the showing times for  
2 Defendant Chiu and his father. *See Exhibits 1-3. See also Exhibit 5,*  
3 *Chan Text Message.*

4 12. On December 30, 2015 at 7:34 a.m, Ms. Chan texted  
5 Defendant Chiu, stating: "Good morning, your Dad asked me to  
6 show him houses today at 10 am, so i [sic] will be there. We have 5  
7 resale houses to see but i [sic] like to show some new houses in  
8 Summerlin area. Prices has [sic] gone up quite a bit, around 400k.  
9 See you." *See Exhibit 5, Chan Text Message.*

11 13. In addition to researching and locating properties that met  
12 Defendant Chiu's requirements, both new and resale, Ms. Chan also  
13 requested and updated Defendant Chiu's financial information for mortgage  
14 loan approval in order to expedite his purchase. *See Exhibits 1-3.*

15 14. On her own initiative, Ms. Chan also researched and located  
16 new home developments based upon Defendant Chiu's requirements. *Id.*  
17 *See also Exhibit 5, Chan Text Message dated December 30, 2015.*

18 15. Relying upon her extensive real estate experience, Ms. Chan  
19 also located two homes in new developments that she believed Defendant  
20 Chiu might like, despite Defendant Chiu only requesting that Ms. Chan  
21 show him resale properties. *See Exhibits 1-3 and 5.*

23 **B. Ms. Chan Showed Defendant Chiu the KB Homes Floorplan 2**  
24 **and Had Him Fill Out the KB Homes' Registration Card**

25 1. On December 30, 2015, Ms. Chan picked up and drove Defendant  
26  
27  
28



1 Chiu, his girlfriend and his father to view eight different properties,  
2 including six resale properties as well the new homes offered by KB Homes.  
3 *See Exhibits 1-3.*

4 2. After walking through Floorplan 2, Defendant Chiu then  
5 accompanied Ms. Chan into the KB Homes office to Register Mr. Chiu as the  
6 buyer and Ms. Chan as his realtor. *Id.*

7 3. At the front office of KB Homes, Ms. Chan spoke to Cheryl  
8 and picked up a price sheet. *Id.*

9 4. At the KB Homes office, Ms. Chan requested a floorplan  
10 and explained the buying process for a new home from a builder  
11 including the standards, elevations, prices, location of the site, etc.  
12 to the Chiu family. *Id.*

13 5. At the KB Homes office, Ms. Chan located a buyer  
14 registration card and had Defendant Chiu fill in the buyer portion  
15 and she filled in the realtor portion. *Id.*

16 6. As no KB Homes representative was available, Ms. Chan  
17 left the Buyer Registration Card on the table in the KB Home Sales  
18 Office in order to get the Chiu family to the next listing appointment.  
19 *See Exhibits 1-3.*

20 7. Defendant Chiu was with Ms. Chan when they filled out the  
21 Buyer Registration Card and Ms. Chen left it on the Registration Card table.  
22 *See Exhibits 1-3.*

23 8. Ms. Chan has never represented that she retained possession of  
24 the Buyer Registration Card, but consistently represented throughout this  
25 litigation that she left the Card on the Registration Card table at KB Homes  
26  
27  
28

1 because no agent was available at the time. See Exhibits 1-3. See *also*  
2 *Amended Complaint*.

3 9. There was no evidence or testimony that disputed or refuted that  
4 Ms. Chan was the real estate agent who took Defendant Chiu to KB Homes  
5 to see the model homes on his very first visit to KB Homes. See Exhibit 1-  
6 3. See Defendants' Supplement and First Supplement.  
7

8 **C. KB Homes Only Pays Sales Commission to the Realtor Who**  
9 **Accompanies the Buyer on the Buyer's First Visit**

10 1. KB Homes expressly provides that it will only pay the realtor who  
11 first accompanies a buyer to KB Homes during the buyer's first visit.

12 2. On December 30, 2015, Ms. Chan was the first realtor who  
13 accompanied Defendant Chiu during his first visit to KB Homes. See Exhibits  
14 1-5.

15 3. On December 31, 2015, when Defendant Chiu returned to the  
16 KB Sales Office and reserved Lot 43 by paying \$10,000.00, Defendant Chiu  
17 was not accompanied by Defendant Wu. *Id.* See *also* Defendants' First  
18 Supplement and Supplement (Defendants do not dispute that Ms. Chan was  
19 the realtor who accompanied Defendant Chiu on his first visit to the KB  
20 Homes).

21 **D. ATTORNEYS' FEES**

22 1. Defense Counsel have not separated out in their billing  
23 statements, the fees they charged to represent all of the Defendants they  
24 represent in this District Court action versus the defendants they  
25 represented at the Arbitration. See Defendants' Supplement to First  
26 Supplement.

27 2. Rule 38 expressly provides that a party may move to vacate or  
28

1 modify an arbitration award. NRS 38.241-242.

2 3. Plaintiff Chan timely moved to vacate or modify the Arbitration  
3 Award pursuant to Chapter 38. See Plaintiff Chan's Motion to Vacate or  
4 Modify Arbitration Award.

5 4. Not all of the Defendants in this District Court action were  
6 parties to the Arbitration. *Id.* See also Amended Complaint.

7 5. Plaintiffs moved to stay the District Court action in order to  
8 permit the licensed relator parties to participate in the Greater Las Vegas  
9 Association of Realtors binding arbitration process to determine procuring  
10 cause. See Plaintiffs' Motion to Stay filed January 13, 2007.

11 6. The purpose of that Arbitration was to determine which of the  
12 two realtors involved, Plaintiff Chan or Defendant Wu, was the "procuring  
13 cause" of Defendant Chiu purchase the subject Property from KB Homes  
14 under Nevada law and who is, therefore, entitled to the buyer's agent's  
15 commission paid by KB Homes.

16 7. Defendants failed to timely submit their billing statements on  
17 September 5, 2018, or with their Countermotion.

## 18 **II. LEGAL ANALYSIS**

### 19 **A. THERE IS ONLY "PROCURING CAUSE" UNDER NEVADA LAW** 20 **AND ELSEWHERE, REGARDLESS OF WHETHER MULTIPLE** 21 **REALTORS ARE INVOLVED IN A PURCHASE OF PROPERTY**

22 The Nevada Supreme Court has long since decided that a realtor is only  
23 entitled to a commission on a sale for which he or she establishes that he or  
24 she is the "procuring cause". See *Shell Oil Co. v. Ed Hoppe Realty, Inc.*, 91  
25 Nev. 576, 580, 540 P.2d 107, 109 (1975). See also *Flamingo Realty, Inc.*  
26 *v. Midwest Development, Inc.*, 110 Nev. 984, 989, 879 P.2d 69, 72 (1994);  
27

1 *Carrington v. Ryan*, 109 Nev. 797, 801-02, 858 P.2d 29, 32 (1993) and  
2 *Morrow v. Barger*, 103 Nev. 247, 253, 737 P.2d 1153, 1157 (1987).

3 In Nevada and elsewhere, the "procuring cause" is not a sliding  
4 scale which allows for more than one procuring cause. There is no such thing  
5 as partial procuring cause. See *Morrow v. Barger*, 103 Nev. 247, 253, 737  
6 P.2d 1153, 1157 (1987) ("If a real estate broker has been a "procuring" or  
7 "inducing" cause of a sale, he or she is entitled to the agreed commission  
8 irrespective of who makes the actual sale or terms thereof."). Likewise in  
9 *Bartsas Realty, Inc. v. Leverton*, 82 Nev. 6, 9, 409 P.2d 627, 629 (1966),  
10 the Nevada Supreme Court held: "Faced with competing brokers, a court  
11 must decide which was the 'procuring' or 'inducing' cause of the sale."

12 Nevada is not alone in finding only one procuring cause. Other  
13 states have adopted the same rule. In *Van C. Argiris & Co. v. FMC*  
14 *Corp.* 494 N.E.2d 723, 727 (Ill. App. 1986), the Illinois Court of Appeals  
15 determined that only one sales commission will become due when a ready,  
16 willing and able purchaser has been found, and the commission will be due  
17 only to the broker who can show that she was the procuring cause.

18 Texas and New York also only allow only one procuring agent who is  
19 entitled to the commission. See *Briden v. Osborne*, 184 S.W.2d 860, 863  
20 (Tex. App. 1944). "Whether there be but one broker involved, or more  
21 than one independent broker, the one who is the procuring cause of the sale  
22 is the one entitled to a commission." *Id.* In New York, only one agent  
23 can be the procuring cause where multiple agents involved in a purchase  
24 of property. See *Salamon v. Brooklyn Sav. Bank*, 44 N.Y.S.2d 420, 421  
25 (N.Y. Sup. Ct. 1943) ("[O]nly one could have been the procuring cause.").

26 Similarly, Black's Law Dictionary (Sixth Ed.), defines "proximate  
27 cause" as "the cause of the originating series of events, which, without break  
28

1 in their continuity, result in the accomplishment of the prime object.”  
2 Proximate cause is another way of saying the “procuring cause”. Without  
3 question, Ms. Chan is the proximate cause or the procuring cause of  
4 Defendant Chiu’s purchase of the subject Property. Ms. Chan is the realtor  
5 who took Defendant Chiu to KB Homes on his very first visit. See Exhibit 1-  
6 3.

7 Significantly, Defendants cite no authority to permit more than one agent  
8 to be the “procuring cause” of the purchase. Defendants’ continued  
9 response to Plaintiffs’ compelling and uncontradicted legal authority  
10 is to rely upon the “Arbitration Manual.”<sup>1</sup> Neither the Arbitration Panel  
11 nor GLVAR has the power to override Nevada law. Neither this Court, the  
12 Arbitration Panel nor the GLVAR can simply abandon Nevada law on the  
13 procuring cause. The evidence is simply overwhelming that Ms. Chan was  
14 the procuring cause of Defendant Chiu’s purchase of the subject Property  
15 and, therefore, only Plaintiff Chan is entitled to the KB Homes Sales  
16 Commission.

17 **B. NOT ONLY IS PLAINTIFF CHAN THE “PROCURING CAUSE” OF**  
18 **DEFENDANT CHIU’S PURCHASE OF THE PROPERTY, BUT ONLY**  
19 **PLAINTIFF CHAN IS ENTITLED TO THE SALES COMMISSION**  
20 **FROM KB HOMES AS KB HOMES ONLY PAYS THE SALES**  
21 **COMMISSION TO THE REALTOR WHO ACCOMPANIES THE**  
22 **BUYER ON THE BUYER’S FIRST VISIT AND AS DEFENDANT WU**

---

23  
24  
25 <sup>1</sup> Wu does cite to basic cases on procuring cause and declares that Chan must have  
26 abandoned the project and the panel must have decided Wu was the procuring and predominating  
27 cause. The Panel award simply splits the commission without explanation. Since Nevada law  
28 precludes entitlement to a commission without the claimant showing that he was the procuring  
cause, Chan necessarily was the “procuring cause” under Nevada law. There was *no*  
interruption or abandonment finding by the Panel.

1           **WAS NOT INSTRUMENTAL IN THE PURCHASE OF THE**  
2           **PROPERTY**

3           KB Homes only pays sales commission to the realtor who brings the  
4 buyer to KB Homes on the buyer's first visit to its development. Without  
5 question, Ms. Chan was the realtor who researched Defendant Chiu's  
6 housing requirements, and on her own initiative, found the KB Homes new  
7 homes development. See Exhibit 1-5. See also Defendants First  
8 Supplement and Supplement to First Supplement (Defendants do not dispute  
9 that Plaintiff Chan took Defendant Chiu and his Family to the KB Homes on  
10 December 30, 2015). Noteably, Defendant Chiu was only interested in  
11 resale properties when he first contacted Ms. Chan.

12           Ms. Chan is also the realtor who drove Defendant Chiu to the KB  
13 Homes on December 30, 2015, who showed the KB Model homes to  
14 Defendant Chiu and who then took Defendant Chiu to the KB Homes Sales  
15 Office and had Defendant Chiu fill out the Buyer Registration Card identifying  
16 him as the buyer. *Id.* As such, under KB Homes' own rule, Plaintiff Chan is  
17 the only realtor entitled to the sales commission for Defendant Chiu's  
18 purchase of the subject Property.

19           Significantly, on December 30, 2015, when Ms. Chan and Defendant Chiu  
20 went to the KB Homes Sales Office on Defendant Chiu's very first visit to KB  
21 Homes, the KB Homes Lot Board showed that there were only two lots  
22 available for Floorplan 2, the Floorplan that Defendant Chiu and his girlfriend  
23 wanted. *Id.* Unbeknownst to both Ms. Chan and Defendant Chiu, the KB  
24 Homes Lot Board was not up to date on December 30, 2015, as a buyer had  
25 already reserved the second lot. See Exhibit 1-3. Consequently, when  
26 Defendant Chiu returned the next day, the only lot he could reserve was Lot  
27  
28

1 43, the Lot with Floorplan 2 that he subsequently purchased and is the  
2 subject Property.

3 Moreover, the evidence is overwhelming that when Defendant Chiu  
4 returned the next day, on December 31, 2015, to the KB Homes Sales Office  
5 (without contacting Ms. Chan), he was without any realtor, entering into an  
6 agreement to reserve Lot 43, paying a \$10,000.00 deposit to the KB Home  
7 Sales Office agents. As such, Plaintiff Chan is the procuring cause of  
8 Defendant Chiu's purchase of the subject Property.

9 Additionally, and regardless of what décor options Defendant Wu may  
10 have helped Defendant Chiu to select, such as the tile, carpet and cabinetry,  
11 Defendant Wu cannot be the "procuring cause" of the purchase because  
12 Plaintiff Chan introduced Chiu to the Property and Defendant Chiu entered  
13 into the agreement to reserve Lot 43 when he returned the very next day  
14 and paid the \$10,000.00 down payment without Defendant Wu. While  
15 Plaintiffs do not dispute that Defendant Chiu thereafter went behind Plaintiff  
16 Chan's back to give Defendant Wu time to "close the deal", Plaintiff Chan is  
17 the procuring cause of the purchase.

18 Moreover Defendant Wu's claim that Chan somehow abandoned  
19 Defendant Chiu is simply unsubstantiated. It is based upon Chiu's claim that  
20 he and/or his father were calling Chan but she was not responding. Of  
21 course, this alleged failure to respond—if it happened at all--lasted all of a  
22 couple of days (over the New Year holiday). There is no actual evidence of  
23 these calls beyond self-serving statements and Chan received only one  
24 message on January 3, 2016. Chan was not allowed to play the voicemail by  
25 the Panel but did tell the panel what was said: Mr. Chiu's father called her  
26 and, in a very calm voice (i.e., not someone upset because they could not  
27 reach her) that she must be on vacation and asked her to call him. See

1 Supplemental Chan Declaration, attached as Reply Exhibit 8 at ¶2.

2 Moreover, the three-party cooperating broker agreement with KB  
3 Homes expressly and conclusively precludes Defendant Wu from receiving  
4 any part of a commission unless he was the first realtor to bring Chiu to the  
5 property. It is undisputed that he was not.

6 Consequently, as to the determination of the "procuring cause" of the  
7 purchase, Defendant Wu's contributions do not constitute the "procuring  
8 cause" of Defendant Chiu's purchase of the subject Property. Pursuant to  
9 *Morrow v. Barger*, 103 Nev.247, 253, 737 P.2d 1153, 1157 (1987), a  
10 realtor is neither the "procuring" or "inducing" cause of a sale nor entitled to  
11 the commission merely because that realtor is the realtor who is actually  
12 present at the time the purchase agreement is entered. *See also Clark*  
13 *County Educ. Ass'n v. Clark County School Dist.* 122 Nev. 337, 131 P.3d 5  
14 (2006) and *Carrigan, supra*, 109 Nev. at 799, 858 P.2d at 31.<sup>2</sup>

15 Here, Defendant Wu was not the realtor who found and, thereafter,  
16 introduced Defendant Chiu to the KB Homes development on Chiu's very  
17 first visit. Plaintiff Chan was. Defendant Wu's presence at the purchase  
18 does not qualify him as the procuring cause. Defendant Chiu does not deny  
19 that Plaintiff Chan was the first realtor to take Defendant Chiu to KB Homes  
20 and showed him Model Home Floorplan 2. Assuming *arguendo* that  
21 Defendant Wu is entitled some compensation for his presence at the entry of  
22 the purchase deposit, Defendant Wu contractually waived any right to the  
23 KB Homes paid commission in the three-party cooperation broker agreement

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24  
25 <sup>2</sup> Even Wu's cited cases hold that what qualifies for being the procuring cause can be limited by contract.  
26 *Carmichael v. Agur Realty Co., Inc.*, 574 So.2d 603, 609 (Miss. 1991).  
27  
28



1 with KB Homes. As such, while the Panel manifestly disregarded the KB  
2 Homes' contract and the law when it granted Defendant Wu a portion of the  
3 commission, this Court should not.

4 Moreover, KB Home's contractual provision renders Defendant Wu's  
5 factual arguments moot as he failed to meet the one threshold requirement  
6 necessary for him to have any commission entitlement from KB Homes,  
7 namely that he was the procuring cause. Defendant Wu was not the realtor  
8 with Defendant Chiu when Defendant Chiu made his very first visit to KB  
9 Homes.

10 Furthermore, KB Homes purchase contracts are unilateral. KB Homes  
11 had fixed prices for its lots and its basic floorplans. There is no negotiating  
12 on those issues. You accept the price of the lot or you go elsewhere. The  
13 only issues to be decided and negotiated are décor options, upgrades and  
14 which lot. Décor options are not a primary term of a purchase agreement  
15 for home like the KB Home. And given that only Lot 43 was available on  
16 December 31, 2015, and the Lot Defendant Chiu reserved on December 31<sup>st</sup>,  
17 Defendant Wu was not integral to even the lot selection. Either way,  
18 Defendant Chiu made it without Defendant Wu's involvement.

19 As such Defendant Wu was not instrumental in negotiating the  
20 purchase of Lot 43 with Floorplan 2, the subject Property. Therefore, he  
21 cannot be the procuring cause of Defendant Chiu's Purchase. Defendant  
22 Chiu and his girlfriend fell in love with Floorplan 2 on December 30, 2015,  
23 when Ms. Chan drove them and walked through each of the Model Homes  
24 offered by KB Homes in the development. Defendant Chiu returned the next  
25 day, on the 31<sup>st</sup>, without contacting Ms. Chan. Defendant Chiu reserved Lot  
26 43 on the December 31<sup>st</sup> because it was the Lot available with the Floorplan  
27 he wanted. He reserved Lot 43 by paying a \$10,000.00 deposit  
28

1 unaccompanied by Defendant Wu or any other realtor. Defendant Chiu  
2 made the decision to buy a lot with KB Homes with Floorplan 2 on December  
3 30, 2015, and followed up the next day.

4 As such, Ms. Chan, not Defendant Wu, was the "procuring cause" of  
5 Defendant Chiu's purchase of subject Property. Ms. Chan, on her own  
6 initiative, found the new model home at KB Homes, she drove Defendant  
7 Chiu to KB Homes on his very first visit, walked him through the model  
8 homes, discussed the features and the procedure of buying with KB Homes  
9 and took him into the KB Sales Office. *See Exhibits 1-3.* Without Ms. Chan,  
10 Defendant Chiu would not have known of Model 2 on December 31<sup>st</sup> when he  
11 entered into the agreement to reserve Lot 43 in order to subsequently  
12 purchase it. As such, Defendant Chan, not Defendant Wu, is the procuring  
13 cause of Defendant Chiu's purchase of the subject Property.

14 **B. DEFENDANTS' COUNTERMOTION FOR SUMMARY JUDGMENT IS**  
15 **NOT A PROPER COUNTERMOTION NOR A MOTION TO CONFIRM**  
16 **THE ARBIRATION AWARD AND, THREFORE, PLAINTIFFS'**  
17 **MOTION TO VACATE OR MODIFY THE ARBITRATION AWARD IS**  
18 **NEITHER FRIVOLOUS NOR IMPROPER, BUT PROPER PURSUANT**  
19 **TO NRS 38.241 (4) THUS, DEFENDANTS ARE NOT ENTITLED TO**  
20 **ATTORNEYS' FEES**

21  
22 Defendants Wu, Sullivan and Nevada Real Estate Corp. ("Wu")<sup>3</sup> did not  
23 seek confirmation of the Arbitration Award pursuant to NRS Ch. 38. Instead,  
24 these Defendants filed a "counter-motion for summary judgment"  
25 ("Pleading"). Defendants' Pleading is not an appropriate countermotion

---

26  
27 <sup>3</sup> Defendant Wayne Wu is the agent who usurped Chan's client, never disclosed he was not the first agent to show  
28 the KB homes to the buyer, Mr. Chiu, and wrongfully claims to be the procuring cause. Sullivan and Nevada Real  
Estate Corp. is the broker under whom he works.

1 under E.D.C.R. 2.20. Furthermore, Defendant Wu, the realtor defendant in  
2 the Arbitration, failed to file a motion to confirm the Arbitration Award  
3 pursuant to Chapter 38.

4 Most importantly, NRS 38.241(4), provides that if the district court denies  
5 the motion to vacate, the district court "shall confirm the award unless a  
6 motion to modify or correct the award pending." As such, it is Defendants  
7 not Plaintiffs who filed an unnecessary, improper and wasteful motions (in  
8 this instance, Defendants' counter-motion) with this Court. Plaintiffs' Motion  
9 was therefore proper and not a basis upon which to award attorneys' fees.

10 Additionally, Plaintiff Chan's Motion to Vacate or Modify the Arbitration  
11 Award was neither frivolous nor improper because Plaintiff Chan had to file  
12 an action with the district court prior to the Arbitration as not all Defendants  
13 named in this Action were or could be parties to the Arbitration. Plaintiffs  
14 filed this Action and, thereafter, moved to stay it, pending the Arbitration.  
15 Upon the issuance of the Arbitration Award, Plaintiff Chan then timely filed  
16 her Motion to Vacate or Modify the Arbitration Award. Pursuant to Chapter  
17 38, Plaintiff Chan is legally entitled to move to vacate or modify an  
18 arbitration award where she has a good faith basis to assert that the  
19 Arbitrators manifestly abused their powers. Consequently, Defendants are  
20 not entitled to attorneys' fees.

21 **B. DEFENDANTS ARE NOT ENTITLED TO SEEK ATTORNEYS' FEES**

22 In addition to the arguments set forth above, Defendant Wu is not the  
23 "prevailing party" in the arbitration given that the Arbitration Panel also  
24 awarded a portion of the sales commission to Plaintiff Chan.

25 **III. CONCLUSION**

26 For the above reasons, Plaintiffs respectfully request that this Court  
27 enter an order ruling that:  
28

1           1.     Plaintiff Chan is the procuring cause of Defendant Chiu's  
2 purchase of the subject Property;

3           2.     Defendant Wu is not the procuring cause of Chiu's purchase;

4           3.     Plaintiffs' Motion to Vacate or Modify the Arbitration Award is  
5 neither frivolous nor improper;

6           4.     The Arbitration Panel manifestly abused its power by  
7 apportioning the sales commission because Plaintiff Chan was the only  
8 procuring cause of Defendant Chiu's purchase of the subject Property;

9           5.     Only Defendant Chan is entitled to the sales commission due to  
10 the KB Homes' rule that the realtor who accompanies the buyer on the  
11 buyer's first visit is the only realtor entitled to the KB Homes' sales  
12 commission and the three-party KB Homes Agreement entered into by  
13 Defendant Wu;

14          6.     Defendants are not entitled to an award of attorneys' fees give  
15 that they failed to timely submit their billing records, Defendants are not the  
16 only prevailing party in the Arbitration and Defendants failed to apportion  
17 the fees in their billing statements as to each defendant they represented  
18 not all of whom were parties to the Arbitration; and

19 ...

20 ...

21 ...

22 ...

23 ...

24 ...

25 ...

26 ...

27 ...

28

1           7. Defendants' Counter-Motion for Summary Judgement and for  
2 Attorneys' Fees is denied.

3           Dated this 24<sup>th</sup> day of October, 2018.

4                                   GENTILE CRISTALLI  
5                                   MILLER ARMENI SAVARESE

6  
7                                     
8                                   MICHAEL V. CRISTALLI  
9                                   Nevada Bar No. 6266  
10                                  JANIECE S. MARSHALL  
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12                                  410 South Rampart Blvd, Suite 420  
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14                                  Tel: (702) 880-0000  
15                                  Attorneys Plaintiff/Counterdefendants  
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Michael A. Olsen  
GOODSELL & OLSEN  
10155 W. Twain Ave. Suite 100  
Las Vegas, Nevada 89147

  
An employee of  
GENTILE CRISTALLI  
MILLER ARMENI SAVARESE

# EXHIBIT 1

1                                   **DECLARATION OF BETTY CHAN**

2   STATE OF NEVADA        )  
3   COUNTY OF CLARK      ) ss.

4           I, BETTY CHAN, being duly sworn, depose and say as follows:

5           1. Declarant is over the age of eighteen years and competent to testify to  
6   the matters asserted herein of which I have personal knowledge. As to those  
7   matters stated upon information and belief, I believe them to be true.

8           2. I submit this declaration in support of Plaintiffs/Counterdefendants  
9   Betty Chan and Asian American Realty & Property Management's Reply to  
10   Defendants/Counterclaimant's First Supplement to Opposition to  
11   Countermotion to Recognize Wu as the Procuring Cause, For Summary  
12   Judgment, and for Attorneys' Fees, filed September 5, 2018 (Defendants' "First  
13   Supplement"), and Defendants/Counterclaimants' Supplement to Defendants'  
14   First Supplement, filed on September 12, 2018.

15           3. I am a Real Estate Broker licensed in the State of Nevada since March  
16   7, 1993, License #25444.

17           4. During my twenty-five years as a licensed real estate and broker, I  
18   have never been disciplined by the Real Estate Division for any professional  
19   misconduct.

20           5. In 2013, I first began representing Defendant Jerrin Chiu in the  
21   successful purchase of his first home.

22           6. I continued to represent Defendant Chiu in 2014 and 2015, when he  
23   decided to look at additional houses to purchase a second home.

24           7. On October 2, 2015, Defendant Chiu requested in writing that I  
25  
26  
27  
28



1 represent him in the purchase of a second home, requesting that I show him  
2 and his father houses in December when his father would be in town.

3 8. I accepted Defendant Chiu's offer, agreeing to commit my time to  
4 search for properties that met the specific requirements of the Chius, including  
5 but not limited to: contacting other real agents and brokers to schedule  
6 appointments convenient for the Chius, mapping out a route to visit all of the  
7 properties to minimize the time for the Chius to visit the properties, driving the  
8 Chius to each of the properties and explaining the key features of the property  
9 as well as the benefits or issues with the location of the properties based upon  
10 my twenty-five years of experience as a real estate agent and broker in the Las  
11 Vegas real estate market.  
12

13  
14 9. I provided these services to the Chius, based upon the understanding  
15 that as the buyers' real estate broker, I will be eventually financially  
16 compensated for my work by payment of a commission from the seller of the  
17 property which the Chius decided to purchase.  
18

19 10. On December 30, 2015, I recommended and showed Defendant  
20 Chiu six properties, including two new home developments, even though  
21 Defendant Chiu had only requested that I find and show him resale properties.

22 11. I drove Defendant Chiu to the KB Homes Telvare community in  
23 Summerlin and toured each of the several models with him, explaining the  
24 benefits of each floorplan.  
25

26 12. Defendant Chiu accompanied me into the Kb Homes sales office  
27 and was with me while I registered him as the Buyer and me as his real estate  
28 agent pursuant to the KB Home's requirement that agents fill out a Buyer

1 Registration Card when a buyer visits the KB Homes sales office for the first  
2 time.

3 13. KB Homes instituted a policy and procedure many years ago which  
4 provides that KB Homes will only pay the sales commission to the real estate  
5 agent or broker who first accompanies the buyer to the KB Homes.  
6

7 14. As I have repeatedly asserted throughout this dispute, I submitted  
8 the Registration Card that Defendant Chiu with Defendant Chiu's signature on  
9 it December 30, 2015 by leaving the Registration Card with KB Homes on the  
10 Registration Card table.

11 15. An attorney who represented me initially and whom I immediately  
12 fired, incorrectly and without my prior knowledge stated in a letter that I had  
13 the Registration Card in my possession.  
14

15 16. Every pleading filed in this action has correctly represented that I  
16 submitted the Buyer Registration Card with KB Homes on December 30, 2015,  
17 accompanied by Defendant Chiu.  
18

19 16. I have never represented that I kept the Registration Card

20 17. When I showed Defendant Chiu and his girlfriend the KB Homes  
21 the Floorplan Model Plan #2, they told me they loved with it, so much so that  
22 they did not want to leave.

23 18. Defendant Chiu and I, when I registered him as the Buyer and me  
24 as his Broker, reviewed the remaining lots available with the Floorplan Model  
25 #2.  
26

27 19. On December 30, 2015, KB Homes had only two remaining lots  
28 available with Floorplan #2, one of which was the Property that Defendant Chiu

1 eventually purchased and that is the subject matter of this litigation.

2       20. I spent considerable time advising him about the difference  
3 between the two lots relying upon my twenty-five years of experience to explain  
4 the differences and marketability of each of the available two lots.

5       21. Upon information and belief, Defendant Chiu loved that Model  
6 Floor Plan 2 so much that he returned to the KB Homes Sales Office the next  
7 day on December 31, 2018, paying \$10,000.00 to reserve Lot #43 as it was  
8 then the only remaining lot available with the Model #2 Floorplan, located at  
9 477 Cabral Peak (the "Property").  
10

11       22. On December 31, 2015 about 3 pm, Defendant Chiu's father called  
12 me to discuss the Property, advising me that another real estate agent had  
13 offered them a one-percent kickback on the sales commission and asking if I  
14 would match it.  
15

16       23. I advised Defendant Chiu's father that it was not my practice to  
17 give kickbacks, but would agree to three-fourths percent.  
18

19       24. Defendant Chiu's father stated ok. Defendant Chiu's father would  
20 discuss with Defendant Chiu and would call me back.

21       25. On January 2, 2016, Defendant Chiu's father called and left a  
22 message on my voicemail, stating , " You are probably on vacation, so when you  
23 get this message, please give me a call."

24       26. During that voicemail message, Defendant Chiu's father is neither  
25 angry nor does he demand a return phone call, but acknowledged that I was on  
26 vacation over the New Year's holiday.  
27

28 . . .

1           27. The message does not state that the Chiu's need to speak to  
2 me immediately or that they wanted to proceed with the purchase of the  
3 Property.

4           28. After the showings, Defendant Chiu's father asked me to email him  
5 information on all the houses I had showed them. I emailed the information  
6 that evening once I returned from the showings.

7  
8           29. On January 5, 2016, I emailed Defendant Chiu, following up on  
9 whether he wanted to proceed with purchase the Property as I had not heard  
10 back from him or his father. Defendant Chiu did not respond to my email.

11           30. On January 15 2016, I again contacted Defendant Chiu, texting  
12 his phone asking whether he had made a decision.

13  
14           31. Defendant Chiu replied that he was "too busy" and that he no  
15 longer wanted to buy the property.

16           32. Given that Defendant Chiu had been so in love with the KB Homes  
17 Floorplan #2 on December 30, 2018, Defendant Chiu's response struck me as  
18 being very odd.

19  
20           33. I decided to return to the KB Homes sales office and discovered  
21 that Defendant Chiu had signed the contract with KB Homes using another  
22 real estate agent, Defendant Wayne Wu. Presumably, Defendant Wu is the  
23 agent that Defendant Chiu's father had referenced as willing to give a one  
24 percent kick back of the sales commission.

25  
26           34. Defendant Wu has claimed that he had contributed his effort for  
27 the decision process of Defendant Chiu's purchase of the Property even though  
28 I located and showed Defendant Chiu the Property, the Property was the only

1 lot available on December 31, 2015 when Defendant Chiu returned to the KB  
2 Homes Sales Office by himself and paid \$10,000.00 to reserve the lot.

3 35. Defendant Chiu has admitted to KB Homes that I was the first  
4 agent that show the property.

5 36. Early in this litigation, Defendant Chiu admitted that he signed the  
6 Registration Card form but has subsequently said he could not remember.  
7

8 37. Defendant Chiu has not disputed that I was the first agent to take  
9 him to KB Homes, show him Floorplan Model 2 and register him as the buyer  
10 and me as his real estate broker.

11 38. Defendant Wu falsely represented that he was the first agent to  
12 show Defendant Chiu the Property.  
13

14 39. As the first real estate agent to show Defendant Chiu the Property,  
15 pursuant to the KB Homes rules, I am the only agent entitled to the sales  
16 commission and Defendant Wu is not entitled to receive any of the sales  
17 commission as he was not the first agent to show Defendant Chiu the Property.  
18

19 40. Contrary to Defendant Wu's representation, purchase of new  
20 homes sale from builders like KB Homes are not subject to negotiation. The  
21 buyer must accept the terms of the KB Homes contract or KB Homes simply  
22 does not sell the property to them.

23 41. Upon entering the purchase agreement, the buyer only selects from  
24 a list of options for things such as flooring, cabinetry, etc. offered by KB Homes  
25 and whether the buyer wants to upgrade those options. Those options are  
26 personal to the buyer, a real estate agent, unless he is also an interior design  
27 does not generally tell the buyer what color of carpet or other options the buyer  
28

1 should select.

2 42. KB Home's rule to pay the sales commission to the first real estate  
3 agent who brings the buyer to them is to encourage real estate agents to show  
4 buyers their model homes and lots, it is not to encourage real estate agents to  
5 help buyers select options. At the time buyers select their options, the buyer  
6 has already decided to purchase a KB Homes property.  
7

8 43. During the Arbitration, Defendants neither denied nor refuted that  
9 I was the first agent to show Defendant Chiu the Property nor that I was the  
10 first agent to register Defendant Chiu as a buyer.  
11

12 44. During the Arbitration, Counsel for Defendant Chiu contended that  
13 that Defendant Wu helped Defendant Chiu decide which lot to purchase.

14 45. Upon information and belief, the only remaining lot available with  
15 Floorplan 2 was Lot 43.

16 46. Unbeknownst to me or Defendant Chiu, KB Homes had failed to  
17 update its lot board on December 30, 2015, when I took Defendant Chiu to the  
18 KB Homes sales office to reflect that only Lot 43 that still available.  
19

20 47. I attempted to explain Arbitration Panel that only Lot 43 was  
21 available to purchase, however, the Chairman interrupted me twice and  
22 refused to allow me to provide this key testimony.

23 48. I objected each time the Chairman refused to allow this critical  
24 testimony given that Defendant Wu could not have assisted Defendant Chiu in  
25 selecting the lot to purchase because only one lot was actually available at the  
26 time that Defendant Chiu entered into the purchase agreement.  
27

28 . . .

49. The Arbitration Panel also refused to allow me to play the voicemail message left by Defendant Chiu's father that refuted Defendants' representation that Defendant Chiu and his father had called me many times and that I had failed to return their phone calls, that they were angry and as a result had to find another agent.

50. The voicemail message established that Defendant Chiu and his father were not angry and that there was no request to urgently return the phone call.

51. As a consequence of the Arbitration Panel failure to permit me to testify, I was not allowed to present evidence.

52. Nevertheless, the Arbitration Panel awarded me a portion of the sales commission.

53. The only basis upon which a sales commission could have been awarded me a portion of the sales commission is that it concluded I was the first real estate to show the Property to Defendant Chiu; there is no other basis to award a portion of the sales commission to me.

I declare under penalty of perjury that the above and foregoing is true and correct.

Executed this 25 day of October, 2018.

Betty Chan

# EXHIBIT 2



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Attorneys for Plaintiff/  
Counterdefendant, Betty Chan  
and Asian American Realty &  
Property Management

DISTRICT COURT

CLARK COUNTY, NEVADA

BETTY CHAN and ASIAN AMERICAN  
REALTY & PROPERTY MANAGEMENT,

Plaintiff,

vs.

WAYNE WU, JUDITH SULLIVAN, NEVADA  
REAL ESTATE CORP., JERRIN CHIU, KB  
HOME SALES - NEVADA INC., DOES I  
through X, and ROES I through X,

Defendants.

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

Counterclaimants,

vs.

BETTY CHAN and ASIAN AMERICAN  
REALTY & PROPERTY MANAGEMENT,

Counterdefendant.

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

**DECLARATION OF BETTY CHAN IN SUPPORT OF REPLY TO OPPOSITION TO  
MOTION TO STAY PENDING ARBITRATION AND OPPOSITION TO  
COUNTERMOTION TO DISMISS WITH PREJUDICE OR IN THE ALTERNATIVE  
FOR SUMMARY JUDGMENT**

Betty Chan declares as follows:

1. This Declaration is made in support of Plaintiffs' Reply to Opposition to Motion to Stay Pending Arbitration and Plaintiffs' Opposition to Countermotion to Dismiss with Prejudice or in the Alternative for Summary Judgment.

2. I am the broker of record for Asian American Realty & Property Management.

1 3. I worked as the real estate agent for Defendant Jerrin Chiu ("Defendant Chiu") on  
2 the purchase of his first home in 2013.

3 4. In 2014, Defendant Chiu again requested my assistance in purchasing a second  
4 home.

5 5. In 2014, I showed some homes to Defendant Chiu but he did not find anything he  
6 wanted to purchase.

7 6. In March 2015, I showed houses again and Defendant Chiu made an offer on a  
8 home in Desert Shores; Defendant Chiu determined again not to purchase the home.

9 7. On or about October 2, 2015, Dr. Kwang Chiu contacted me to make an  
10 appointment for him and his son, Defendant Chiu, to see homes in December 2015.

11 8. I agreed to represent Defendant Chiu as the buyer.

12 9. I requested updated financial information for Defendant Chiu's loan pre-approval.

13 10. On or about November 11, 2015, Defendant Chiu emailed Me regarding his  
14 intention to purchase a house and listed out the criteria.

15 11. On or about November 28, 2015, Defendant Chiu emailed Me concerning the  
16 location of a particular house he wanted to see.

17 12. On or about November 29, 2015, I responded concerning the viewing of the  
18 particular house.

19 13. On or about December 29, 2015, I prepared for the showing of homes to the Chiu  
20 family by pulling listings around Boca Park area.

21 14. Five resale homes were targeted to fit Defendant Chiu's criteria and I contacted  
22 the listing agents for the resale homes to set appointments.

23 15. I included the model homes in both a Toll Brothers development and a KB Home  
24 development that I had previously viewed.

25 16. I checked the status of the listings, printed the information and arranged a route  
26 for the efficient showing of the properties.

27 17. On or about December 30, 2015, I picked up the Chiu family and showed the  
28 resale homes, the Toll Brother models and the KB Homes models.

1 18. KB Homes offered to compensate brokers for bringing buyers to KB Home  
2 Developments at Buyer's first visit.

3 19. At the front office of KB Homes, I spoke to Cheryl and picked up a price sheet.

4 20. I then showed the model homes to the Chiu family and Defendant Chiu liked the  
5 first and second model homes.

6 21. Back at the KB Homes model home office, I requested a floor plan and explained  
7 the buying process for a new home including the standards, elevations, prices, location of the  
8 site, etc. to the Chiu family.

9 22. I located a buyer registration card and Defendant Chiu filled in the buyer portion  
10 and I filled in the realtor portion.

11 23. No KB Homes representative was to be found so I left the registration card on the  
12 table in the KB Home front office to hurry to get the Chiu family to the next appointment.

13 24. I emailed Dr. Kwang Chiu the four resale listings that were viewed.

14 25. On or about December 31, 2015, Dr. Kwang Chiu called me and asked if I could  
15 "kick back 1% of the commission" like the other agent offered him.

16 26. I said I can offer a reduction of ¼% and Dr. Kwang Chiu said he would call me  
17 back and tell me which property Defendant Chiu wanted to buy.

18 27. On or about January 5, 2016, I followed up with Defendant Chiu about the KB  
19 Home properties.

20 28. Defendant Chiu did not respond.

21 29. Contrary to Defendant Chiu's statements, he did not try to contact me several  
22 times.

23 30. On or about January 15, 2016, Defendant Chiu admitted that he was using another  
24 agent.

25 31. On or about January 22, 2016, I went to the KB Homes office and learned that  
26 Defendant Chiu had indeed signed a contract on the property I had shown him with another agent  
27 on January 8, 2016.

28

10001 Park Run Drive  
Las Vegas, Nevada 89145  
(702) 382-0711 FAX: (702) 382-5816

Dated this 14<sup>th</sup> day of February, 2017.

Betty Chan

# EXHIBIT 3

## SUPPLEMENTAL DECLARATION OF BETTY CHAN

1  
2 1. I make this declaration in support of my motion to vacate or modify the GLVAR  
3 arbitration award and in opposition to the "counter-motion" for summary judgment and for fees  
4 filed by Defendants. I have personal knowledge of the facts stated here and am competent to  
5 testify.

6  
7 2. On January 3, 2016, I received a telephone message from Defendant Jerrin Chiu's  
8 father. His father was assisting him in looking for a new home, although Jerrin was my client.  
9 That one message is the only message either of them left for me since we were together  
10 December 30, 2015 for the home viewings. I was not allowed to play the message for the  
11 arbitration panel but I was allowed to state what the message was:

12 "Hello betty, yeah, its Dr. Chiu. Today is Sunday, January 3rd, right now it's about 12  
13 noon. Uh ... I know you probably on vacation, when you get this message please give me a call.  
14 Ok, Thanks."

15  
16 3. The message was not in any way indicated in tone or content any urgent need to  
17 speak to me. There was no expression of annoyance or exasperation as you would expect if he  
18 or Mr. Chiu were really calling me many times but were unable to reach me. I believe if  
19 allowed to conduct discovery in the litigation, the deposition of Mr. Chiu's father would  
20 demonstrate that the claim that I was unresponsive or abandoned them was simply not true,  
21 particularly when confronted with his voicemail message and the lack of any documents showing  
22 efforts to call me beyond the December 31, 2015 conversation about asking me for a commission  
23 kick-back and the January 3, 2016 message. This would show that the excuse offered by Chiu  
24 for going to Wu was false and support a finding that I was the procuring cause, not Mr. Wu.  
25

26 4. It is interesting that Mr. Chiu and Mr. Wu suggest that Mr. Wu was instrumental  
27  
28

1 in helping Mr. Chiu choose a lot. KB homes was not a party to the arbitration so I was not able  
2 to ask them questions or obtain documents. When we visited the development, it appeared in the  
3 sales office that there were only two lots available for "plan 2" (which Mr. Chiu bought). There  
4 were other lots available for other plans, but only those two for "plan 2." However (and I  
5 testified to this) I investigated later and asked the owner of the other lot (designated for "plan 2")  
6 that Mr. Chiu and Mr. Wu said they "decided against" in favor of the one supposedly Wu  
7 recommended. The owner informed me that he had signed the purchase contract for the lot in  
8 late December, 2015, so the only lot for "plan 2" that was actually ever available was the one  
9 Mr. Chiu purchased. So what Mr. Wu claims was his major contribution, selecting the lot, was  
10 nothing because the only other lot available for the "plan 2" Mr. Chiu wanted had already been  
11 sold. If allowed to do discovery, I believe KB records would show that there was no "lot"  
12 decision to be made. I also believe the deposition of Chiu and Wu, as well as getting their email  
13 and other records, would show that I was the procuring cause and this was all an effort to get a  
14 kickback and/or give a commission to a friend over me.

17 5. While they have claimed that Mr. Wu was helpful in the sale, it does not matter. I  
18 am aware, as is Mr. Wu, that KB Homes only pays a cooperating commission to the first agent to  
19 bring the client to the development (and it must be the client's first visit). This is clear by the  
20 contract Wu, Chiu and KB signed. Everybody agrees I brought Mr. Chiu to the development  
21 first. I am at a loss as to how Mr. Wu can claim a right to any commission when his contract  
22 with KB Homes states he cannot have one if he wasn't the first, or how Mr. Chiu could have  
23 signed that agreement knowing it was a lie because I was the first. Discovery, depositions and  
24 documents from KB Homes would show KB's policy was enforced and, had they truthfully  
25 disclosed to KB that Mr. Chiu visited the property with me before going again with Mr. Wu, KB  
26

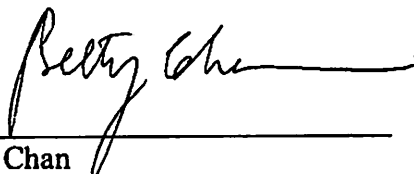
1 would only have paid a commission to me.

2 6. I cannot produce a registration card because KB has lost or mishandled it. But  
3 any agent who has ever worked with KB knows—including Mr. Wu—knows that KB pays only  
4 the first one and so I am the only one who could ever claim the commission. The commission  
5 card is simply KB's means of establishing of who was there first. Nobody, not even Mr. Chiu  
6 has ever disputed I was the first one. I need the ability to do discovery with KB as well to get all  
7 of their records and depose the person who was there the day I visited.

8 7. I at no time abandoned efforts or was ineffective. Mr. Chiu never even  
9 considered buying a new house in that area until I convinced him to consider it. He deposited  
10 \$10,000 less than 24 hours after we were there. He signed a contract just a few days later. From  
11 my experience working with Mr. Chiu on other purchases, they like to do a lot of family  
12 discussion and thinking before making any decision and there was nothing about this time that  
13 suggested they were in any particular rush. I showed the houses and let him think. After the  
14 January 3, message from Jerrin's father, I did follow up with my client. He ignored me for  
15 many days and then lied to me by trying to conceal what he was doing with Wu and it is  
16 completely contrary to long established local ethical practice and standards in Southern Nevada  
17 for Wu to proceed without even *asking* about other agents and whether another agent had shown  
18 Mr. Chiu the KB development already. I, and every broker I know, know that it is a violation of  
19 Realtor standards of practice to intervene in another broker's transaction.

20 I declare under the penalty of perjury that the foregoing is true and correct.

21 Dated this 15<sup>th</sup> day of August 2018.

22   
Betty Chan



# EXHIBIT 4



Betty Chan <aalender@gmail.com>

---

## Looking for new house!

---

Jerrin Chiu <jchiuey@gmail.com>

Mon, Nov 2, 2015 at 3:07

To: Betty Chan <aalender@gmail.com>

Hello Betty,

How have you been? Hope all is well. So I am going to be looking for a new house! I think you spoke with my dad last month. So they are coming to visit again at the end of this year. We were hoping that you can show us some houses around new years time? We are free Dec 30 morning/afternoon, and all day Dec 31 and Jan 1st. I know that is holiday so you may be busy with family. But if you are free, maybe you can show us some houses? I will be looking for around \$250-\$400k house around boca park, preferably 5 miles within my work. Thanks Betty! Hope to talk to you soon.

Jerrin

1-46



Betty Chan <aalender@gmail.com>

---

## Looking for new house!

---

Betty Chan <aalender@gmail.com>  
To: Jerrin Chiu <jchiuey@gmail.com>

Mon, Nov 2, 2015 at 4:29 PM

Sure. Thank you for using my service again.

Betty

[Quoted text hidden]

1-47

^

# EXHIBIT 5

Wed, Dec 30, 6:57 AM

nice! I've always wanted to play golf. But now I can't cus of my shoulder lol. Glad to hear ur doing well

And if I decide to stay next year, I'll probably be looking for a house I'll let u know

Wed, Dec 30, 7:34 AM

Good morning, your Dad asked me to show him houses today at 10 am, so i will be there. We have 5 resale houses to see but i like to show some new houses in Summerlin area. Prices has gone up quite a bit, around 400k. See you.

Wed, Dec 30, 8:35 AM

Ok thanks! See you soon

# EXHIBIT 6

**Getting gas, will be there in 6  
sorry**

**Ok no problem**

**Gate code #1352**

**Fri, Jan 15, 7:22 PM**

**Jerrin, i did not hear back from  
you? Are you still buying that  
new 1 story house ?**

**Fri, Jan 15, 8:57 PM**

**Ah nah, been kinda busy lately.**

**Sat, Jan 16, 9:49 AM**

**If your Dad wanted you to go  
with another agent that will  
offer kick back, it would be fine  
with me. Everyone has the  
freedom of choice what kind of**

If your Dad wanted you to go with another agent that will offer kick back, it would be fine with me. Everyone has the freedom of choice what kind of agent they like to work with. Just let me know then will release my burden taking care of you. No hard feeling, ok?

Hey Betty, I feel terrible but my dad indeed did find someone. But he is actually a good family friend. His mother was actually the nurse that helped deliver me. We were actually looking for him right when I moved to vegas but didn't know where to find him.

Thanks for everything tho and we'll keep in touch for sure. Sorry didn't let you know sooner.



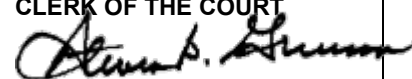
me. We were actually looking for him right when I moved to vegas but didn't know where to find him;

Thanks for everything tho and we'll keep in touch for sure. Sorry didn't let you know sooner.

No problem. However you cannot buy with him in the KB home with Summerlin as i have already registered you. So you need to buy with another place.

And all other places that i have shown you before. The builder only pays the realtor that first shown that buyer.

If your realtor knowingly try to play tricks in getting you the same house that i show you before, he will get troubles from



**RPLY**

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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	)	Case No: A-16-744109-C
REALTY & PROPERTY MANAGEMENT,	)	
	)	Dept. No: XII
Plaintiff,	)	
v.	)	
	)	
WAYNE WU, JUDITH SULLIVAN,	)	
NEVADA REAL ESTATE CORP., JERRIN	)	
CHIU, KB HOME SALES – NEVADA INC.,	)	
DOES I through X, and ROES I through X,	)	
	)	
Defendants.	)	

**REPLY TO PLAINTIFF/COUNTERDEFENDANTS SUPPLEMENT TO PLAINTIFFS  
OPPOSITION TO DEFENDANTS/COUNTERCLAIMANTS (1) FIRST SUPPLEMENT  
TO COUNTERMOTION TO RECOGNIZE WU AS THE PROCURING CAUSE, FOR  
SUMMARY JUDGMENT, AND FOR ATTORNEY FEES AND (2) SUPPLEMENT TO  
FIRST SUPPLEMENT TO COUNTERMOTION TO RECOGNIZE WU AS THE  
PROCURING CAUSE FOR SUMMARY JUDGMENT, AND FOR ATTORNEY FEES**

COME NOW, Defendants, WAYNE WU, JUDITH SULLIVAN, NEVADA REAL  
ESTATE CORP. and JERRIN CHIU, (collectively “Defendants” or “Defendants/  
Counterclaimants”) by and through their attorney, Michael A. Olsen, Esq. of the law firm

1 Goodsell & Olsen, LLP, and hereby submit their *Reply To Plaintiff/Counterdefendants*  
2 *Supplement To Plaintiffs Opposition To Defendants/Counterclaimants (1) First Supplement To*  
3 *Countermotion To Recognize Wu As The Procuring Cause, For Summary Judgment, And For*  
4 *Attorney Fees And (2) Supplement To First Supplement To Countermotion To Recognize Wu As*  
5 *The Procuring Cause For Summary Judgment, And For Attorney Fees* (hereinafter “Reply”).

### 6 FACTS

7 This dispute arose when Betty Chan and Asian American Realty & Property Management  
8 (collectively “Plaintiffs” or “Plaintiffs/ Counterdefendants”) failed to meet the expectations of a  
9 potential client, who was forced to hire another agent to help him find and purchase a house.  
10 Unfortunately, Plaintiffs have exceeded expectations in fulfilling their promises to use litigation  
11 as a means to impose unwarranted punishment on the defending parties by way of excessive  
12 legal fees and costs. The underlying commission at issue in this litigation should rightfully be  
13 paid to Wayne Wu, the agent that guided the buyer through the decision-making process and  
14 ultimately helped him obtain his home. The parties have been through the binding arbitration  
15 process, which awarded a small portion of the commission to Ms. Chan and the remainder to  
16 Wu. Unsatisfied with the results of the binding arbitration, Plaintiffs have persisted in litigious  
17 action to get even more money and drive up legal costs for Defendants.

18 Following the results of the binding arbitration, Defendants filed a *Countermotion to*  
19 *Recognize Wu as the Procuring Cause, for Summary Judgment, and for Attorney Fees* (hereafter  
20 “Countermotion”) on August 6, 2018 in response to Plaintiffs’/ Counterdefendants’ *Motion to*  
21 *Vacate or Modify Arbitration Award* (hereafter “Motion to Vacate”). The Motion to Vacate  
22 presented a brief objection to the Countermotion. On September 18, 2018, the Court denied the  
23 Motion to Vacate filed by Plaintiffs, but ordered additional briefing on the Countermotion and  
24 established a timeline for briefing and hearing on the Countermotion. Originally, Plaintiff’s  
25 additional briefing on the Countermotion was due on September 19, 2018 and the hearing was

1 set for October 10, 2018. Defendants filed their *First Supplement to Countermotion to Recognize*  
2 *Wu as Procuring Cause, for Summary Judgment, and for Attorney Fees* on September 5, 2018,  
3 and their *Supplement to First Supplement to Countermotion to Recognize Wu as the Procuring*  
4 *Cause, for Summary Judgment, and for Attorney Fees* on September 12, 2018 (collectively  
5 “Supplements to Countermotion”). The Supplements to Countermotion were to brief the Court  
6 on specifics regarding attorney fee amounts. On September 19, 2018, Defendants and Plaintiffs  
7 stipulated to move briefing deadlines to October 10, 2018 and the hearing was to take place on  
8 October 31, 2018. However, on October 12, 2018, Plaintiffs filed a *Motion to Extend Briefing on*  
9 *Order Shortening Time and Continue Hearing Date* because, apparently, the time granted by the  
10 stipulation was not enough. A hearing was held on the *Motion to Extend Briefing on Order*  
11 *Shortening Time and Continue Hearing Date* on October 17, 2018 which retained the October  
12 31, 2018 hearing date, but extended the Plaintiffs’ briefing deadline to October 24, 2018.  
13 Plaintiffs filed their *Plaintiffs/Counterdefendants Betty Chan and Asia American Realty &*  
14 *Property Management’s Supplement to Plaintiffs Opposition to Defendants/Counterclaimants*  
15 *Wayne Wu, Judith Sullivan, Nevada real Estate Corp., Jerrin Chiu, KB Home Sales-Nevada,*  
16 *Inc.’s: (1) First Supplement to Countermotion to Recognize Wu as the Procuring Cause, for*  
17 *Summary Judgment, and for Attorney Fees (filed 09/05/18) and (2) Supplement to First*  
18 *Supplement to Countermotion to Recognize Wu as the Procuring Cause, for Summary Judgment,*  
19 *and for Attorney Fees (filed 09/12/18)* (hereafter “Opposition to Supplements”) on October 25,  
20 2018, one day late. Thus this Reply is also being filed late since it was not received by  
21 Defendants’ counsel until the evening of the 25<sup>th</sup>, the night before a holiday weekend.

## 22 LEGAL ARGUMENT

### 23 **I. PLAINTIFFS’ OPPOSITION TO SUPPLEMENTS WAS NOT FILED** 24 **TIMELY AND SHOULD NOT BE CONSIDERED**

25 Plaintiffs failed to file their opposition in a timely manner. Following the October 17,  
2018 hearing on the Plaintiffs’ *Motion to Extend Briefing on Order Shortening Time and*

1 *Continue Hearing Date*, the Court established a schedule for briefing on the Defendants’  
2 Countermotion. The Court ordered that Plaintiffs’ supplemental briefing/ opposition to the  
3 Countermotion must be filed by October 24, 2018 and the Defendants’ reply was due by October  
4 26, 2018. Plaintiffs filed their Opposition to Supplements on October 25, 2018. Not only did this  
5 delay Defendants’ time to reply, but it was also one day late and thus should not be entertained  
6 by the Court. Plaintiffs have been granted numerous extensions to prepare their briefings and are  
7 unable to comply with the orders of the Court. This matter, already resolved by binding  
8 arbitration, has continued to be delayed and prolonged through several substitutions of counsel  
9 and requests for extensions. Plaintiffs should not be permitted to prejudice the Defendants with  
10 these delays and the Plaintiffs’ Opposition to Supplements should not be heard by the Court.

11 **II. THE ARBITRATION AWARD HAS ALREADY BEEN CONFIRMED**  
12 **AND CANNOT NOW BE LEGALLY CHALLENGED**

13 The majority of Plaintiff’s late filed brief does nothing more than rehash old arguments  
14 regarding the arbitration award and Plaintiff’s challenges to the validity of the award. This  
15 matter has already been resolved and is not before the Court at this time. Plaintiffs have already  
16 challenged the arbitration award and the Court has already confirmed its validity. Plaintiffs  
17 allege that a motion to confirm the arbitration award was necessary under NRS Chapter 38. No  
18 such motion is necessary. NRS 38.239 states that the party “*may* make a motion to the court for  
19 an order confirming the award.” However, this motion is not required for arbitration to achieve a  
20 binding effect on the parties. The Court confirmed the arbitration award on September 18, 2018,  
21 in its *Order Denying Motion to Vacate or Modify Arbitration Award*. This Order denied  
22 Plaintiffs’ Motion to Vacate and confirmed the arbitration award pursuant to NRS 38.241(4) and  
23 NRS 38.242(2), which require confirmation of an arbitration award following denial of a motion  
24 to vacate or modify. Even still, Defendants, in their *Opposition to Motion to Vacate or Modify*  
25 *Arbitration Award and Countermotion to Recognize Wu as the Procuring Case, for Summary*  
*Judgment and for Attorney Fees*, do argue several times that the arbitration award should be

1 confirmed by the court. Thus there is no merit to Plaintiffs' allegation that a motion for  
2 confirmation should have been filed in place of the motion for summary judgment.

3 Furthermore, the timeline for filing a motion for reconsideration has expired, as has the  
4 timeline for appealing the Court's decision confirming the arbitration award. Thus, any  
5 arguments by the Plaintiffs that the arbitration award should be set aside are moot because the  
6 Court has already confirmed the arbitration award. The only course of action available to  
7 Plaintiffs to challenge the arbitration award are a motion for reconsideration or to appeal the  
8 order and the timeline to file for said relief has passed.

9 Plaintiffs may not file a motion for reconsideration because the timeline established by  
10 EDCR 2.24 has already expired. EDCR 2.24(b) provides that "[a] party seeking reconsideration  
11 of a ruling of the court [...] must file a motion for such relief within 10 days after service of  
12 written notice of the order or judgment unless the time is shortened or enlarged by order." The  
13 *Order Denying Motion to Vacate or Modify Arbitration Award* and the *Notice of Entry of Order*  
14 were both filed on September 18, 2018. Thus, more than 10 days have passed since the entry of  
15 the order and any motion for reconsideration cannot be accepted because it would be untimely.

16 Additionally, the timeline established by NRAP 4 for appealing an order has also expired.  
17 NRAP 4(a)(1) provides that notice of appeal must be filed after an entry of an order "no later  
18 than 30 days after the date that written notice of entry of the judgment or order appealed from is  
19 served." More than 30 days have passed since the *Order Denying Motion to Vacate or Modify*  
20 *Arbitration Award* and its accompanying *Notice of Entry of Order* thus no appeal can even be  
21 heard regarding the arbitration award's validity. Plaintiffs have no remaining avenues for  
22 challenging the results of the binding arbitration and are, instead, attempting to prolong the case  
23 as they have done several times in the past. The Court should not entertain any arguments  
24 seeking to nullify the result of the arbitration award as the matter has already been adjudicated  
25 and the lawful alternatives for challenging the results are all unavailable to Plaintiffs.

1                   **III. DEFENDANTS' REQUEST FOR LEGAL FEES IS REASONABLE AND**  
2                   **FEES HAVE NOT BEEN SOUGHT FOR ARBITRATION**

3           The fees requested by the Defendants are reasonable and no fees are being sought for  
4           work performed relating to the arbitration. Due to numerous substitutions of counsel and several  
5           delays, Defendants have incurred substantial legal fees. These fees are reasonable, are a result of  
6           the baseless and wrongful lawsuit in District Court and were incurred on behalf of the parties  
7           sued in District Court. Defendants are not seeking fees in connection with the arbitration  
8           proceedings. Only those fees which have been incurred defending the civil case are being  
9           requested by the Defendants. It should also be noted that Plaintiffs have raised no valid legal  
10          argument that the fees incurred by Defendants are unreasonable, therefore they must be granted.

11          As for Plaintiffs argument that the Court should not award the attorney's fees because  
12          fees are sought for individuals and/or entities that were not parties to the arbitration, such an  
13          argument lacks merit. The fees being sought herein are the fees and costs incurred on behalf of  
14          the defendants in THIS LITIGATION, not the fees and costs incurred for the arbitration. The  
15          fees and costs related to the arbitration were culled out of the fees and costs submitted to this  
16          Court.

17                   **IV. DEFENDANTS HAVE FAILED TO IDENTIFY ANY ISSUE OF**  
18                   **MATERIAL FACT REMAINING, THUS SUMMARY JUDGMENT**  
19                   **SHOULD BE GRANTED.**

20          Defendants have already outlined the standard necessary to grant summary judgment in  
21          previous pleadings. In their Opposition to Supplements, Plaintiffs have failed to articulate any  
22          remaining issues of material fact that have not already been resolved through binding arbitration.  
23          Without any additional issues of material fact to adjudicate, the current matter not only merits  
24          summary judgment, it necessitates summary judgment to put an end to this prolonged litigation.  
25          Since no issues of material fact remain following binding arbitration, Defendants request that this  
                court grant their motion for summary judgment.

CONCLUSION

Based on the arguments outlined above, the Court should grant the Defendants'/ Counterclaimants' *Countermotion to Recognize Wu as the Procuring Cause, For Summary Judgment, and for Attorney Fees*. The Plaintiffs/Counterdefendants *Betty Chan and Asia American realty & Property Management's Supplement to Plaintiffs Opposition to 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 09/05/18) and (2) Supplement to First Supplement to Countermotion to Recognize Wu as the Procuring Cause, for Summary Judgment, and for Attorney Fees (filed 09/12/18)* was not timely filed, as directed by the Court. Furthermore, all legal means of challenging the results of the binding arbitration award are unavailable to Plaintiffs/ Counterdefendants and the award has been confirmed. Additionally, the attorney fees sought by Defendants/ Counterclaimants are reasonable and are not associated with the arbitration proceedings. Finally, the Plaintiffs have failed to identify a single issue of material fact that has not been resolved by binding arbitration, thus summary judgment is appropriate.

DATED this 29<sup>th</sup> day of OCTOBER, 2018.

/s/Keith Routsong, Esq.

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Nevada Bar No. 6076

THOMAS R. GROVER, ESQ.

Nevada Bar No. 12387

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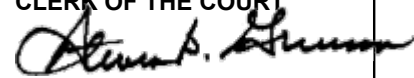
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1 **COS**  
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8 Nevada Bar No. 4686  
9 E-mail: [jmarshall@gcmaslaw.com](mailto:jmarshall@gcmaslaw.com)  
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11 Las Vegas, Nevada 89145  
12 Tel: (702) 880-0000  
13 Fax: (702) 778-9709  
14 *Attorneys for Plaintiffs*

15 **DISTRICT COURT**

16 **CLARK COUNTY, NEVADA**

17 BETTY CHAN and ASIA AMERICAN  
18 REALTY & PROPERTY MANAGEMENT,

19 Plaintiffs,

20 vs.

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

24 Defendants.

CASE NO. A-16-744109-C  
DEPT. XX

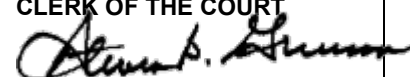
25 **CERTIFICATE OF SERVICE**

26 The undersigned, an employee of Gentile Cristalli Miller Armeni Savarese, hereby  
27 certifies that on the 25<sup>th</sup> day of October, 2018, she served a filed-stamped copy of  
28 **PLAINTIFFS/COUNTERDEFENDANTS BETTY CHAN AND ASIA AMERICAN  
REALTY & PROPERTY MANAGEMENT'S SUPPLEMENT TO PLAINTIFFS  
OPPOSITION DEFENDANTS/COUNTERCLAIMANTS WAYNE WU, JUDICITH  
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 ATORNEY FEES (FILED 09/05/18) AND (2) SUPPLEMENT TO FIRST  
SUPPLEMENT TO CUNTERMOTION TO RECOGNIZE WU AS THE PROCURING**

1 CAUSE FOR SUMMARY JUDGMENT, AND FOR ATTORNEYS FEEES (FILED  
2 09/12/18) via United States Mail, postage prepaid, and email, addressed to the following:

3 Michael A. Olsen  
4 GOODSSELL & OLSEN  
5 10155 W. Twain Ave. Suite 100  
6 Las Vegas, Nevada 89147  
7 Email: mike@goodsellolsen.com

8   
9 An employee of GENTILE CRISTALLI  
10 MILLER ARMENI SAVARESE  
11  
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**MEMC**  
MICHAEL A. OLSEN, ESQ.  
Nevada Bar No. 6076  
ROMAN C. HARPER, ESQ.  
Nevada Bar No. 14374  
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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	)	Case No: A-16-744109-C
REALTY & PROPERTY MANAGEMENT,	)	
	)	Dept. No: XII
Plaintiffs/Counterdefendants,	)	
v.	)	<b>MEMORANDUM OF COSTS AND</b>
	)	<b>DISBURSEMENTS</b>
WAYNE WU, JUDITH SULLIVAN,	)	
NEVADA REAL ESTATE CORP., JERRIN	)	
CHIU, KB HOME SALES – NEVADA INC.,	)	
	)	
Defendants/Counterclaimants.	)	

I, Roman C. Harper, declare that, upon information and belief, the following items have been necessarily incurred and paid in this action:

Filing Fees .....	\$799.89
Courier Costs .....	\$90.00
Parking Fees. ....	\$30.00
Postage .....	\$0.94
<b>Total. ....</b>	<b><u>\$920.83</u></b>

I declare under penalty of perjury as provided under the laws of the State of Nevada that the foregoing is true and correct, and if called upon to testify, would do so.

DATED this 31st day of OCTOBER 2018.

/s/ Roman C. Harper, Esq.  
Roman C. Harper, Esq.  
Nevada Bar No. 14374

## **EXHIBIT “1”**

10155 W Twain Ave, Suite 100  
Las Vegas, NV 89147 US

**GOODSELL & OLSEN**  
ATTORNEYS AT LAW

**Invoice**

**BILL TO**

Wu, Wayne et. al. adv. Chan, Betty

INVOICE #	DATE	TOTAL DUE	ENCLOSED
10598	09/10/2018		

SERVICED	DESCRIPTION	RATE	QTY	AMOUNT
06/17/2016	<b>Kimberly Gray:\$100</b> Email to Jeff Hall, Esq. requesting broker registration.	100.00	0:12	20.00
06/20/2016	<b>MICHAEL A. OLSEN, ESQ.:\$450</b> Draft emails to opposing counsel re: missing documents and fact that our client is the broker/agent of record.	450.00	0:30	225.00
06/24/2016	<b>MICHAEL A. OLSEN, ESQ.:</b> ce with paralegal re: [REDACTED]	450.00	0:36	270.00
07/06/2016	<b>Kimberly Gray:\$100</b> Finalize demand letter to FATCO, assemble exhibits and send.	100.00	0:48	80.00
08/31/2016	<b>MICHAEL A. OLSEN, ESQ.:\$450</b> Follow up on call with Avece Higbee, Esq. re: whether she has documents in support of her client's claim.	450.00	0:30	225.00
10/06/2016	<b>MICHAEL A. OLSEN, ESQ.:\$450</b> Telephone calls (2) with opposing counsel re: our offer to settle case for 70/30 split of the commission.	450.00	0:36	270.00
10/13/2016	<b>MICHAEL A. OLSEN, ESQ.:\$450</b> Review offer from opposing side proposing my client gets \$3,000.00 and her \$10,000.00; counter with 60/40 for my client.	450.00	1:00	450.00
10/18/2016	<b>MICHAEL A. OLSEN, ESQ.:\$450</b> Review documents again and place multiple calls to opposing counsel in an attempt to settle the case.	450.00	0:24	180.00
10/19/2016	<b>MICHAEL A. OLSEN, ESQ.:\$450</b> Review documents again and place multiple calls to opposing counsel in an attempt to settle the case.	450.00	0:18	135.00
10/24/2016	<b>MICHAEL A. OLSEN, ESQ.:\$450</b> Review and counteroffer.	450.00	0:30	225.00
10/25/2016	<b>MICHAEL A. OLSEN, ESQ.:\$450</b> Follow up on counter offer to settle for \$5,000.00	450.00	0:18	135.00
11/03/2016	<b>MICHAEL A. OLSEN, ESQ.:\$450</b> Review counter offer and counter again at \$4,000.00.	450.00	0:30	225.00
11/04/2016	<b>MICHAEL A. OLSEN, ESQ.:\$450</b> Follow up on status of counter offer.	450.00	0:24	180.00
11/10/2016	<b>MICHAEL A. OLSEN, ESQ.:\$450</b> Review and respond to email from opposing counsel.	450.00	0:30	225.00
11/14/2016	<b>MICHAEL A. OLSEN, ESQ.:\$450</b> Review and respond to email from opposing counsel.	450.00	0:36	270.00
11/15/2016	<b>ROMAN HA</b> [REDACTED] sent GLVAR packets for mediation and arbitration to MAO and LLM	250.00	1:42	425.00
11/15/2016	<b>MICHAEL A. OLSEN, ESQ.:\$450</b> [REDACTED] with [REDACTED]	450.00	1:48	810.00
11/16/2016	<b>MICHAEL A. OLSEN, ESQ.:\$450</b> Last offer to settle with opposing attorney; draft emails to opposing counsel; review facts an [REDACTED] et [REDACTED] nd Wayne Wu [REDACTED]	450.00	0:48	360.00

SERVICED	DESCRIPTION	RATE	QTY	AMOUNT
11/17/2016	<b>MICHAEL A. OLSEN, ESQ.:\$450</b> Last offer to settle with opposing attorney; draft emails to opposing counsel; review facts and d [REDACTED] eet [REDACTED] and Wayne Wu re: [REDACTED]	450.00	1:18	585.00
11/18/2016	<b>MICHAEL A. OLSEN, ESQ.:\$450</b> Last offer to settle with opposing attorney; draft emails to opposing counsel; review facts and d [REDACTED] eet [REDACTED] and Wayne Wu re: [REDACTED]	450.00	0:24	180.00
11/22/2016	<b>MICHAEL A. OLSEN, ES</b> Review email from client, [REDACTED]	450.00	0:42	315.00
11/28/2016	<b>MICHAEL A. OLSEN, ESQ.:\$450</b> Form strategy for answering complaint.	450.00	0:30	225.00
11/28/2016	<b>MICHAEL A. OLSEN, ES</b> Review email from client [REDACTED] [REDACTED] legal re: letter to opposing counsel [REDACTED]	450.00	0:36	270.00
11/29/2016	<b>MICHAEL A. OLSEN,</b> [REDACTED] [REDACTED]	450.00	0:36	270.00
11/30/2016	<b>MICHAEL A. OLSEN, ESQ.:\$450</b> Review and send em [REDACTED] esponse [REDACTED]; review [REDACTED]	450.00	0:24	180.00
11/30/2016	<b>MICHAEL A. OLSEN, ESQ.:\$450</b> Review and [REDACTED] esponse to [REDACTED]; [REDACTED] [REDACTED]	450.00	0:24	180.00
12/01/2016	<b>MICHAEL A. OLSEN, ESQ.:\$450</b> Review and [REDACTED] esponse [REDACTED]; [REDACTED]	450.00	0:36	270.00
12/06/2016	<b>MICHAEL A. OLSEN, ESQ.:\$450</b> Review, re-draft and revise Answer and Counterclaim.	450.00	1:06	495.00
12/09/2016	<b>MICHAEL A. OLSEN, ESQ.:\$450</b> Follow up on filing o [REDACTED] digital service of the same; [REDACTED]	450.00	0:24	180.00
12/12/2016	<b>MICHAEL A. OLSEN, ESQ.:\$450</b> Follow up on email to opposing counsel re: whether his client is going to withdraw the District Court Complaint.	450.00	0:36	270.00
12/13/2016	<b>MICHAEL A. OLSEN, ESQ.:\$450</b> Review and analysis of file from Title.	450.00	0:36	270.00
12/15/2016	<b>MICHAEL A. OLSEN, ESQ.:\$450</b> Review and analysis of email from Higbee, Esq. indicating that her client would drop the district court case and proceed with GLVAR.	450.00	0:24	180.00
12/19/2016	<b>MICHAEL A. OLSEN, ESQ.:\$450</b> Review filing of Reply to Counterclaim.	450.00	0:24	180.00
12/19/2016	<b>MICHAEL A. OLSEN, ESQ.:\$450</b> Review filing of Reply to Counterclaim.	450.00	0:24	180.00
12/20/2016	<b>MICHAEL A. OLSEN, ESQ.:\$450</b> Follow up on getting matter dismissed with prejudice and moving forward in arbitration.	450.00	0:30	225.00
12/29/2016	<b>MICHAEL A. OLSEN, ESQ.:\$450</b> Review and analysis of correspondence from Avece Higbee, Esq. re: stipulation to dismiss Civil Case; respond to the same.	450.00	0:24	180.00
[REDACTED]	[REDACTED] [REDACTED] [REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
01/02/2017	<b>MICHAEL A. OLSEN, ESQ.:\$450</b> Review and respond to email from Avece High [REDACTED] p on [REDACTED] on moving forward. [REDACTED]	450.00	0:18	135.00
01/03/2017	<b>MICHAEL A. OLSEN, ESQ.:\$450</b> [REDACTED] [REDACTED]	450.00	0:42	315.00
01/03/2017	<b>MICHAEL A. OLSEN, ESQ.:\$450</b> Review and respond to email from Avece High [REDACTED] p on [REDACTED] on moving forward. [REDACTED]	450.00	0:12	90.00
01/04/2017	<b>MICHAEL A. OLSEN, ESQ.:\$450</b> Follow up on status of getting Stip and Order for Dismisal from Avece; draft email re: same.	450.00	0:36	270.00

SERVICED	DESCRIPTION	RATE	QTY	AMOUNT
01/05/2017	<b>MICHAEL A. OLSEN, ESQ.:\$450</b> Review email from opposing counsel and draft response asking for status of Stip and order for Dismissal with prejudice. No response.	450.00	0:36	270.00
01/09/2017	<b>Kimberly Gray:\$100</b> Check e-file queue and download pleading to client file; Attention to calendaring	100.00	0:12	20.00
01/09/2017	<b>MICHAEL A. OLSEN, ESQ.:\$450</b> Review email from opposing counsel re: refusal to dismiss with prejudice; review email re: withdrawal and execute Stip and Order agreeing to continue 16.1 conference.	450.00	0:36	270.00
01/10/2017	<b>MICHAEL A. OLSEN, ESQ.:\$450</b> Review email from opposing counsel re: refusal to dismiss with prejudice; review email re: withdrawal and execute Stip and Order agreeing to continue 16.1 conference.	450.00	0:48	360.00
01/10/2017	<b>Kimberly Gray:\$100</b> Assist with e-filing Notice of Non-Opposition; Prepare and e-file certificate of service; Check e-file queue and download pleadings to client file; Attention to calendaring.	100.00	0:12	20.00
01/12/2017	<b>MICHAEL A. OLSEN, ESQ.:\$450</b> Follow up on status of Avece Higbee withdrawing as counsel.	450.00	0:36	270.00
01/16/2017	<b>MICHAEL A. OLSEN, ESQ.:\$450</b> Review and analysis of Motion to Stay litigation pending outcome of Arbitration.	450.00	0:36	270.00
01/17/2017	<b>MICHAEL A. OLSEN, ESQ.:\$450</b> Review Motion to Stay and commence outline for Opposition and Countermotion to Dismiss w/ prejudice.	450.00	1:00	450.00
01/17/2017	<b>Kimberly Gray:\$100</b> Check e-file queue and download pleading to client file; Attention to calendaring.	100.00	0:12	20.00
01/18/2017	<b>MICHAEL A. OLSEN, ESQ.:</b> [REDACTED] nce with associate re: [REDACTED]	450.00	0:48	360.00
01/19/2017	<b>Kimberly Gray:\$100</b> [REDACTED] AO and DO re [REDACTED]	100.00	0:42	70.00
01/19/2017	<b>Lenny Whiting:\$150</b> [REDACTED]	150.00	2:36	390.00
01/19/2017	<b>Lenny Whiting:\$150</b> [REDACTED] LM regarding [REDACTED]	150.00	0:30	75.00
01/19/2017	<b>MICHAEL A. OLSEN, ESQ.:</b> [REDACTED]	450.00	0:42	315.00
01/20/2017	<b>Lenny Whiting:\$150</b> Phone call with Kwang Chiu	150.00	0:18	45.00
01/20/2017	<b>Lenny Whiting:\$150</b> commenced drafting the opposition and countermotion to dismiss	150.00	2:48	420.00
01/24/2017	<b>Lenny Whiting:\$150</b> research on procuring cause	150.00	1:12	180.00
01/24/2017	<b>Lenny Whiting:\$150</b> continued working on the opposition to motion to stay	150.00	1:24	210.00
01/24/2017	<b>MICHAEL A. OLSEN, ESQ.:</b> Co [REDACTED] to [REDACTED]	450.00	0:36	270.00
01/26/2017	<b>Lenny Whiting:\$150</b> continued researching for [REDACTED]	150.00	1:48	270.00
01/26/2017	<b>MICHAEL A. OLSEN, ESQ.:\$450</b> Fol [REDACTED] for [REDACTED]	450.00	0:36	270.00
01/26/2017	<b>Lenny Whiting:\$150</b> spoke to Jerrin Chiu [REDACTED]	150.00	1:12	180.00
01/26/2017	[REDACTED] and Jerrin to [REDACTED]	150.00	0:36	90.00
01/27/2017	<b>MICHAEL A. OLSEN, ESQ.:\$450</b> Complete outline of Opposition and Counterclaim for law clerk.	450.00	0:54	405.00
01/27/2017	<b>Lenny Whiting:\$150</b> continued working on the opposition and countermotion	150.00	2:30	375.00
01/31/2017	<b>Lenny Whiting:\$150</b> Finished a draft of the opposition and countermotion to dismiss.	150.00	3:12	480.00

SERVICED	DESCRIPTION	RATE	QTY	AMOUNT
02/01/2017	<b>MICHAEL A. OLSEN, ESQ.:\$450</b> Review, re-draft and revise Opposition to Motion to Stay and Countermotion to Dismiss or for Summary Judgment.	450.00	1:18	585.00
02/02/2017	██████████ Jerin's review	150.00	1:30	225.00
02/02/2017	<b>MICHAEL A. OLSEN, ESQ.:\$450</b> w of final draft; notes from client ██████████	450.00	1:06	495.00
02/06/2017	<b>MICHAEL A. OLSEN, ESQ.:\$450</b> Travel to and attend hearing on Motion for Leave to Amend Pleading.	450.00	1:30	675.00
02/08/2017	<b>MICHAEL A. OLSEN, ESQ.:\$450</b> Review and respond to email from opposing counsel; review calendaring deadlines; review and execute Stipulation to move hearing to February 27; insure filing of Supplemental affidavit.	450.00	0:36	270.00
02/09/2017	<b>MICHAEL A. OLSEN, ESQ.:\$450</b> Follow up on continuance of hearing set for Monday.	450.00	0:30	225.00
02/10/2017	<b>MICHAEL A. OLSEN, ESQ.:\$450</b> Review and analysis of status of setting hearing on Motion to Withdraw as counsel; follow up on getting Reply brief.	450.00	0:36	270.00
02/15/2017	<b>MICHAEL A. OLSEN, ESQ.:\$450</b> Review Reply to Opposition and Opposition to MSJ.	450.00	0:48	360.00
02/24/2017	<b>MICHAEL A. OLSEN, ESQ.:\$450</b> Print out and commence review of all pleadings in preparation of Oral Argument for Monday Morning on Motion for Summary Judgment.	450.00	1:06	495.00
02/28/2017	<b>MICHAEL A. OLSEN, ESQ.:\$450</b> Follow up on getting draft of Order.	450.00	0:24	180.00
03/01/2017	<b>MICHAEL A. OLSEN, ESQ.:\$450</b> Review notice of withdrawal by Avece Higbee, Esq.; follow up to determine if Arbitration has been set with GLVAR.	450.00	0:36	270.00
03/02/2017	<b>MICHAEL A. OLSEN, ESQ.:\$450</b> Review status of Order Staying action; review notice of hearing for Avece Higbee, Esq. to withdraw as counsel.	450.00	0:42	315.00
03/09/2017	<b>MICHAEL A. OLSEN, ESQ.:\$450</b> Review and approve proposed order.	450.00	0:36	270.00
03/27/2017	<b>MICHAEL A. OLSEN, ESQ.:\$450</b> Review email from opposing counsel re: holding 16.1 conference; review status of Order being signed by the Court.	450.00	0:24	180.00
03/30/2017	<b>MICHAEL A. OLSEN, ESQ.:\$450</b> Review and respond to email from opposing counsel re: 16.1.	450.00	0:18	135.00
04/03/2017	<b>MICHAEL A. OLSEN, ESQ.:\$450</b> Confirm hearing for Avece Higbee, Esq.'s withdrawal as counsel of record; follow up with getting arbitration going.	450.00	0:42	315.00
04/17/2017	<b>MICHAEL A. OLSEN, ESQ.:\$450</b> Review Notice of status check re: withdrawal of counsel; review Notice of Entry of Order re: same; case analysis re: strategy for dealing with the fact that Betty Chan has not filed for arbitration with GLVAR.	450.00	0:42	315.00
04/18/2017	<b>MICHAEL A. OLSEN, ESQ.:\$450</b> Conference with paralegal re: her contact with GLVAR and lack of filing by Betty Chan; review strategy for Dist Court case.	450.00	0:30	225.00
04/24/2017	<b>MICHAEL A. OLSEN, ESQ.:\$450</b> Review of Court schedule; note status check re: withdrawal of counsel.	450.00	0:24	180.00
05/01/2017	<b>MICHAEL A. OLSEN, ESQ.:\$450</b> Travel to and attend hearing on Status check re: Plaintiff obtaining new counsel; inform Court we intend to lift the stay and renew our MSJ if Arbitration is not filed immediately.	450.00	1:36	720.00
05/03/2017	<b>Kimberly Gray:\$100</b> Check e-file queue and download pleading to client file.	100.00	0:12	20.00
05/04/2017	<b>MICHAEL A. OLSEN, ESQ.:\$450</b> Review notice of appearance of counsel.	450.00	0:24	180.00
05/04/2017	<b>Kimberly Gray:\$100</b> Check e-file queue and download pleading to client file.	100.00	0:12	20.00
05/09/2017	<b>Kimberly Gray:\$100</b> Check e-file queue and download notice of entry of order to client file.	100.00	0:12	20.00
06/14/2018	<b>Julian Campbell:\$100</b> Scanned and Served Documents to the Server, Conducted Correspondence	100.00	0:18	30.00



SERVICED	DESCRIPTION	RATE	QTY	AMOUNT
07/19/2018	<b>MICHAEL A. OLSEN, ESQ.</b> [REDACTED]	450.00	0:36	270.00
07/25/2018	<b>ROMAN HARPER, ESQ.: \$250</b> Reviewed motion to vacate filed by opposing party; conducted precursory legal research and a quick review of documents cited to by opposing party	250.00	1:54	475.00
07/27/2018	<b>ROMAN HARPER, ESQ.: \$250</b> Began working on outline for opposition and countermotion; initiated legal research regarding potential main points	250.00	2:18	575.00
07/30/2018	<b>ROMAN HARPER, ESQ.: \$250</b> [REDACTED]	250.00	4:42	1,175.00
07/30/2018	<b>ROMAN HARPER, ESQ.: \$250</b> Continued work on outline of briefing to reflect findings in continued legal research; began working on drafting analysis of procedural errors being forced by Chan in response to the arbitration award	250.00	3:30	875.00
07/31/2018	<b>ROMAN HARPER, ESQ.: \$250</b> Continued research regarding standard of challenging arbitration in Nevada; reviewed record to identify parameters of agreement to arbitrate and other helpful information regarding treatment of arbitration	250.00	3:12	800.00
07/31/2018	<b>ROMAN HARPER, ESQ.: \$250</b> Worked on summary of facts and procedural history related to litigation; used same to frame current status of matter in support of posture of litigation	250.00	3:42	925.00
08/01/2018	<b>MICHAEL A. OLSEN, ESQ.: \$450</b> Review Motion to Vacate; put together comprehensive outline of arguments against the same; also review arguments for Countermotion for Summary Judgment and/or to Dismiss the case.	450.00	0:48	360.00
08/01/2018	<b>MICHAEL A. OLSEN, ESQ.: Flat Fee</b> Continue work on research for Opposition to Motion to Vacate.	450.00	1:06	495.00
08/01/2018	<b>ROMAN HARPER, ESQ.: \$250</b> Drafted analysis of legal standard that applies to review of an arbitration award, focusing on authorities that demonstrate the very difficult nature of overturning or changing the same	250.00	4:36	1,150.00
08/01/2018	<b>ROMAN HARPER, ESQ.: Flat Fee</b> Finished drafting factual background to include description of underlying agreement to arbitrate and subsequent reaction to award by opposing party	150.00	3:30	525.00
08/02/2018	<b>ROMAN HARPER, ESQ.: \$250</b> Reviewed motion to vacate and identified additional grounds purportedly invoked; drafted analysis demonstrating that standard for fraud in the arbitration award has not been met in this matter; worked on analysis demonstrating that the award should not be vacated	250.00	1:24	350.00
08/03/2018	<b>ROMAN HARPER, ESQ.: \$250</b> Worked on identifying and drafting analysis to demonstrate the broad authority conferred on the arbitrator that eviscerates claims that the arbitrator exceeded authority	250.00	3:06	775.00
08/06/2018	<b>ROMAN HARPER, ESQ.: \$250</b> Finalized analysis and arguments related to statutory bases claimed by Chan in her attempt to overturn the arbitration award; worked on connecting arguments in opposition and related legal analysis	250.00	3:36	900.00
08/06/2018	<b>ROMAN HARPER, ESQ.: \$250</b> Finalized analysis and arguments related to the common law grounds for seeking a review of an arbitration award; demonstrated that these grounds have not been properly invoked in the case at hand; reviewed and finalized draft of opposition and countermotion and forwarded to MAO for review	250.00	3:36	900.00
08/06/2018	<b>ROMAN HARPER, ESQ.: \$250</b> Finalized briefing by incorporating revisions by MAO to opposition and countermotion; filed same with exhibits in support thereof	250.00	0:30	125.00
08/06/2018	<b>MICHAEL A. OLSEN, ESQ.: \$450</b> Review, re-draft and revise Opposition to Motion to Vacate and Countermotion for Summary Judgment.	450.00	1:42	765.00
08/07/2018	<b>MICHAEL A. OLSEN, ESQ.: \$450</b> Review billings and ask paralegal to cull out entries related to civil case in order to supplement our Countermotion for fees.	450.00	0:36	270.00

SERVICED	DESCRIPTION	RATE	QTY	AMOUNT
08/07/2018	<b>Julian Campbell:\$100</b> Prepared IAFD; Electronically filed and Served Documents on the Court	100.00	0:12	20.00
08/10/2018	<b>MICHAEL A. OLSEN, ESQ.:\$450</b> Review time frame for Reply and Opposition to our Countermotion for Summary Judgment and fees.	450.00	0:30	225.00
08/15/2018	<b>MICHAEL A. OLSEN, ESQ.:Flat Fee</b> Review and analysis of Summary Judgment; [REDACTED]	450.00	1:06	495.00
08/20/2018	<b>Julian Campbell:\$100</b> Prepared Hearing Binder	100.00	0:18	30.00
08/20/2018	<b>MICHAEL A. OLSEN, ESQ.:Flat Fee</b> Follow up on getting documents together for hearing on Wed.	450.00	0:24	180.00
08/21/2018	<b>MICHAEL A. OLSEN, ESQ.:Contingency</b> Review all pleadings and prepare oral argument in defending Motion to Vacate and pursuing Countermotion for Summary Judgment and for Attorney's fees.	450.00	2:36	1,170.00
08/22/2018	<b>CLIENT COST REIMBURSEMENTS:Postage</b> Parking Fees	21.00	1	21.00
08/22/2018	<b>ROMAN HARPER, ESQ.:\$250</b> Reviewed results of hearing; prepared, edited and revised order making findings and conclusions reached by court; sent same to MAO for review	250.00	3:06	775.00
08/22/2018	<b>MICHAEL A. OLSEN, ESQ.:Contingency</b> Travel to and attend hearing on Motion to Vacate which was denied; fees and Summary judgment taken; request for further briefing; consult with [REDACTED] and [REDACTED]	450.00	3:48	1,710.00
08/24/2018	<b>ROMAN HARPER, ESQ.:\$250</b> Began outlining and drafting supplemental points and authorities requested by court	250.00	0:54	225.00
08/27/2018	<b>ROMAN HARPER, ESQ.:\$250</b> Reviewed reply in support of motion to vacate and opposition to MSJ; reviewed declarations by Chan in support of her reply/opposition; reviewed complaint and the specific allegations being pursued in the complaint; continued working on supplement to motions for summary judgment and for fees	250.00	6:48	1,700.00
08/28/2018	<b>ROMAN HARPER, ESQ.:\$250</b> Conducted legal research regarding justiciability and mootness; conducted legal research regarding issue and claim preclusion; drafted analysis of these doctrines; worked on legal research regarding ability to collect attorney fees and theories in support of same; drafted argument in support of fees	250.00	4:06	1,025.00
08/29/2018	<b>ROMAN HARPER, ESQ.:\$2</b> [REDACTED]	250.00	3:48	950.00
08/29/2018	<b>ROMAN HARPER, ESQ.:\$250</b> Continued working on drafting legal and factual analysis for supplemental briefing	250.00	3:36	900.00
08/29/2018	<b>MICHAEL A. OLSEN, ESQ.:Contingency</b> Conference with associate and paralegal to re: [REDACTED] for [REDACTED]	450.00	0:54	405.00
08/30/2018	<b>ROMAN HARPER, ESQ.</b> [REDACTED]	250.00	0:18	75.00
08/31/2018	<b>MICHAEL A. OLSEN, ESQ.:Contingency</b> Review status of supplemental briefing; work with bookkeeper on gathering all invoice entries related to the civil case; follow up on arguments for Summary Judgment.	450.00	0:30	225.00
08/31/2018	<b>CLIENT COST REIMBURSEMENTS:Court Filing Fee-Wiznet</b> Electronic Filing Fees	3.50	1	3.50
08/31/2018	<b>CLIENT COST REIMBURSEMENTS:Court Filing Fee-Wiznet</b> Electronic Filing Fees	209.00	1	209.00
09/04/2018	<b>MICHAEL A. OLSEN, ESQ.:</b> [REDACTED] conference with associate re: [REDACTED]; review invoices; follow up with accountant re: getting billing invoices redacted for production to the Court.	450.00	0:36	270.00
09/04/2018	<b>ROMAN HARPER, ESQ.:\$250</b> Revised and [REDACTED] Countermotion; [REDACTED]	250.00	2:54	725.00
09/05/2018	<b>MICHAEL A. OLSEN, ESQ.:\$450</b> Review, revise and re-draft Supplemental Motion for Fees Costs and SJ.	450.00	1:06	495.00

SERVICED	DESCRIPTION	RATE	QTY	AMOUNT
09/05/2018	<b>ROMAN HARPER, ESQ.: \$250</b> Reviewed billings; incorporated totals into supplement; revised and edited supplement to opp and countermotion	250.00	1:54	475.00
09/05/2018	<b>ROMAN HARPER, ESQ.: \$250</b> Finalized supplement to Opp and counter-motion, incorporating changes by MAO and making necessary revisions; filed same.3	250.00	1:00	250.00
09/10/2018	<b>MICHAEL A. OLSEN, ESQ.: \$450</b> Follow up on status of supplement with our invoices.	450.00	0:30	225.00
09/10/2018	<b>ROMAN HARPER, ESQ.: \$250</b> Worked with paralegal to obtain invoices that are needed to support supplement	250.00	0:12	50.00
BALANCE DUE				

GOODSELL & OLSEN  
ATTORNEYS AT LAW

**BILL TO**

Wayne Wu

[illegible]

SERVICED	DESCRIPTION	RATE	QTY	AMOUNT
12/31/2016	<b>CLIENT COST REIMBURSEMENTS: Court Filing Fee- Wiznet</b> Electronic Filing Fees- (\$334.84 divided by 3 clients)	111.61	1	111.61
PAYMENT				111.61
BALANCE DUE				

GOODSELL & OLSEN  
ATTORNEYS AT LAW

**BILL TO**

Wayne Wu

INVOICE #	DATE	TOTAL DUE			ENCLOSED
8862	01/31/2017				

[illegible]

SERVICED	DESCRIPTION	RATE	QTY	AMOUNT
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
01/31/2017	<b>CLIENT COST REIMBURSEMENTS:</b> Court Filing Fee-Wiznet Electronic Filing Fees	2.80	1	2.80
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

PAYMENT	
BALANCE DUE	

2.80

10155 W Twain Ave, Suite 100  
Las Vegas, NV 89147 US

**GOODSELL & OLSEN**  
ATTORNEYS AT LAW

**Invoice**

**BILL TO**

Wayne Wu  
[REDACTED]

INVOICE #	DATE	TOTAL DUE		ENCLOSED
8937	02/28/2017	[REDACTED]		

SERVICED	DESCRIPTION	RATE	QTY	AMOUNT
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
02/28/2017	CLIENT COST REIMBURSEMENTS: Court Filing Fee- Wiznet Electronic Filing Fees	3.50	5	17.50
02/28/2017	CLIENT COST REIMBURSEMENTS: Court Filing Fee- Wiznet Electronic Filing Fees- access fee	1.75	1	1.75
02/28/2017	CLIENT COST REIMBURSEMENTS: Court Filing Fee- Wiznet Electronic Filing Fees- Opposition Filing Fee	206.00	1	206.00
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]



10155 W Twain Ave, Suite 100  
Las Vegas, NV 89147 US

GOODSELL & OLSEN  
ATTORNEYS AT LAW

Invoice

BILL TO

Wu, Wayne et. al. adv. Chan, Betty

INVOICE #	DATE	TOTAL DUE			ENCLOSED
10706	10/31/2018	\$25.44			

SERVICED	DESCRIPTION	RATE	QTY	AMOUNT
09/30/2018	<b>CLIENT COST REIMBURSEMENTS: Court Filing Fee- Wiznet</b> Electronic Filing Fees	3.50	7	24.50
09/30/2018	<b>CLIENT COST REIMBURSEMENTS: Postage</b> Postage	0.94	1	0.94

BALANCE DUE

**\$25.44**

10155 W Twain Ave, Suite 100  
Las Vegas, NV 89147 US

**GOODSELL & OLSEN**  
ATTORNEYS AT LAW

**Invoice**

**BILL TO**

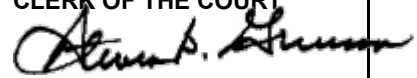
Wu, Wayne et. al. adv. Chan, Betty

INVOICE #	DATE	TOTAL DUE			ENCLOSED
10707	10/31/2018	\$99.00			

SERVICED	DESCRIPTION	RATE	QTY	AMOUNT
10/04/2018	Runner Service - Invoice #22524			90.00
10/18/2018	<b>CLIENT COST REIMBURSEMENTS:</b> Court Filing Fee-Wiznet Parking Fees	9.00	1	9.00

BALANCE DUE

**\$99.00**



1 **TRAN**

2  
3 **EIGHTH JUDICIAL DISTRICT COURT**  
4 **CIVIL/CRIMINAL DIVISION**  
5 **CLARK COUNTY, NEVADA**

6 BETTY CHAN, et al,

7 Plaintiffs,

8 vs.

9 WAYNE WU, et al,

10 Defendants.

)  
) CASE NO. A-16-744109

)  
) DEPT. NO. XX

11  
12 BEFORE THE HONORABLE ERIC JOHNSON, DISTRICT COURT JUDGE

13 WEDNESDAY, OCTOBER 31, 2018

14 ***TRANSCRIPT RE:***

15 DEFENDANTS AND COUNTERCLAIMANTS WAYNE WU, JUDITH SULLIVAN,  
16 NEVADA REAL ESTATE CORP. AND JERRIN CHIU'S OPPOSITION TO  
17 MOTION TO VACATE OR MODIFY ARBITRATION AWARD AND  
18 COUNTERMOTION TO RECOGNIZE WU AS THE PROCURING CAUSE,  
19 FOR SUMMARY JUDGMENT AND FOR ATTORNEY FEES

20 **APPEARANCES:**

21 For the Plaintiffs:

JANIECE S. MARSHALL, ESQ.

22 For the Defendants:

MICHAEL A. OLSEN, ESQ.

23 **ALSO PRESENT:**

BETTY CHAN

24 **RECORDED BY:** Angie Calvillo, Court Recorder

1 LAS VEGAS, NEVADA, WEDNESDAY, OCTOBER 31, 2018, 10:55 A.M.

2 \* \* \* \* \*

3 THE COURT: All right. Betty Chan versus Wayne Wu. Case Number  
4 A744109. Counsel, please note your appearances for the record.

5 MS. MARSHALL: Good morning, Your Honor. Janice Marshall on behalf  
6 of the plaintiffs, Betty Chan and Asian American Realty.

7 MR. OLSEN: Good morning, Your Honor. Michael Olsen on behalf of the  
8 defendants, Wayne Wu, Judith Sullivan, Nevada Real Estate Corp. and Jerrin Chiu.

9 THE COURT: All right. We're here in regard to -- I take it in large part  
10 the issue as to the arbitration award, and I think we did supplemental briefing on the  
11 issue as far as whether there can be more than one prevailing cause to a real estate  
12 sale. And so I've gone back through the documents and the exhibits and in looking  
13 at this it looks like the case was stayed to take this to arbitration, which the plaintiff  
14 indicated at the time of the motion for stay was mandatory under the ethics rules  
15 for realtors. And I didn't read anything in the motion or anything in the order of the  
16 court that it was just being sent to the arbitration panel solely to make a decision as  
17 to whether or not -- who was the prevailing or the procuring agent. It was essentially  
18 referred to the arbitration panel for it to make a decision. And the issue in the court  
19 was obviously the procuring agent issue, but I mean, there wasn't anything as to the  
20 panel just makes this decision and that's it.

21 So it goes to the panel, a binding arbitration agreement is entered into,  
22 which essentially gives the panel the authority to make a decision, and at the end of  
23 the day plaintiff contends she was the first one to take the purchaser to the house  
24 and the defendant contends that he -- that the plaintiff abandoned the sales efforts

1 and that he then took that over and completed the sale. And it appears that the  
2 arbitration panel believed the defendant and found that there was an abandonment,  
3 but somehow in the end decided out of -- whether a sense of fairness or whatever  
4 to give some money to the plaintiff. But, you know, looking at the documentation,  
5 you know, and I appreciate each side has their own read on it, but what I'm doing  
6 here is determining whether the panel was arbitrary and capricious in terms of  
7 its evaluation of the underlying evidence and I don't see that it is arbitrary and  
8 capricious in its evaluation. There was certainly evidence there that the panel  
9 could find that the plaintiff abandoned the sales effort and that Wu then stepped in  
10 to become the prevailing party.

11               So I'll tell you right now I'm not generally inclined to reverse or modify  
12 the arbitration award in this case.

13               MS. MARSHALL: Your Honor --

14               THE COURT: So I'll let you have a chance to talk about it. I'm letting you  
15 know where I'm generally thinking at this point in time. And then, you know, if I'm  
16 not modifying that, then what's left of the suit at this point in time?

17               MR. OLSEN: So, Your Honor, I'll jump in real quick. You've done a great  
18 job of summarizing where we were at the last hearing. You already entered an  
19 order on September the 18th denying their motion to vacate or modify the award.  
20 The procuring cause issue was argued extensively at the last hearing and you  
21 determined that the arbitration panel did not in any way exceed their authority.  
22 Looking at that order, what happened is after you determined that there would be no  
23 -- you were going to deny the motion to vacate or modify the award, I then inquired  
24 about our countermotion for summary judgment of this case --

1 THE COURT: Right.

2 MR. OLSEN: -- because there's no issues remaining against my clients.

3 THE COURT: Well, that's what I'm --

4 MR. OLSEN: Okay.

5 THE COURT: You know, I'm saying what's left in this case, is what I'm

6 asking.

7 MR. OLSEN: Yeah. So we're here today on two issues, the motion for

8 summary judgment and our motion for costs and attorney's fees.

9 THE COURT: All right.

10 MR. OLSEN: And that's where you had asked for supplemental briefing.

11 THE COURT: And I got supplemental briefing in large part on the -- from

12 plaintiff on the arbitration award.

13 MR. OLSEN: Right, which is not --

14 THE COURT: And that's why I went through --

15 MR. OLSEN: I appreciate that.

16 THE COURT: -- what my general position was in terms of the arbitration.

17 MR. OLSEN: Right. I appreciate that.

18 THE COURT: And that's why I want to know what -- you know, what's their

19 thought as to what's alive as to that, and then if -- and then what's left of this lawsuit.

20 MR. OLSEN: Well, any motion to reconsider time has passed. Any --

21 THE COURT: Well, I understand. You're still winning on that issue at least

22 with my initial thoughts, so we'll see where we are.

23 MR. OLSEN: Okay.

24 THE COURT: And, you know, if all of a sudden Ms. Marshall convinces me

1 something different, we'll deal with the issue of whether or not reconsideration is  
2 appropriate at this point in time.

3 MR. OLSEN: That's fine, Your Honor. I would just state for the record  
4 I think the only reason we're hearing this argument again is because we've had a  
5 fourth change of counsel --

6 THE COURT: I appreciate that.

7 MR. OLSEN: -- and Ms. Marshall doesn't have the benefit of having been  
8 here for the last extensive hearing on all these issues.

9 THE COURT: I've noticed that in going through the documents, too, looking  
10 back at the original order and motion on this.

11 All right. Anyway, Ms. Marshall.

12 MS. MARSHALL: Good morning, Your Honor. Janiece Marshall on behalf  
13 of Betty Chan and Asian American. So, a couple things. In looking at the order that  
14 was entered, there was no ruling on the defendants' counter-motion for summary  
15 judgment, that defendant Wu was the procuring agent and for the attorney fees.  
16 So pursuant to the order the Court entered last time, this is still an issue and you  
17 requested supplemented briefing on the issue of the procuring agent.

18 What is very important with respect to the procuring agent issue is a  
19 couple things. Nevada law only provides -- there's only procuring agent, and they go  
20 through the factors of what is a procuring agent. There are just -- you know, clear  
21 case law in Nevada about what is a procuring agent. And if you look at Morrow v.  
22 Barger, which is 103 Nev. 247 at 250, this is an exactly similar case where there was  
23 an original agent involved, brings a buyer to the seller. There was a written contract.  
24 It expired. They chose not to enter into a subsequent contract but they had an oral

1 agreement, continue your efforts to sell the property. The property sells. It's a  
2 different agent who was actually there at this time signing the purchase agreement.  
3 The court goes through and says just because the agent is at the signing of the  
4 purchase agreement, that does not make them the procuring agent. You have to  
5 look at what the agent did with respect to how did it end up being a sale.

6 In this case I have gone through step-by-step, which it appears wasn't  
7 done in prior pleadings, of what Ms. Chan did versus what Mr. Wu did, and there  
8 are very important points that you need to consider. So, Ms. Chan represented  
9 Mr. Wu (sic) starting in 2013. She was his agent for his first purchase. He  
10 contacted her thereafter, saying I want to buy a second home, 2014. He couldn't  
11 find a home that he liked or his offer wasn't accepted, and in December or  
12 November of 2015 he contacts her again. And I put that in her declaration where  
13 he's asking her again to be his agent because he wants to buy a second home.  
14 He gives her some requirements of what he wants in a house. He's only looking  
15 at resale properties.

16 Ms. Chan, she on her own looks up new properties because she thinks  
17 that will be a better buy for him based on his requirements. On her own she goes  
18 through, looks up houses, sets up all these different appointments. She brings him  
19 to two new developments, KB Homes and another new development. Mr. Chiu  
20 had never asked for new homes, he wanted only resale, so he sends her -- says  
21 my dad and I are going to be there December 30th and the 31st, can you show us  
22 the houses. She says yes.

23 On December 30th she drives him to some resale properties and then  
24 she takes him to KB Homes. The first time Mr. Chiu, defendant Chiu has ever been



1 to KB Homes' community, Tevare. He's there with his dad and his girlfriend. Ms.  
2 Chan is the only agent that's there. That's their very first visit to the community.  
3 She takes him and shows him the floor models, they talk about the lot plans. She  
4 takes Mr. Chiu into the sales office. She has him sign the card which provides  
5 the buyer information, which is the registration card, and she fills out the seller  
6 information or broker information. She leaves that card on that table with the  
7 baskets. Now, where KB Homes -- what KB Homes did with it, she doesn't know.  
8 She left it there.

9 Defendant Chiu has never denied that he visited the home with her for  
10 the first time, that he filled out the buyer part of the registration card. And why that  
11 registration card is so fundamentally important to this is because on the agreement  
12 that Mr. Chiu signed and Mr. Wu signed with KB Homes on the Tevare property,  
13 which is the one he ended up buying, which is the model Ms. Chan ended up  
14 showing him on December 31st, it provides in paragraph two an absolute condition  
15 for the payment of any commission that the broker accompanies and registers  
16 buyer at the community at the time of buyer's first visit as a prospective purchaser  
17 to the community. It goes on to say buyer shall not -- and it underlines the not --  
18 be entitled to any commission if buyer or any relative of buyer or any other person  
19 designated by buyer has visited the community without broker prior to the date of  
20 this agreement. That's KB Homes' document. That's not Mrs. Chan's, that's KB  
21 Homes.

22 In this case Ms. Chan is the one who introduces Mr. Chiu and his  
23 family to the Tevare properties. She shows him it on December 30th. Defendant  
24 Chiu goes back the morning of December 31st without contacting Mrs. Chan, goes

1 behind her back. He goes and he looks at the property. At that time -- well, actually  
2 the day before there were only two lots available, but it turns out that board wasn't  
3 updated that the second lot wasn't available, so the only lot and the lot that Mr. Chiu  
4 signs a reservation agreement, puts \$10,000 on the morning after Mrs. Chan has  
5 taken him there, is the lot that he ends up buying with Mr. Wu. That's important  
6 because that means Mr. Chiu already decided he was going to buy that floor plan,  
7 that lot the day after Mrs. Chan shows him that community. Mr. Wu is not there.  
8 Mr. Wu has no involvement.

9           That afternoon of December 31st, after Mr. Chiu goes in and signs  
10 the reservation agreements and pays \$10,000, Mr. Chiu's father calls Mrs. Chan  
11 and says, hey, there is a second agent who says he'll give us a one percent  
12 kickback on the sales commission; will you agree to that? And she says no, I don't  
13 give kickbacks, but I will agree to is I'll give you three-quarters of a percent of the  
14 sales commission. The father says fine. She doesn't talk to him again. She  
15 receives a message from the father over the New Year's holiday that year because  
16 this was going on over the New Year's, she receives a message from him. He says,  
17 oh, that's right, you're on vacation, call me when -- call me back when you're after  
18 vacation. He doesn't tell her it's an emergency, oh, my son has put a reservation on  
19 the lot, he wants to go forward with the purchase agreement, makes none of those  
20 representations at all. Why? Because clearly Mr. Wu has uncut Ms. Chan on the  
21 one percent commission kickback and they've decided to go with him.

22           So when Mrs. Chan emails Mr. Chiu, the son, on January 5th, that is  
23 well before the purchase date of the property, which is January 8th. They could  
24 have contacted her at any point in time. They didn't. There is no evidence of their

1 efforts to contact her. She then follows up again on January 15.

2 THE COURT: Well, I mean, there is -- I mean, the purchaser and Wu  
3 indicates that they made numerous attempts to try to get a hold of her and they  
4 couldn't get a hold of her. That's their representations. She -- you know, plaintiff  
5 says that she never got any calls except the one voicemail. So, I mean, you've  
6 got --

7 MS. MARSHALL: And they're the moving party, so they have the burden  
8 on this issue. Ms. Chan has presented --

9 THE COURT: Well, no, no, no. This is what was presented at the  
10 arbitration. And so, you know, this is the exact thing that goes to the arbitration.  
11 So it goes to the arbitration and both of these competing sides and their evidence  
12 is presented, and the arbitration panel makes the decision that essentially -- I mean,  
13 for whatever reason they appear to give more credibility to the defendants' side at  
14 the panel and made a decision that there was an abandonment by the plaintiff and  
15 the defendant became the procuring party.

16 This is largely a credibility determination, which the arbitrator was  
17 entitled to make and which -- you know, based upon the back and forth, I can't say  
18 that -- you know, that it was clearly erroneous or capricious on their part. I mean,  
19 if you believe what the defendant says, then there was a basis for abandonment.  
20 Obviously if you believe what the plaintiff -- if the arbitrator believed what the plaintiff  
21 alleged there was, they could have found no abandonment and that she was the  
22 procuring cause. But this is a factual determination that went to binding arbitration  
23 in which the -- I mean, this is the specific kind of issue that is supposed to go to  
24 arbitration. And so --

1 MS. MARSHALL: So two issues on that, Your Honor.

2 THE COURT: -- I don't see -- I mean, I understand what you're saying and  
3 I'm not -- you know, if we were to have a trial here, you know, possibly a jury or  
4 if it was a bench trial the Court would conclude there wasn't an abandonment, but  
5 we're not dealing with that. We have an arbitration award which the parties agreed  
6 would be a final arbitration and, you know, there's a factual underlying basis for  
7 the arbitration's decision. And so the fact that they weighed it certain ways and  
8 found by a preponderance that there was an abandonment by the plaintiff and that  
9 the defendant was the procuring cause, I can't say it was arbitrary or capricious.

10 MS. MARSHALL: So just two issues with respect to that, Your Honor.

11 THE COURT: Sure.

12 MS. MARSHALL: So the first thing is that the arbitration panel actually  
13 found in Ms. Chan's favor and ordered respondents to pay her a portion of the  
14 commission. So if it's true that you say there was a finding of abandonment, which  
15 is there is no finding by the arbitration panel, the award says that respondents are  
16 to pay Ms. Chan three thousand, three hundred and some dollars. So that means --

17 THE COURT: Twenty-five percent.

18 MS. MARSHALL: So that means that she was the prevailing party in the  
19 arbitration and that means that they could not find that she abandoned them  
20 because the only way she's entitled to a commission if she is the procuring agent.

21 Now, the second thing is that the arbitration panel, it's a manifest  
22 abuse of their discretion because, one, the KB agreement, purchase agreement  
23 with respect to what Wu entered into and Mr. Chiu specifically say that the -- it's an  
24 absolute condition for the payment of any commission that broker accompanies and

1 registers buyer at the community at the time of buyer's first visit as a prospective  
2 purchaser to the community. Broker is not entitled to commission if the buyer or  
3 any of his relatives have visited the community without broker prior to the date of  
4 this agreement.

5 THE COURT: But there's no -- my understanding is while she took him  
6 there, there's nothing showing that she -- I mean, there's no documentation that  
7 she registered, as required by the KB agreement. I know she says that she filled  
8 out the card and I'm not -- but again, you know, there is, you know --

9 MS. MARSHALL: But the second sentence, Your Honor --

10 THE COURT: And secondly, the agreement is between -- the seller's  
11 agreement is between Chan -- not Chan -- the purchaser and KB Homes. It's not  
12 between the plaintiff and it's not between the defendant. So the fact that KB Homes  
13 and the purchaser signed a contract that had certain terms in it doesn't bind Wu.

14 MS. MARSHALL: Yes, it does. He signed the agreement.

15 THE COURT: Did he sign the agreement?

16 MS. MARSHALL: He signed the agreement. I have a copy here. He  
17 signed it -- KB Home authorized signature. I believe that's his signature right there.

18 (Ms. Marshall confers with Ms. Chan)

19 MS. MARSHALL: If I may approach, Your Honor?

20 THE COURT: Sure.

21 MS. MARSHALL: This is the copy of the agreement. You see that Mr. Chiu  
22 signed it and Mr. Wu signed it.

23 MR. OLSEN: Your Honor, just to clarify, it's a contract between KB Homes --

24 THE COURT: Right.

1 MR. OLSEN: -- and Wu and Chiu. Ms. Chan has no standing. And I would  
2 point out further, Your Honor --

3 MS. MARSHALL: I'm still arguing. Excuse me, counsel.

4 THE COURT: Hold on.

5 MR. OLSEN: -- this is an argument that was never raised in the arbitration  
6 at all. And so we argued this the last time we were in front of you --

7 THE COURT: Yeah.

8 MR. OLSEN: -- and you can't raise new arguments that you failed to raise  
9 during the arbitration.

10 MS. MARSHALL: Excuse me.

11 THE COURT: All right, all right. I'm going to let --

12 MR. OLSEN: This was all heard by the Court.

13 THE COURT: I understand. Let me let her finish and I'm going to -- we're  
14 going to get this resolved one way today.

15 MS. MARSHALL: So, Your Honor, that specifically provides under section  
16 two, the last sentence, that a broker who wasn't with the buyer on the first visit is not  
17 entitled to the commission. And these issues were brought up --

18 THE COURT: Well, no, it's that if registered. And again, we don't have --

19 MS. MARSHALL: But then look at the last sentence, Your Honor. No, the  
20 last sentence in that paragraph that's highlighted, number two.

21 THE COURT: Okay.

22 MS. MARSHALL: It specifically applies to the broker. And what that does  
23 is it precludes Wu.

24 THE COURT: Well, then, I mean, then that issue is KB Homes should be

1 suing Wu to get their money back.

2 MS. MARSHALL: Mr. Wu is held to that. And this is why my argument is  
3 a manifest abuse of the arbitration because that was before them. They had that  
4 agreement. They know Nevada law under Morrow v. Barger that there can be  
5 only one procuring cause. Mr. Wu was not the procuring cause and he didn't do  
6 anything except be present at the time that the purchase agreement was entered  
7 into. And the way that you know that is because, one, this is a builder and when  
8 they sell property there is no negotiation in-between. And the purchase agreement  
9 goes through and nothing was negotiated. Nothing about the lot, nothing about the  
10 price, nothing was negotiated by Mr. Wu because when you buy from KB Homes,  
11 their terms are what their terms are and you don't negotiate. So Mr. Wu didn't do  
12 anything except be present at the time the purchase agreement was entered into.

13 THE COURT: But the arbitration panel obviously found differently.

14 MS. MARSHALL: Well, if they're not following the law, Your Honor, which  
15 is the whole point of manifest abuse --

16 THE COURT: Well, I mean, they can't -- there is generally one procuring  
17 agent. That's correct. But the initial realtor can abandon -- the Nevada case law  
18 also says the initial realtor can abandon the sales effort, and if that happens then  
19 another realtor coming in becomes the procuring cause for purposes of getting the  
20 commission. That was the argument, from what I understand, at the arbitration  
21 panel. And I have looked at the evidence. I do see your point of view that this was  
22 a situation where plaintiff has a good argument that she was the procuring cause.  
23 I also see evidence that's been presented by the defendant which indicates that  
24 there was an abandonment by the plaintiff in this case, in which case the arbitration

1 panel isn't abusing its discretion if it finds there was an abandonment and that Mr.  
2 Wu becomes the procuring cause. And the arbitration panel manual and rules of  
3 the arbitration allow certain -- the arbitration panel to make certain exceptions to  
4 the -- in the award. And in here what appears to have happened is they found there  
5 was an abandonment, they found that Wu became the procuring cause, but they  
6 decided to give a quarter of a percent -- a quarter of the award to the plaintiff out of  
7 some equitable considerations, which I think arguably were permissible under the  
8 rules of the arbitration panel.

9           So I don't see an issue with -- that would justify the Court making a  
10 finding the arbitration panel was arbitrary and capricious. Assuming I don't do that,  
11 what's left of this lawsuit?

12           MS. MARSHALL: So, Your Honor, their motion for summary judgment asks  
13 for Wu to be determined to be the procuring agent, but he can't be the procuring  
14 agent under the KB Homes sales agreement. So looking at what the arbitration  
15 panel did, you are assuming that they determined that there was abandonment, but  
16 the evidence before the arbitration panel, which included written emails sent to Mr.  
17 Chiu from Ms. Chan on January 5th before the purchase agreement was entered  
18 into, clearly shows she didn't abandon, and that evidence was before the panel.

19           So now when you're looking at what the arbitration panel was doing,  
20 there is evidence that she's communicating, contacting, following up with the buyer  
21 on January 5th. And you need to know that the Chius were only in town for two  
22 days. They told her they were only in town December 30th and 31st. So when she  
23 responds to him on January 5th, she has no knowledge that they've gone behind  
24 her back and gone to the sales office the day after, which is when he entered the



1 reservation agreement. So it is clear she's the procuring agent. She's contacting on  
2 January 5th. She's following up again a week or two later in January, still contacting  
3 him about are you buying the house. So that evidence is before the arbitration panel  
4 of her efforts. And if they found that -- you're presuming if they found abandonment,  
5 she wouldn't be entitled to any of it because once she abandoned it --

6 THE COURT: That's arguably -- but clearly they found that. I mean, the  
7 panel had the ability to find abandonment and award procuring cause, and it  
8 appears, I mean, that they determined ultimately that Mr. Wu was the procuring  
9 cause. Again, Mr. Wu has the argument that, you know, he shouldn't have to even  
10 give up the twenty-five percent since they found him the procuring cause. And to  
11 find him the procuring cause, they would have to find that there was no -- that there  
12 was an abandonment on the part of the plaintiff.

13 I understand your argument. I'm not -- and as I said, if this was to start  
14 over again and we started doing -- you know, we had a trial here and it was a bench  
15 trial, I might determine differently from the arbitration panel or a jury might. But what  
16 we had here was a binding arbitration and both sides presented evidence and they  
17 came back with this decision and I can't say it's arbitrary and capricious. So I'm  
18 asking now, what is left of your lawsuit?

19 MS. MARSHALL: One final point on that, Your Honor, because I'm not sure  
20 how the Court then -- how do you -- that means that you're saying that Morrow v.  
21 Barger and all the cases after it that the Nevada Supreme Court has ruled on where  
22 they say there can be only one procuring cause, that is in direct contradiction to the  
23 arbitration award. And that is the grounds for the manifest abuse because Nevada  
24 law clearly says there's only one procuring cause for the purchase of the property.

1 And you have to look at those factors, and all the factors are in Ms. Chan's favor,  
2 period. I mean, that hasn't been disputed.

3 THE COURT: But the parties entered into a binding arbitration with  
4 arbitration rules that allow certain exceptions to the procuring cause. And arguably  
5 if we go on the basis that there can only be one procuring cause, the panel clearly  
6 found that the procuring cause in this case was Mr. Wu. And the argument I could  
7 be hearing from Mr. Wu's side is that they were arbitrary and capricious in not  
8 granting him the whole amount of money. I read the rules as providing them some  
9 flexibility, which they exercised here, to give Ms. Chan a portion of the commission.  
10 But I don't find -- you know, but Mr. Wu isn't up here demanding that quarter percent  
11 and I don't find the panel decision to be arbitrary or capricious.

12 And I'm not ignoring Nevada law because Nevada law provides that  
13 if the initial broker or initial realtor abandons, then someone else can step into the  
14 shoes as the procuring cause. That's what it appears the panel found in this  
15 instance. And there is -- you've got good evidence on your side, defense has their  
16 own position and their own statements on their side, and the panel weighed it and  
17 came out in favor of Mr. Wu as the procuring cause.

18 So I'm not inclined to reverse the panel decision. I'm not inclined to  
19 reconsider that. So that leaves the question, what's left of your lawsuit?

20 MS. MARSHALL: So the first amended complaint that was filed on  
21 November 15, 2016 has a cause of action for declaratory relief, that KB Homes  
22 breached the obligation to pay the commission to Chan because Mrs. Chan is the  
23 one that brought Mr. Chiu to KB Homes community on his very first visit.

24 THE COURT: All right. So are you alleging that Ms. Chan had a contract

1 with KB Homes?

2 MS. MARSHALL: Yes, Your Honor. There certainly can be an oral  
3 agreement.

4 THE COURT: Is KB Homes a --

5 MS. MARSHALL: Yes, they are a defendant in our action.

6 THE COURT: Okay.

7 MS. MARSHALL: So we're entitled to that declaratory relief action and to  
8 conduct discovery on it. We have a second cause of action, breach of contract,  
9 that plaintiff was the procuring cause of the sale and KB Homes breached its duty  
10 to pay the commission. So we have a breach of contract claim and a declaratory  
11 relief claim. We also have unjust enrichment, that Chan was the procuring agent,  
12 Wu interfered with Chan's representation of Chiu by offering the one percent  
13 kickback of the commission when he went behind her back and the Chius went  
14 behind her back and negotiated that deal, and we're entitled to proceed with that  
15 cause of action as well.

16 THE COURT: Okay.

17 MS. MARSHALL: Wu and Chiu made misrepresentations to KB Homes,  
18 and we're entitled to pursue those issues because we do have evidence and we're  
19 entitled to put Mr. Chiu on the stand for him to testify that he did fill out the buyer  
20 registration card. He was present when Ms. Chan took him to the sales office on  
21 December 31st for his first visit.

22 THE COURT: Not Wu. The purchaser filled it out.

23 MS. MARSHALL: I'm sorry, Mr. Chiu.

24 THE COURT: Yeah.

1 MS. MARSHALL: When Ms. Chan took Mr. Chiu to the KB sales office on  
2 December 30th, they both went in together after he and his girlfriend had said we  
3 love floor plan 2, we want floor plan 2 at this. She took him in. She had him fill out  
4 the buyer portion. He's never denied that. And he's never denied that she left the  
5 card there.

6 THE COURT: All right. So you're saying that your action is against KB  
7 Homes for -- you're saying that there was either some sort of contractual relationship  
8 between the plaintiff and KB Homes --

9 MS. MARSHALL: Correct.

10 THE COURT: -- that was violated. And then also that Mr. Wu interfered  
11 with the contract between plaintiff and the purchaser.

12 MS. MARSHALL: Correct.

13 THE COURT: Okay.

14 MS. MARSHALL: Wu, Chiu and the broker, KB Homes, all of those are  
15 with respect to the unjust enrichment because their conduct deprived Ms. Chan of  
16 the commission she was rightly entitled to obtain because she complied with all the  
17 KB requirements -- (inaudible).

18 THE COURT: Okay. No, I follow what you're saying. I mean, I understand  
19 what you're saying. I'm just trying to isolate what's still left to be --

20 MS. MARSHALL: So those -- all of our causes of action still exist, Your  
21 Honor.

22 THE COURT: Okay. All right, let me hear from the defense.

23 MS. MARSHALL: Thank you, Your Honor.

24 MR. OLSEN: Okay. Thank you, Your Honor. Let me just start procedurally.

1 We've now just heard the exact same argument that the arbitration panel considered  
2 for four hours. And the unfortunate thing for Ms. Chan is that the evidence and the  
3 testimony did not support a lot of the argument that you just heard just now, and yet  
4 we've heard the same argument during a 4-hour arbitration, binding, and we heard  
5 the same argument back on August 22nd in front of this Court. And this Court  
6 issued a ruling based on that argument. And my colleague, I understand she's new  
7 in the case, but she misstated the order that came out of that last hearing. That  
8 order specifically states: "Notwithstanding, the Court finds that Nevada law does  
9 not prohibit splitting a commission between two individuals, both claiming to be the  
10 procuring cause, and therefore plaintiffs/counterdefendants have failed to meet their  
11 burden of demonstrating clear and convincing evidence," which is what's required  
12 to overturn a binding arbitration award, "of a violation under the standards asserted  
13 in the motion to vacate."

14           The Court then goes on to say: "The motion to vacate or modify the  
15 arbitration award is denied." And pursuant to NRS 38.241, if it's denied it must be  
16 confirmed, the arbitration award must be confirmed by statute, which it was. So the  
17 issue of procuring cause is done and over pursuant to this order. It's over. There's  
18 no more argument on that. Then the Court says, "The countermotion seeking  
19 summary judgment and an award of attorney's fees is taken under advisement and  
20 requests supplemental briefing." Not as to procuring cause. We're not here to  
21 argue procuring cause, although we could. We could have reserved that argument;  
22 we're not.

23           We're here to argue about summary judgment. Why? Well, because  
24 -- so the Court gave us time to supplement and you'll recall, Your Honor, we signed

1 a stipulation and gave Ms. Marshall additional time when Mr. Kennedy backed out  
2 of the case or got fired, I don't know, but Ms. Marshall is now the fourth counsel in a  
3 case over a \$14,000 commission. And I granted the stipulation, even though I knew  
4 my clients would be upset we extended the hearing. Then we came here before you  
5 a couple weeks ago and they said we want more time, we want a second extension,  
6 and the Court was gracious and granted a second extension. Despite the second  
7 extension, the opposition was filed a day late on the 25th on the evening of the  
8 holiday weekend, forcing us to work over the holiday weekend to file a reply.

9 But, Your Honor, we're here -- and so, I mean, in our view that  
10 opposition shouldn't even be considered, but we're here today to talk about  
11 summary judgment. We're here today to talk about whether attorney's fees and  
12 costs should be awarded. Bear in mind, Your Honor, that Ms. Chan, as a member  
13 of GLVAR, to be a member she is contractually and ethically bound to take  
14 commission disputes to the GLVAR rather than litigate. That's what the manual  
15 says. Disputes regarding commissions must be taken to the GLVAR for mandatory  
16 binding arbitration rather than litigate. But she didn't do that. She filed a lawsuit first  
17 before taking it to the GLVAR, which resulted in tremendous expense to my client.

18 So we're here today to talk about summary judgment. Well, Your  
19 Honor knows the standard for summary judgment very well. There has to be a  
20 genuine issue of material fact, okay. There are only three claims in the amended  
21 complaint. There are only three. There's one for declaratory relief and they're  
22 asking this Court to award a commission; declaratory relief. There's one for unjust  
23 enrichment, saying that any commission going to Mr. Wu would be unjust  
24 enrichment, okay. Both of those were clearly resolved by the binding arbitration.

1 Those claims apply to Mr. Wu, Judith Sullivan and the brokerage. They were  
2 parties.

3 Now, Mr. Chiu is the buyer in this case. Why has Mr. Chiu been sued?  
4 Why has Mr. Chiu been sued? He's the buyer. They've admitted that Ms. Chan had  
5 no contract with Mr. Chiu whatsoever. There was no verbal contract, there was no  
6 exclusive listing agreement, there was no contract. So Mr. Chiu is dragged into this  
7 litigation but there's no claim against him. There's also -- it was very interesting to  
8 me to just hear that counsel claims that there's an intentional interference claim.  
9 Well, it doesn't appear in the amended complaint. There's no intentional interference  
10 claim. And even if they try to assert one, again, that issue was resolved by the  
11 binding arbitration because the binding arbitration heard evidence on both sides and  
12 determined who was justly entitled to the commission. That's what happened.

13 And during the arbitration Ms. Chan argued, well, I filled out a  
14 registration card. Now, counsel just said Mr. Chiu has never denied signing that.  
15 He did deny signing that in the arbitration. Ms. Marshall wasn't there, but he  
16 absolutely denied that. And Ms. Chan said, well, I left it on an unmanned table with  
17 some other papers and I left it. No one can ever find it.

18 When Ms. Chan first hired counsel in this case, Jeff Hall with the  
19 Hutchison & Steffen firm, he sent me a letter saying we have the registration card  
20 and my client is entitled to the commission. We said great, send us the card. He  
21 came back and said I can't find the card, my client doesn't have it, I'm withdrawing  
22 as counsel, I'm out, because she can't even prove that she has a contract with  
23 KB Homes. Now, I don't represent KB Homes and it's interesting that KB Homes  
24 isn't here today, and the reason KB Homes isn't here today is because they've been

1 given an open extension by the plaintiff to answer the complaint. They haven't even  
2 answered the complaint.

3           Your Honor, let me -- you have to ask yourself why are we here in  
4 district court. Why are we here? Why has Ms. Chan gone through four counsel to  
5 push this case forward? What's the real motive? Well, we don't have to wonder  
6 because if you go to Exhibit C to our supplement, here is an email from Ms. Chan  
7 to KB Homes and here's what it says. This is dated February 5th, 2016. "Honestly,  
8 from day one I met you, my focus is not on the commission." So she admits this  
9 is not about the commission. "I felt insulted and humiliated. Another agent dared  
10 challenge me and he really do not know who I am. I have been really sad more  
11 than I am angry. Last night I read many court cases. Even though my card was  
12 disappeared" -- so she admits no one can find the card that she claims she filled out  
13 -- "it won't hurt me winning. I like to teach them a lesson." So if you're wondering  
14 why she filed a civil case naming everybody and it's not about commission, it's to  
15 teach a lesson. You've got two Mandarin Chinese speaking agents working in the  
16 same market in real estate and she doesn't want someone playing in her sandbox.  
17 That's what this case is really about, Your Honor. It's not about the commission,  
18 it's about her fighting it.

19           Now let's go on. "Life is not about money. So happen I do have a few  
20 hundred thousand in hand that I can use. If they are willing to go along with me to  
21 spend equal amount of money, then I will be very happy to play their game. I got my  
22 direction last night, so I felt peaceful now. All I need KB to understand, I don't hate  
23 KB for this and I need them to work with me on my plan. Jana," -- who works for  
24 KB Homes -- "I don't blame you, either, and take care of yourself."



1           So why are we here in civil court in a case that should have gone to  
2 binding arbitration? And now my client has run up tens of thousands of dollars worth  
3 of fees. What -- you asked, Your Honor, what remains of the case? I'll tell you what  
4 remains. A breach of contract claim against KB Homes. That's it. There's nothing  
5 against my clients that remains. That's why summary judgment is proper. They can't  
6 point to a single genuine issue of material fact based on that amended complaint  
7 that applies to my clients. The unjust enrichment claim fails because it was resolved  
8 by the binding arbitration. The declaratory relief claim is done because it was  
9 determined by the binding arbitration.

10           Now let's talk about costs quickly. In the event that the Court agrees  
11 with me and determines that there's no remaining in this civil case that should never  
12 have been filed in the first place, costs are mandatory for the prevailing party under  
13 NRS 18.020(3), and that's been confirmed by the supreme court in the Design  
14 Construction Corporation case.

15           As for fees, there's three grounds that I believe the Court could rely  
16 on to award our fees in this case. First of all, EDCR 7.60. EDCR 7.60 says that  
17 the Court can impose upon an attorney or a party any and all sanctions which may  
18 under the facts of the case be reasonable, including the imposition of fines, costs or  
19 attorney's fees, when an attorney or a party without just cause presents to the Court  
20 a motion or an opposition to a motion which is obviously frivolous, unnecessary  
21 or unwarranted, or so multiplies the proceedings in a case as to increase costs  
22 unreasonably and vexatiously. I think this is the definition of vexatious litigation.  
23 Again, I've given you two reasons. One, she's contractually and ethically bound to  
24 resolve this matter through binding arbitration. And two, she has stated in her own

1 words in her email what her real motive is here. It's to run up the costs of litigation.  
2 She's got several hundred thousand dollars to spend to teach a lesson. I think 7.60  
3 would apply.

4 The second grounds that the Court could rely on is NRS 18. And I  
5 apologize, Your Honor, in our briefing I've got to make a correction. In our briefing  
6 we quoted .0102 (c) and that would not apply. That's the twenty thousand dollar --  
7 you have to be the party seeking damages. That does not apply. However,  
8 NRS 18.0102 (b) applies when you have a defense or claim maintained without  
9 reasonable ground or to harass the prevailing party. Again, same two reasons I just  
10 gave you.

11 And then the third grounds, Your Honor, is we filed a counterclaim for  
12 abuse of process. And, Your Honor, the standard under abuse of process, as this  
13 Court is probably aware also, is this. I'm reading from the LaMantia v. Redisi case,  
14 118 Nev. 27; 38 P. 3d 877: "This Court has previously explained that the elements of  
15 an abuse of process claim are, one, an ulterior purpose by the defendants other than  
16 resolving a legal dispute." Well, it's not about the commission, this is about teaching  
17 a lesson. "And two, a willful act in the use of the legal process not proper in the  
18 regular conduct of the proceeding." Filing a lawsuit when you've signed a contractual  
19 and ethical obligation that says you will arbitrate rather than litigate.

20 So, Your Honor, my clients are here today having run up \$50,000 in  
21 attorney's fees and costs just in this litigation. We culled out all of our attorney's  
22 fees and costs related to the arbitration, so there's no attorney's fees and costs in  
23 there related to preparation or attending the arbitration. Those are fees incurred  
24 fighting this with the procedures and the pleading practice that took place before the

1 arbitration and after the arbitration. So we're asking for summary judgment because  
2 there's no claims remaining that have not been resolved by the arbitration award,  
3 and we're asking for our costs as mandatory as the prevailing party, not in the  
4 arbitration, Your Honor. To be clear, I'm not talking about who is the prevailing party  
5 in the arbitration.

6 THE COURT: I know. Let me --

7 MR. OLSEN: I'm talking about who is the prevailing party in this case.

8 THE COURT: Let me stop you. I don't have a copy of the complaint in  
9 front of me, but the only thing that sort of caught my ear from the plaintiff's side in  
10 reference to your client is the concept of interference with contracts. Is that part of  
11 the complaint? And then secondly, is that something you would say was resolved  
12 by the arbitration award?

13 MR. OLSEN: So, Your Honor, I do have the complaint here, I believe, and  
14 I've taken several close looks at it and it did not have an intentional interference  
15 claim, to my recollection.

16 MS. MARSHALL: I didn't say intentional interference, counsel, I said unjust  
17 enrichment. I do have a copy of the complaint, Your Honor.

18 THE COURT: Well, I thought you did say interference with contract.

19 MS. MARSHALL: No, I said that they -- I said that the cause of action was  
20 unjust enrichment --

21 THE COURT: Okay.

22 MS. MARSHALL: -- because Mr. Wu and Mr. Chiu conspired against Mrs.  
23 Chan to deprive her of the commission. And that has always been an allegation that  
24 Ms. Chan has alleged, that they went behind her back and Mr. Chiu --

1 THE COURT: That would have been dealt with by the arbitration panel.

2 MR. OLSEN: Exactly.

3 MS. MARSHALL: That was not dealt with by the arbitration panel, Your  
4 Honor, and one of the reasons why is the arbitrator twice prevented Mrs. Chan  
5 from continuing her testimony. He cut her off and she didn't get to provide all the  
6 information that she was entitled to at the arbitration panel.

7 MR. OLSEN: Your Honor, I'm sorry, I can't let that stand. That is a blatant  
8 misrepresentation. That arbitration went for four hours and at the end the arbitration  
9 panel said is there anything that either counsel would like to add or is there anything  
10 we have not heard here? Is there anything you would like to present? And both  
11 counsel, myself and Mr. Kennedy, both said no. She was given a complete  
12 opportunity to testify.

13 THE COURT: Okay. All right.

14 All right. I'll let you have one last --

15 MS. MARSHALL: Yes. And I can address --

16 THE COURT: Sure.

17 MS. MARSHALL: -- the issues raised, Your Honor. Your Honor, what  
18 counsel seems to not understand is that Ms. Chan -- her second language is  
19 English, so when you read what she writes it means something a little bit different  
20 to her than the plain language. What she's talking about in that email is the principle  
21 that matters, not the money, because she's been a real estate agent and a broker  
22 for over 28 years and she's never had any complaint filed against her. She's never  
23 had, except at the very beginning of her career, any dispute about a commission.  
24 And after 28 years, she is back at the position where some other agent is taking

1 away her commission and it's the principle that matters to her.

2 And I don't know why counsel insists on bringing up the fact that  
3 Ms. Chan has had prior attorneys. She had to fire the first one because he  
4 misrepresented in a letter without ever talking to her that she took the registration  
5 card with her. Well, if she took the registration card with her, then she wouldn't  
6 have registered with KB Homes, so that doesn't make any sense anyway for them  
7 to continue arguing that position. But it is a problem in this town to get competent  
8 attorneys to represent you and to listen to you.

9 THE COURT: I'm sorry, I was just thinking of the first -- (inaudible).

10 MS. MARSHALL: The earlier one. I know, because she left.

11 THE COURT: I apologize. I'm not laughing at you, just your comment.

12 MS. MARSHALL: No. She's had a very challenging time. Mr. Kennedy is  
13 a very fine attorney, but he also was moving practices in the middle of her case and  
14 there were some issues there. But the fact of the matter is that her -- she filed the  
15 complaint. She named Wu, Chiu, Nevada Real Estate Corporation and also KB  
16 Homes. KB Homes is not part of the award of the arbitration award, so to preserve  
17 her rights against all these parties she of course has to bring a lawsuit. And she  
18 also stayed her lawsuit and went to arbitration. Counsel can't dispute that she  
19 stayed her lawsuit. And she's entitled to file a lawsuit and she can stay it and then  
20 come back to it. She alleges different causes of action in the complaint. And if  
21 KB Homes -- she left the card at KB Homes. They lost the card. KB Homes has a  
22 responsibility here.

23 THE COURT: Well, then, you know, that -- you may have an action against  
24 KB Homes.

1 MS. MARSHALL: So you said what is left in our lawsuit. That is left in our  
2 lawsuit.

3 THE COURT: Okay. Okay, I guess I should focus what's left in the lawsuit  
4 against, you know, the defendant here in this case?

5 MS. MARSHALL: And we're entitled to produce discovery in the litigation  
6 and if it turns out that there was some agreement between KB Homes and Mr. Wu  
7 or Mr. Chiu, or that KB Homes knew that -- they knew that Ms. Chan was the first  
8 one that brought Mr. Chiu to there and they paid the commission to Mr. Wu not in  
9 accordance with their agreement, then they're responsible for the commission to pay  
10 it to Mrs. Chan. So we have very valid claims still left in the lawsuit that may bring  
11 up additional issues and additional discovery with respect to fraud; that I think that  
12 we can always go back with respect if there's an issue of fraud.

13 Now, as to the attorney fees and costs, that email is misinterpreted  
14 by him and it's also written by someone whose English is a second language.  
15 She is saying to KB Homes this is about the principle. And of course it's about the  
16 principle. She's a very successful real estate agent. She does not appreciate being  
17 treated that way and to have her clients go behind her back and lie to KB Homes.  
18 And Mr. Chiu did not deny filling out the card. He forgot if he filled out the card.  
19 That's what his testimony was, counsel.

20 Her motion to set aside the arbitration order, she's entitled to do that  
21 under the arbitration rules. She's entitled to come to court.

22 THE COURT: She's entitled to do that.

23 MS. MARSHALL: And it's not frivolous.

24 THE COURT: So that's what we -- then that's what we did here was --

1 MS. MARSHALL: He's arguing that that's frivolous. No. She had very  
2 good reasons, a good faith basis.

3 THE COURT: Well, contractually under the arbitration agreement when  
4 she brings it to the district court then she's responsible for attorney's fees if she's  
5 not the prevailing party.

6 MS. MARSHALL: But there's no judgment in our case yet, Your Honor.  
7 They're still a defendant in our case.

8 THE COURT: Okay. Well, I mean --

9 MS. MARSHALL: They haven't moved to dismiss our causes of action.  
10 The only thing they moved on was in a counter motion to say that Wu is the  
11 procuring agent. They didn't move for summary judgment on the causes of action  
12 in our complaint. So all our causes of action in our complaint are still valid and we're  
13 entitled to pursue what we -- additional causes of action that we can. There may be  
14 additional ones that we're entitled to as discovery proceeds. They haven't moved  
15 for summary judgment on our causes of action.

16 But she had good reason and she had to preserve her cause of action  
17 against KB Homes. She can't split her causes of action. She has to be worried  
18 about the statute of limitations because, you know, this case started back in 2015.  
19 We're in 2018. If she waits until the arbitration decision, she may be barred on  
20 some of her causes of action. And she stays it before the case proceeds, so there's  
21 no harm, no foul. And there is no provision that says you can't file a complaint and  
22 pursue your arbitration. She didn't go forward with her action against Mr. Chiu  
23 and Mr. Wu in her complaint. She stayed it and then she proceeded, as required,  
24 through the arbitration.

1                   She hasn't done anything wrong. Marquis Aurbach is the one who  
2 filed the amended complaint. They handle these cases all the time. So I guess  
3 Marquis Aurbach back in 2015 or November 2016, counsel is saying that they  
4 did it wrong. I don't think they did it wrong. She can't split the causes of action.  
5 She's got different causes of action in her complaint than that were pursued at the  
6 arbitration hearing. Her claims aren't frivolous. She's not doing this to increase  
7 attorney's fees or costs. She's doing it because, as her email said, she's standing  
8 on principle. She may have worded it wrong. And her plan is her lawsuit. She's  
9 suing both KB Homes, Chiu, Wu, the brokers for Mr. Wu. She's doing everything  
10 right and she's pursuing her rights.

11                   And her position is, you know what, she may not win the commission.  
12 It may cost her more money even if she does get the commission, but she's  
13 proceeding on principle and she certainly has a right to protect her reputation in  
14 the community because a real estate agent has to protect their reputation because  
15 if you don't then other real estate agents are going to do the same thing, go behind  
16 their back, offer a kickback to a client and then take away commissions from a real  
17 estate agent, and that's just not fair. It's clear that Mr. Chiu would never have been  
18 to this property --

19                   THE COURT: You know, and I agree with you, it's not fair if that's what  
20 happened, but that's not what the arbitration panel found.

21                   MS. MARSHALL: I understand, but we still have these claims that we can  
22 pursue --

23                   THE COURT: All right.

24                   MS. MARSHALL: --against KB Homes, Mr. Wu, Mr. Chiu and the broker



1 in our district court action. They have not moved for summary judgment on our  
2 causes of action in our complaint.

3 THE COURT: I thought that they had.

4 MR. OLSEN: I did, Your Honor. Actually, if I could -- it's my motion, so if  
5 I could --

6 MS. MARSHALL: It says motion for summary judgment regarding the  
7 procuring --

8 THE COURT: Well, they title -- the title.

9 MS. MARSHALL: They call it procuring agent.

10 THE COURT: Procuring agent. But the body of it provides for summary  
11 judgment as to the outstanding claims.

12 MR. OLSEN: Yeah. Your Honor --

13 THE COURT: I mean, the title was perhaps inartful, but.

14 MS. MARSHALL: So with respect to our claim for unjust enrichment, Your  
15 Honor, if we establish that Mr. Wu knew that Mrs. Chan was the first one there,  
16 if we provide the evidence of the fact that she didn't abandon it, if we provide  
17 evidence that KB Homes lost or intentionally lost the card and that Mr. Wu was --  
18 had knowledge of that, then we are entitled to a claim for unjust enrichment against  
19 these defendants as well. So it doesn't preclude us and we're certainly entitled to  
20 discovery on our claims before summary judgment is granted. We haven't been  
21 entitled to do any discovery on these claims because we brought the motion to  
22 vacate the arbitration award and they improperly brought a countermotion for  
23 summary judgment, which that's not a countermotion for summary judgment, Your  
24 Honor, to move for summary judgment, if that's what counsel is arguing on our

1 complaint, because we haven't been able to do any discovery and we're entitled  
2 to do that discovery. There is conduct that would allow us --

3 THE COURT: Well, you're required to do the arbitration and the arbitration  
4 is final. Essentially we undermine the purpose of arbitration. I mean, what you've  
5 done here is run up between both sides probably \$100,000 in legal fees over a  
6 \$13,000 commission. That's why we have arbitration and that's why it's -- you know,  
7 the standard is so high to reverse it. All right.

8 MS. MARSHALL: Your Honor, KB Homes is a defendant who was not in  
9 the arbitration.

10 THE COURT: We need to move on.

11 MS. MARSHALL: Right. KB Homes is a defendant who was not in the  
12 arbitration, Your Honor.

13 THE COURT: Yeah, and that's true.

14 MS. MARSHALL: And so our lawsuit goes on.

15 THE COURT: I'm not -- there's no basis to drop the case as to KB Homes.  
16 All right.

17 MS. MARSHALL: We would like the opportunity, Your Honor, to conduct  
18 some discovery before you grant summary judgment because your order last time  
19 did not grant -- enter the order granting the motion for summary judgment.

20 THE COURT: No, I didn't. That's why we're here today.

21 MS. MARSHALL: It said supplemental briefing. Correct.

22 THE COURT: Yeah, that's why we're here today.

23 MS. MARSHALL: And we would argue that under Rule 56 that we're  
24 entitled to conduct some discovery before summary judgment is granted. We

1 haven't been allowed to conduct any discovery in our district court case where  
2 Wu, Chiu and KB Homes are defendants. And as you know, in an arbitration there's  
3 limited discovery. We have other parties. We're entitled -- if we can come up with  
4 evidence that there is conduct by Wu or Chiu that pertains to our unjust enrichment  
5 claim, regardless of whether Mr. Wu is considered a second procuring agent, he  
6 still would owe damages to Ms. Chan under an unjust enrichment theory.

7 THE COURT: All right.

8 MS. MARSHALL: And that has not been briefed, Your Honor.

9 MR. OLSEN: Your Honor, if I may, this is why --

10 THE COURT: I'll let you have -- since this is essentially your motion --

11 MR. OLSEN: It's my motion.

12 THE COURT: -- I'll give you one minute.

13 MR. OLSEN: I'll be very quick. There were a couple of arguments made  
14 there. One was that Ms. Chan doesn't understand English well enough to know  
15 what she was doing in this email. That's nonsense. She's a very successful real  
16 estate agent in town.

17 THE COURT: All right. Let's move on from the email.

18 MR. OLSEN: She knows what it means.

19 As for the statute of limitations argument, also nonsense. You didn't  
20 need to name my clients. You could have sued KB Homes in district court because  
21 you didn't have an avenue in arbitration against KB Homes, but you did for my  
22 clients. As I mentioned, they still haven't articulated what cause of action possibly  
23 survives against the buyer or the parties to the arbitration. Your Honor, you hit the  
24 nail right on the head. All they're trying to do is now circumvent their agreement to

1 submit to binding arbitration and get a second bite at the apple and they shouldn't  
2 be allowed to do that.

3 And you're right, Your Honor, the contract she signed does say that  
4 if we have to fight to enforce the arbitration award, we are absolutely entitled to our  
5 fees for that. And I will point out that just last week the GLVAR wanted to release the  
6 funds to us. They said, look, we've read the order. We know a motion to reconsider  
7 time has passed. We know that an appeal time on that order has passed. We're  
8 ready to distribute funds. So I sent an email and said please distribute. Counsel  
9 sent an email saying, no, no, this fight is still on-going, don't distribute those funds.  
10 So we're still fighting to get release of the funds, and I would need that in any order,  
11 Your Honor, that those funds can be released immediately.

12 THE COURT: Well, all right. I'm going to grant -- as I said, I'm reaffirming  
13 that the -- I'm not reversing the arbitration award. I do believe the arbitration award  
14 resolves things as to declaratory relief and as to unjust enrichment and the  
15 agreement was binding. So I'm granting the motion for summary judgment as to the  
16 defendants Wu, Sullivan, Nevada Real Estate Corp. and Chiu. It obviously doesn't  
17 impact upon KB Homes. If you're going to move on KB Homes, though, you're going  
18 to need to get something going in court because if you've agreed that they can wait  
19 on their answer, we're going to need to move on with that litigation.

20 You know, obviously costs are provided by statute. I'm going to have  
21 to take under advisement the issue of attorney's fees. I want to take a closer look  
22 at that in terms of whether or not this was reasonable or vexatious and at what  
23 point that should hit. Also, I need to look at the contract on the arbitration which  
24 does provide for attorney's fees and enforcing it. So I'm going to take that under

1 advisement. Have you given me all your attorney's fees?

2 MR. OLSEN: Yes, Your Honor, you have full invoices and statements.

3 THE COURT: Okay. All right.

4 MR. OLSEN: And, Your Honor, we also submitted an updated memorandum  
5 of costs this morning, so.

6 THE COURT: Okay. You know, I'm not going to -- you know, they obviously  
7 have a right to appeal this, so I'm not going to issue any orders to the real estate  
8 panel to release the funds. Although -- now, has time passed on the --

9 MR. OLSEN: It has. That's what I was saying. That order -- they're beyond  
10 the 30 days.

11 THE COURT: Do you disagree that the time has passed on an order?

12 MS. MARSHALL: The right to appeal it has, Your Honor. However, the  
13 real estate award actually says if there are further legal proceedings, which this is  
14 still a legal proceeding relating to that.

15 MR. OLSEN: But not involving my clients.

16 THE COURT: Well, I mean, you can put in there that I -- you know, but  
17 yeah, it's not as to your clients, it would be as to KB Homes.

18 MR. OLSEN: Yeah.

19 THE COURT: So go ahead and put in a term there. You can -- make sure  
20 you indicate your opposition to that and I'll take a look at it and see if I'm comfortable  
21 with it.

22 MR. OLSEN: Okay.

23 MS. MARSHALL: Thank you, Your Honor.

24 THE COURT: All right.

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MR. OLSEN: Thank you, Your Honor.

THE COURT: And then you will do an order with detailed findings of fact  
and conclusions of law.

MR. OLSEN: I will.

THE COURT: All right. Okay.

MR. OLSEN: Thank you.

THE COURT: Thank you, everybody.

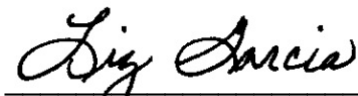
Ms. Marshall, you gave me a document. Do you want this back?

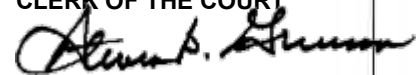
MS. MARSHALL: Oh. Thank you.

(PROCEEDINGS CONCLUDED AT 11:58 A.M.)

\* \* \* \* \*

ATTEST: I do hereby certify that I have truly and correctly transcribed the  
audio/video proceedings in the above-entitled case to the best of my ability.

  
\_\_\_\_\_  
Liz Garcia, Transcriber  
LGM Transcription Service



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

20  
21 6. NRCP 56(c) provides that summary judgment shall be rendered if “the pleadings,  
22 depositions, answers to interrogatories, and admissions on file, together with the affidavits, if  
23 any, show that there is no genuine issue as to any material fact and that the moving party is  
24 entitled to judgment as a matter of law.” The Nevada Supreme Court stated that a factual dispute  
25 is “genuine” when the evidence is such that a rational trier of fact could return a verdict for the  
26 nonmoving party. *Wood v. Safeway, Inc.*, 121 P.3d 1026 (2005). Once the moving party has  
27 shown that there is no genuine dispute as to material facts, the burden shifts to the nonmoving  
28

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

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

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

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

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

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



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

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

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

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

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

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

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

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



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

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

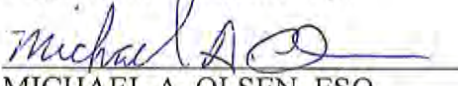
4                   b.       That the *Countermotion for Summary Judgment* is GRANTED

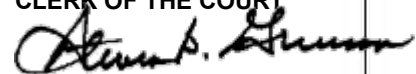
5                   c.       That the *Motion for Attorney's Fees and Costs* is GRANTED and that Attorney's  
6                   fees in the amount of \$21,435.00 and Costs in the amount of \$920.83 are hereby awarded  
7                   to Defendants.  
8

9  
10                   IT IS SO ORDERED this 19 <sup>MARCH</sup> of ~~FEBRUARY~~ 2019.  
11

12  
13                     
14                   DISTRICT COURT JUDGE SS  
15                   ERIC JOHNSON  
16

17                   Prepared and submitted by:

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



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2 MICHAEL A. OLSEN, ESQ.  
3 Nevada Bar No. 6076  
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9 Tel: (702) 855-5658  
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8 **DISTRICT COURT**  
9 **CLARK COUNTY, NEVADA**

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

17 **NOTICE OF ENTRY OF ORDER**

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

22 DATED this 22nd day of March, 2019.



25 MICHAEL A. OLSEN, ESQ.  
26 Nevada Bar No. 6076  
27 THOMAS R. GROVER, ESQ.  
28 Nevada Bar No. 12387  
**BLACKROCK LEGAL, LLC**  
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Las Vegas, NV 89147

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**EXHIBIT "1"**

*Steven D. Grierson*

**ORDER**

MICHAEL A. OLSEN, ESQ.

Nevada Bar No: 6076

THOMAS R. GROVER, ESQ.

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*Attorneys for Defendants/Counterclaimants*

*Wayne Wu, Judith Sullivan, Nevada*

*Real Estate Corp. and Jerrin Chiu*

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

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Plaintiffs/Counterdefendants,  
v.

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) Dept. No: XX

) **ORDER GRANTING**

) **DEFENDANTS**

) **COUNTERMOTION FOR**

) **SUMMARY JUDGMENT AND**

) **ATTORNEY FEES AND COSTS**

**APPEARANCES**

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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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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  
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22 (hereafter “Motion to Vacate”), and Defendants *Opposition to Motion to Vacate or Modify*  
23 *Arbitration Award and Countermotion to Recognize Wu as the Procuring Cause, for Summary*  
24 *Judgment, and for Attorney Fees* (hereafter “Countermotion”).  
25

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

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

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

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

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



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

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

11  
12 **B. COUNTERMOTION FOR ATTORNEY FEES AND COSTS GRANTED**

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

16  
17 9. The Court finds that the Defendants fees are reasonable and were actually  
18 incurred in the confirmation and enforcement of the award of the Arbitration Panel. The Court  
19 finds that the contractual provision contained in the Arbitration Agreement signed by both  
20 Plaintiff and Defendant provided that "In the event [a party does] not comply with the award and  
21 it is necessary for any party to obtain judicial confirmation and enforcement of the award against  
22 me, [the party] agree[s] to pay that party costs and reasonable attorney's fees incurred in  
23 obtaining such confirmation and enforcement."

24  
25 10. The Court further finds that provision was reasonable and enforceable. As costs  
26 were never challenged, the Court hereby ORDERS costs in the amount of \$920.83 pursuant to  
27 Defendants' Memorandum of Costs and Disbursements, which was unopposed.  
28

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

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

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



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

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

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

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

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

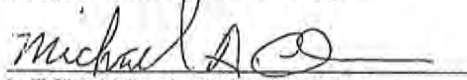
1 **IT IS HEREBY ORDERED, AJUDICATED, AND DECREED:**

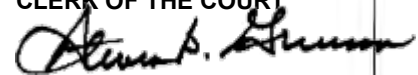
- 2 a. That the September 18, 2018 Order is affirmed wherein Wu was determined the  
3 procuring cause and the Arbitration Award was confirmed.  
4  
5 b. That the *Countermotion for Summary Judgment* is GRANTED  
6  
7 c. That the *Motion for Attorney's Fees and Costs* is GRANTED and that Attorney's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

10 IT IS SO ORDERED this 19 <sup>MARCH</sup> of ~~FEBRUARY~~ 2019.

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

17 Prepared and submitted by:

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



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**DISTRICT COURT  
CLARK COUNTY, NEVADA**

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

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on March 25th, 2019 the **NOTICE OF ENTRY OF ORDER** on ORDER GRANTING DEFENDANTS COUNTERMOTION FOR SUMMARY JUDGMENT AND ATTORNEY FEES AND COSTS and **NOTICE OF CHANGE OF FIRM NAME** was served via electronic service pursuant to Administrative Order 14-2 and NEFCR 9 upon those parties on the master service list:

Thomas Grover	tom@blackrocklawyers.com
Michael Olsen	mike@blackrocklawyers.com
Christine Manning	christine@blackrocklawyers.com
Julian Campbell	julian@blackrocklawyers.com
Keith Routsong	keith@blackrocklawyers.com
Tanya Bain	tbain@gcmasslaw.com





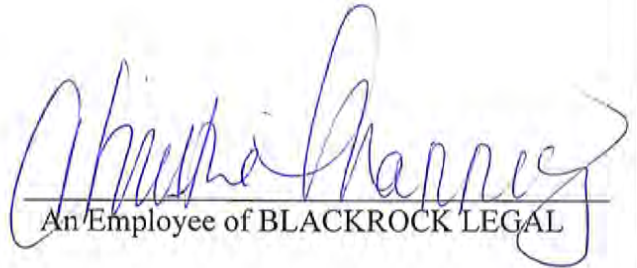
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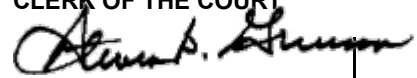
and a copy of the same was deposited in the U.S. Mail, postage prepaid, addressed to:

Todd Kennedy  
3271 E. Warm Springs Rd.  
Las Vegas, NV 89120

Janice Michaels  
2881 Business Park Court  
Suite 200

  
An Employee of BLACKROCK LEGAL





TRAN

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

BETTY CHAN, et al,	)	
	)	
Plaintiffs,	)	CASE NO. A-16-744109-C
	)	
vs.	)	DEPT NO. XX
	)	
WAYNE WU, et al,	)	
	)	
Defendants.	)	<b>Transcript of</b>
	)	<b>Proceedings</b>

BEFORE THE HONORABLE ERIC JOHNSON, DISTRICT COURT JUDGE

**DEFENDANTS' MOTION FOR WRIT OF EXECUTION**

WEDNESDAY, APRIL 17, 2019

APPEARANCES:

FOR THE PLAINTIFFS: BETTY CHAN, PRO SE

FOR THE DEFENDANTS: MICHAEL A. OLSEN, ESQ.

RECORDED BY: ANGIE CALVILLO, COURT RECORDER  
TRANSCRIBED BY: JULIE POTTER, TRANSCRIBER

1           LAS VEGAS, NEVADA, WEDNESDAY, APRIL 17, 2019, 8:51 A.M.

2                           (Court was called to order)

3           THE COURT: All right. Betty Chan versus Wayne Wu,  
4 Case No. A744109. Make your appearances.

5           MR. OLSEN: Good morning, Your Honor. Michael Oslen,  
6 Bar No. 6076, appearing on behalf of the defendants Wayne Wu,  
7 Judith Sullivan, Nevada Real Estate Corp., and Jerin Chiu.

8           THE COURT: Okay.

9           Ms. Chan, you're appearing on your own behalf?

10          MS. CHAN: Good morning. Betty Chan and Asian  
11 American Realty appearing pro per.

12          THE COURT: Okay. Thank you. We're on for  
13 defendants' motion for writ of execution.

14          MS. CHAN: However, may I just --

15          THE COURT: Go ahead.

16          MS. CHAN: However, I'm not asking to represent myself  
17 because I cannot move forward without an attorney.

18          THE COURT: I'm sorry. Say that again?

19          MS. CHAN: I am not asking to represent myself because  
20 I cannot move forward without an attorney.

21          THE COURT: Well, I mean, getting an attorney, I don't  
22 know how many times you've been in here, I've talked to lots of  
23 people, but, obviously, having an attorney, it's a benefit  
24 because they know the rules and --

25          MS. CHAN: But it's not --

1 THE COURT: -- procedure.

2 MS. CHAN: -- in my case.

3 THE COURT: Huh?

4 MS. CHAN: But it's not in my case because from my  
5 former counsel, Janiece Marshall --

6 THE COURT: Right.

7 MS. CHAN: -- withdraw on March -- right before the  
8 order -- the order was issued. And then Mr. Olsen did not  
9 follow the Court's order to circulate the order to us or the  
10 former answer -- counsel before he enter. So then he at once  
11 filed a result whatever, and then asked for something before my  
12 10 days period is up. So he's served me for six motions while I  
13 was having no counsel. So it's not something that I want to buy  
14 the time. It's just my right.

15 THE COURT: Well --

16 MS. CHAN: Because I don't know what he's asking. I  
17 don't even understand what he's writing.

18 THE COURT: Well, essentially, he's saying that he has  
19 a judgment against you, and he wants to --

20 MS. CHAN: That part I understand.

21 THE COURT: Okay. And he wants to collect a portion  
22 of the judgment by obtaining the realtor fees that are currently  
23 in escrow relating to this case that are in escrow that -- that  
24 the arbitration panel awarded to you.

25 MS. CHAN: Your Honor, I don't know whether I should

1 proceed answering your question, but if you say that whatever I  
2 say today does not incriminate me, then I'll go ahead and  
3 respond.

4 THE COURT: Well, I can't advise you on whether --

5 MS. CHAN: Because --

6 THE COURT: Well, I can't advise you on your Fifth  
7 Amendment to not incriminate yourself. You're not -- no one is  
8 compelling you to -- to say anything here today. You don't have  
9 to say anything here today. But I just want you to make sure, I  
10 don't -- I don't know how you possibly could be incriminating  
11 yourself, but if you could, I can't -- I can't advise you on  
12 that. Do you understand? I can't give you any legal advice in  
13 reference to your -- to your --

14 MS. CHAN: Okay. I don't --

15 THE COURT: -- right to not --

16 MS. CHAN: -- understand what --

17 THE COURT: -- incriminate yourself.

18 MS. CHAN: -- you're saying, but then let me rephrase  
19 what I just said. So for me, as a plaintiff, and the order is  
20 supposed to all be entered before review and approval. On that  
21 part he did not do it. So I don't know what kind of law or  
22 sanction apply to this counsel, but as far as I can tell you  
23 right now, as common sense as a citizen and has a little  
24 knowledge about real estate since I've practiced for 30 years,  
25 and I can see that I did not exhaust all my means to object, you

1 know, since you provide that opportunity for me to object.

2           So before the object is exhausted, then he can start  
3 writ of execution or whatever he needs to do because it's  
4 already done deal. But at this point the case is not a done  
5 deal. So he doesn't need to be in so hurry before I file the  
6 motion to continue and he went and got it shortening on time.  
7 So knowing I had no counsel. So is that a bully action or not?  
8 Is that a misconduct or not, you know?

9           THE COURT: Well, you -- you getting counsel is up to  
10 you. He doesn't have an obligation for you to -- to get  
11 counsel.

12           MS. CHAN: Yes, but he cannot take away my  
13 constitutional right to have an attorney representing me moving  
14 forward.

15           THE COURT: Well, you don't have -- in a civil case,  
16 you don't have a constitutional right to have an attorney  
17 represent you. You have a right to hire an attorney if you wish  
18 to do so, but you don't have a constitutional right in a civil  
19 case. That's only --

20           MS. CHAN: That part I don't know.

21           THE COURT: That's only --

22           MS. CHAN: I'm not going to even start because --

23           THE COURT: No, I understand.

24           MS. CHAN: -- I have no idea.

25           THE COURT: I'm just telling you in a criminal case,

1 yes, you have --

2 MS. CHAN: Okay.

3 THE COURT: -- a right to have an attorney appointed  
4 to represent you, but you don't have that right in a civil case.

5 MS. CHAN: And also the one that he accused me, he's  
6 like attacking me that he is worried about not paying it. He  
7 can not use imagination to say that he need to attach this,  
8 attach that, you know.

9 THE COURT: Well, he doesn't -- I'm not -- you know,  
10 to be honest, I'm not getting into those issues in terms of  
11 this. I'm just -- the issue before me is there a judgment on  
12 the record that you owe under the law and are there assets that  
13 he can, of yours, that he can get access to. And that's what  
14 we're looking at here. I'm not getting into any of the, you  
15 know, the back and forth that I'm aware of that has occurred in  
16 this case.

17 MS. CHAN: So --

18 THE COURT: But the long and short of it, let me just  
19 ask, what did you do in terms of circulating the order granting  
20 summary judgment?

21 MR. OLSEN: Your Honor, we did circulate the order.  
22 We sent it both to counsel and to Ms. Chan.

23 MS. CHAN: That's a lie.

24 MR. OLSEN: Your Honor, if I could.

25 THE COURT: Ms. Chan, don't talk to him.

1 MS. CHAN: Okay.

2 THE COURT: I'm just telling you right now, don't talk  
3 to him.

4 MS. CHAN: Okay.

5 THE COURT: Talk to me.

6 MS. CHAN: Yes, sir.

7 THE COURT: All right.

8 MR. OLSEN: If I may, and I'll be very brief, Your  
9 Honor. Ms. Chan has had the opportunity to have four separate  
10 counsel in this case, including some very reputable attorneys,  
11 Hutchison & Steffen, Marquis & Aurbach, Janiece Marshall. She's  
12 had four attorneys in the case that she's either fired or -- or  
13 that have fired her. And so today, for her to come in and say,  
14 oh, I want more time, that's just another delay tactic to try  
15 and stop my client from collecting this commission.

16 It's been one year. Today is the one-year anniversary  
17 of the arbitration, binding arbitration, where, as Your Honor is  
18 well aware, 75 percent of the award was given to my client, 25  
19 percent to Ms. Chan. She fought that here in this Court. Your  
20 Honor confirmed the arbitration award back in September. We  
21 prevailed on our motion for summary judgment for attorney's fees  
22 and costs.

23 We obtained an order and a judgment in the amount of  
24 \$920.83 in costs, \$21,435 in fees. We have not been able to  
25 collect on any of that yet. We have filed this motion, which is

1 a writ of execution, simply to have the GLVAR who is holding  
2 those funds, they're not really in escrow anymore, they were  
3 transferred over to the Greater Las Vegas Association of  
4 Realtors for holding in trust.

5           We're just asking that the total funds held by them be  
6 released to us, which would satisfy \$3,448.83 of the order now  
7 against Ms. Chan. There's no reason that this should be  
8 delayed. I do understand that Ms. Chan filed an opposition. We  
9 didn't get served with it, but we'll waive service because I  
10 want to move forward today. But she did file an opposition, but  
11 all it does is ask for more time, and it doesn't cite any --

12           THE COURT: All right.

13           MR. OLSEN: -- points or authorities.

14           THE COURT: Okay.

15           MS. CHAN: May I speak now?

16           THE COURT: Oh, yeah. Give me a chance to think for a  
17 second, Ms. Chan. All right. Ms. Chan, I know you're  
18 suggesting counsel is not being truthful in terms of service,  
19 but absent something more -- generally, the Court will accept  
20 counsel's representations of service, regardless whether or not  
21 representation is accurate.

22           The Court orally, whether it was orally or by minute  
23 order I can't remember which, ordered, approved, granted the  
24 counter-motion for summary judgment. So that's the approval of  
25 the final written order is in keeping with the Court's order.



1 And so I'm not -- there is this valid judgment against you  
2 that's out there.

3 Now, you filed a motion to reconsider, but essentially  
4 there's no basis in the motion to -- to reconsider, other than  
5 that it took awhile for the written order to get filed, and  
6 that's not a valid basis for me to reconsider. So the long and  
7 short of it is there is a court order ordering you to pay a  
8 certain amount of money, and that's in place. And that's there  
9 right now and there's no basis under the law to -- to not honor  
10 it.

11 So they're asking -- you have the -- the money that --  
12 for realtor fees that have been held in escrow. You were  
13 ordered a quarter of that by the arbitration, and they  
14 essentially want all of it to have that quarter satisfy part of  
15 the money you owe under the judgment. That's appropriate at  
16 this point in time. So I'm moving forward with that, but I'll  
17 let you talk a little bit. But I want you to understand what my  
18 --

19 MS. CHAN: I understand --

20 THE COURT: -- my line of --

21 MS. CHAN: -- what you're saying.

22 THE COURT: -- thinking is.

23 MS. CHAN: Okay. First of all, may I respond to what  
24 he just said?

25 THE COURT: You can respond to me as to what he just

1 said.

2 MS. CHAN: Yes. First of all, he said I did not serve  
3 him. I can show you all the certificate of mailing that I  
4 mailed. Because that is his style that he always make up stuff.

5 THE COURT: Well, he's -- he's not arguing the filing  
6 of it. So we're not --

7 MS. CHAN: He said he wasn't served.

8 THE COURT: -- we're not contesting the service issue.

9 MS. CHAN: He said --

10 MR. OLSEN: It was not e-served, Your Honor, as  
11 required by rule.

12 THE COURT: I understand. But we're not contesting --

13 MS. CHAN: He said that.

14 THE COURT: -- the service.

15 MR. OLSEN: We're not going to contest it. I'm  
16 waiving it.

17 THE COURT: Now, I need you to hold on. So, all  
18 right.

19 MS. CHAN: I need to respond to what he said, okay,  
20 because he always do this to me.

21 THE COURT: I'm not -- I'm not going to get into the  
22 service.

23 MS. CHAN: Okay. So first of all --

24 THE COURT: I'm accepting that you --

25 MS. CHAN: -- he said I did not --

1 THE COURT: -- filed it.

2 MS. CHAN: I show you I did not lie, but he did.

3 THE COURT: No, I --

4 MS. CHAN: Number two, he's always repeating one  
5 thing, every meeting, every hearing he said I change four  
6 attorneys and it build up his cost, but he never specified why I  
7 change four attorneys. And the Court did not realize the fact  
8 simply misled by his statement. The first attorney that he  
9 respond to the escrow is not the one I hired. I did not even  
10 talk to him. I did not even know him, okay.

11 The second one is actually -- it revealed that is his  
12 fault to drag on all this hearing. Because the second hearing  
13 -- I mean, the second attorney I hired is from Avece. Like he  
14 said, she's a from -- is former counsel with GLVAR. That's why  
15 I hire her.

16 During that year, I was exhausted. I offered a  
17 settlement. We are -- we are close to signing agreement. He --  
18 you heard he always said he represent all his client. And when  
19 he sent me the first arbitration paper to the [indiscernible],  
20 he also mentioned that he represents all of them. But when we  
21 come to almost signing agreement, he said Avece had to do this  
22 and he had to do this, and all I want is 60 percent and an  
23 apology from Jerin.

24 So all of the sudden, it's already done. We already  
25 agree. All of the sudden he said, oh, I don't represent Jerin,

1 so I cannot represent him to say whether I can give an apology  
2 or not. So then if that's the case, it's easy for counsel to  
3 settle. Both the defendant and plaintiff already ready to sign  
4 the agreement. Why do you leave out this opportunity and drag  
5 the case?

6           He said if you don't represent Jerin, but you did say  
7 that you represent everybody, then can you go back to Jerin and  
8 represent him and ask him? And my attorney, since he declared  
9 that he did not represent Jerin, can my attorney approach Jerin  
10 and say -- or have his co-worker in the firm to approach Jerin,  
11 hey, let me represent you, let's settle it. But, no, nothing  
12 done. All attorney just drag on trying to build up the bill.  
13 That's all they did.

14           So I was upset. Then I thought -- I thought he missed  
15 -- you missed opportunity dragging me further. So that's why  
16 Avece said I let her go. I did not fire her, but she understand  
17 my point. So I did not want to ruin her name, so she approved  
18 just to withdraw counsel. So all this happened before any  
19 arbitration, anything at all. So when he said I build up the  
20 fee, I screwed up his -- his time, that is totally irrelevant.

21           So moving on, so then when I hired Kirk Kennedy, he  
22 had been my attorney for awhile for a little thing with my  
23 company, so he has been good, he's been very honest. One thing  
24 I need to tell the Judge. Even though I have issue with my own  
25 attorney, they are all very honest to the Court, except this

1 counsel. Everything he said -- some people say that attorney  
2 has selective memory. You cannot say they're lying. For me,  
3 that is fine. If you're selecting memory, it doesn't mean that  
4 you're lying. But if you turn white and black, black to white,  
5 that is typically a lie.

6           So and then the third attorney go to arbitration.  
7 Now, the Court always assuming the panel had looked at  
8 everything, and the Court always assuming, not just the Court,  
9 the arbitration panel, too, always assuming, but the Court  
10 assuming arbitration had oversee all the document, everything  
11 had been discussed, everything had been talked about, so they  
12 have to be totally respectful at arbitration.

13           But truth of the matter is no. It never submitted any  
14 [indiscernible] by them. All he used is very good in words.  
15 Now, during the arbitration, the panel member stopped me three  
16 times when I tried to argue his summation. He stopped me three  
17 times. I even asked to put on the record I have raised  
18 objection, I'm not being allowed to talk.

19           So when they -- they -- like I said, they are very  
20 good at using words. They just say that so far what do you see,  
21 what do you see that they attacked me. I did not follow up, I  
22 did not return call, and that's always a sign of abandon; right?  
23 But can you believe the incident happened between the 31st and  
24 the 5th.

25           31st is a Friday. Everybody is have a Christmas

1 party, take half day off. So KB Home did not have a half day.  
2 The next day is Saturday, and then it's the New Year Day.  
3 Nobody working. And then the client's father is already left on  
4 Sunday. So then when the Tuesday is a Monday. Tuesday is a  
5 Sunday.

6 THE COURT: Ms. Chan, I mean, I understand your  
7 argument, but the arbitration panel found against you and the  
8 court -- my obligation at that point was to look at and see if  
9 they were arbitrary and capricious in their findings. Based  
10 upon the record, they made a credibility -- and I understand you  
11 disagree with them, but they made a credibility. You -- you  
12 signed an agreement to have the arbitration panel handle these  
13 matters. That's something -- that's an agreement you signed.

14 MS. CHAN: If you let me continue a little bit, five  
15 minutes.

16 THE COURT: No, Ms. Chan, I'm not, because I hate to  
17 tell you, this has been gone over and over by -- we've had whole  
18 hearings on the issue concerning the arbitration.

19 MS. CHAN: One more thing.

20 THE COURT: And I've found -- I understand --

21 MS. CHAN: One more sentence, please.

22 THE COURT: We're not here today on the arbitration.  
23 That's --

24 MS. CHAN: I know.

25 THE COURT: -- been resolved. I have ordered that the

1 arbitration stands and that's because they made a decision. I  
2 know you don't agree with it, and as I said before, as I listen  
3 to all this, maybe I would have made a different decision if the  
4 case had been in front of me, but it was in front of the  
5 arbitration panel, which you agreed to --

6 MS. CHAN: I'm not disagreeing --

7 THE COURT: -- and they make their own --

8 MS. CHAN: -- with what you said, sir.

9 THE COURT: Ms. Chan, do not interrupt me. They make  
10 their own assessment of credibility of the witnesses, and they  
11 made an assessment which I cannot, on the record, say was  
12 arbitrary and capricious. That's why I upheld the arbitration  
13 decision.

14 After that, the contract you made to do this by  
15 arbitration provides for attorney's fees to the prevailing  
16 party. That's the contract you signed. If they win, if you  
17 challenge the arbitration and they win on the challenge, you owe  
18 them the attorney fee. So I issued the judgment that you owed  
19 them the attorney's fees. That's where we are at this point.

20 Now, I appreciate you don't have an attorney, and I  
21 wish you did have an attorney because, I mean, that's obviously  
22 the best thing for you to do. But what I'm going to do is I am  
23 -- they have a right to get -- collect on that judgment. There  
24 is a valid judgment.

25 MS. CHAN: Yeah, of course. I don't dispute that.

1           THE COURT: So I'm going to order -- I'm going to  
2 grant their order. I'm going to make it effective one week from  
3 today. If you can get an attorney and he can file something to  
4 -- to justifying stopping that order, then fine. We'll deal  
5 with it. But otherwise, that order will go into effect one week  
6 from today, okay.

7           MS. CHAN: Will you also allow me continuance of my  
8 motion --

9           THE COURT: No.

10          MS. CHAN: -- to oppose the order, entry of order of  
11 the --

12          THE COURT: I understand you filed -- well, I don't  
13 see an opposition to the --

14          MS. CHAN: Yes, I filed May -- April 1st, which I have  
15 grounds.

16          THE COURT: Well, you filed -- you filed a motion for  
17 reconsideration.

18          MS. CHAN: Yes.

19          THE COURT: And I have looked at that, and there's no  
20 basis in it for me to reconsider.

21          MS. CHAN: Can you please let me write something  
22 before you say --

23          THE COURT: No. Ms. Chan, I am going to give you,  
24 like I said, I'm going to postpone the effect of my order today  
25 for one week. If you can get an attorney to file something



1 justifying me stopping that order from going into effect, that's  
2 fine, but -- and I'll look at that. But, otherwise, one week  
3 from today, my order granting their motion will go into effect.  
4 Do you understand?

5 MS. CHAN: Can you give me two weeks?

6 THE COURT: Huh?

7 MS. CHAN: Can you give me two weeks?

8 THE COURT: I'll tell you what, I'll give you ten days  
9 until -- what is today? It's the 17th. To the 26th. All  
10 right.

11 MS. CHAN: Can I also mention one thing? Just one  
12 thing.

13 THE COURT: One thing quickly.

14 MS. CHAN: Yes. When you do the motion at that time,  
15 I mean the last one, October 31st, you did mention there's  
16 nothing mentioned before, but actually there was like three  
17 declaration has been attached by the attorney since 2016 about  
18 all these incidents.

19 But you're -- you're saying that if you can look  
20 something that caught your ears, which you mentioned in the  
21 hearing about the intervention and about that document that he  
22 said never appeared, it's all on record since 2016. But the  
23 Judge was misled by this counsel. Like I said he's very  
24 manipulative.

25 THE COURT: I understand you feel counsel is

1 misleading the Court. That's -- but I'm just saying your  
2 attorney has -- you've had attorneys representing you at these  
3 hearings that have presented the evidence relating to this  
4 matter, and the parties have -- I mean, the arbitration and this  
5 Court hasn't seen anything that has established that counsel has  
6 deceptively sought to mislead the Court.

7 I understand your position, but, again, looking at the  
8 arbitration decision and the facts that they indicate that they  
9 rely upon, you claim that there's a lot of deception being made  
10 by him, the arbitration panel did not accept that  
11 representation. They made their own credibility determination.  
12 And this Court can't say that that was arbitrary and capricious  
13 on their part, and so I approved the arbitration. That's where  
14 we are.

15 MS. CHAN: If I can refer back all these documents --

16 THE COURT: Well, that --

17 MS. CHAN: -- to show you what he's misled on.

18 THE COURT: That's done. The arbitration is done, and  
19 the time for appealing my decision to the court of appeals is  
20 over.

21 MS. CHAN: Because he dragged the case five months.

22 THE COURT: I understand, but there are rules and  
23 things are proceeding forward. That's why you really do need an  
24 attorney. And so that's why I'm -- I'm going to let you have  
25 ten days. I'm going to enter the order. I'm going to let you

1 have until the 26th before that order goes into effect. If you  
2 can have an attorney --

3 MS. CHAN: Actually --

4 THE COURT: -- send me something --

5 MS. CHAN: -- you don't really need to worry about it.  
6 I have the check ready. So whatever you said doesn't apply. I  
7 think I have the right to challenge what is missing by the Court  
8 in the past.

9 THE COURT: I understand you feel that, but we've gone  
10 past that. You had the hearing -- you had the hearing here with  
11 Mr. Kennedy.

12 MS. CHAN: We still have a -- oh, well, you mention  
13 Kirk Kennedy. Remember, I stopped and asked --

14 THE COURT: I understand.

15 MS. CHAN: -- to go out.

16 THE COURT: I understand. I remember you asking me to  
17 take him out.

18 MS. CHAN: The first word from his mouth, he said fire  
19 me. Okay. When we --

20 THE COURT: All right.

21 MS. CHAN: -- get outside he said fire me.

22 THE COURT: I understand. But the point of it is that  
23 you had an attorney, we had a hearing. I can't -- you know, we  
24 don't keep these things going as long -- you know, there's an  
25 end and it's reached an end. And I'm sorry, like I said, maybe

1 I would have looked at some things differently, but the  
2 arbitration panel made a decision.

3 Mr. Kennedy presented the material that we needed,  
4 that he felt was appropriate under the law to the Court. I  
5 found in favor of the arbitration decision. We're done with  
6 that. I'm not going back and we're not going to talk about it  
7 anymore today. The issue now is the money that -- the judgment  
8 on the attorney's fees, which is part of the -- which was part  
9 of the contract that you signed for that arbitration.

10 MS. CHAN: Yes. Based on faith.

11 THE COURT: And so -- and so I did an order relating  
12 to that. So I'm going to -- you know, at this point, I'm  
13 denying the motion for reconsideration because it does not  
14 provide a basis  
15 for --

16 MS. CHAN: That is not fair because you just said the  
17 motion today is just for the judgment.

18 THE COURT: Well --

19 MS. CHAN: But --

20 THE COURT: -- I'm not --

21 MS. CHAN: -- you don't have a chance --

22 THE COURT: I'm just making --

23 MS. CHAN: -- for me to argue. You did not allow me  
24 to argue that.

25 THE COURT: Well, I don't need -- I can make a ruling

1 based upon --

2 MS. CHAN: That's not fair.

3 THE COURT: -- the papers. But if --

4 MS. CHAN: And not only that --

5 THE COURT: -- you could have an attorney --

6 MS. CHAN: -- I don't have an attorney.

7 THE COURT: Ms. Chan, I've looked at the papers on  
8 your motion to reconsider. There's no basis in there --

9 MS. CHAN: I did not have a chance.

10 THE COURT: -- for me to reconsider.

11 MS. CHAN: I did not have the time. I hope you  
12 understand.

13 THE COURT: I understand what you're saying, but you  
14 --

15 MS. CHAN: I just had to meet the deadline.

16 THE COURT: The motion for reconsideration, there's a  
17 deadline, as you say.

18 MS. CHAN: Yes, and I meet it.

19 THE COURT: And you got it filed. But there is no  
20 basis in the motion for me to reconsider.

21 MS. CHAN: Because I don't have a chance because I  
22 have to meet the deadline.

23 THE COURT: I understand. I understand that.

24 MS. CHAN: And I'm not an attorney. I cannot --

25 THE COURT: I understand that. But even without an

1 attorney, the rules still apply to you. Even without an  
2 attorney, the rules apply.

3 MS. CHAN: Will you allow me to a supplemental because  
4 I didn't have the chance.

5 THE COURT: Ms. Chan, like I said, I'm going to keep  
6 -- I'm not going to let this order go into effect for ten days,  
7 until the 26th. If you can find an attorney that can come up  
8 with something that makes a difference, then I'll take a look at  
9 it at that point in time. But, otherwise, the order will go  
10 into effect on the 26th. And that's -- that's where we're --

11 MS. CHAN: Just to --

12 MR. OLSEN: Your Honor, if --

13 MS. CHAN: Please, just to --

14 MR. OLSEN: -- I could just add one point, please.

15 THE COURT: Sure.

16 MR. OLSEN: The contract states that we are entitled  
17 to our attorney's fees and costs until such time as we collect  
18 on the arbitration award. If we have to keep fighting this, if  
19 we get more motions filed, we're going to seek to amend our  
20 attorney fee award and seek our fees because we're already  
21 upside down in this case.

22 THE COURT: I agree, and I understand. So, I mean,  
23 she -- I will note, and let me just note for the record, they  
24 are running up additional attorney's fees. So, you know, you  
25 need to evaluate how much longer you want this to go on, Ms.

1 Chan.

2 But, Ms. Chan, I do understand your concern, and I do  
3 understand why you would like to have an attorney, and I wish  
4 you had an attorney. And I'm going to give you a little bit  
5 more time to see if you can find an attorney who can see  
6 something here that would make a difference. And if you do,  
7 you've got until the 26th for that attorney to reach out to my  
8 office. So we'll -- that's -- that's where we're going to end  
9 it today.

10 MS. CHAN: Are you able to tell me what other right do  
11 I have?

12 THE COURT: I'm not of -- I can't advise you on your  
13 rights.

14 MS. CHAN: Procedure. Procedures.

15 THE COURT: But there is a civil help desk down on the  
16 first floor. There is a civil help desk, and so you can stop on  
17 down there on your way out today if you'd like to do that and  
18 see what materials they have. But I'm not allowed to give you  
19 advice. That's why -- that's why really you do need to get an  
20 attorney.

21 MS. CHAN: That's exactly what I've been asking for  
22 from the minute I walked into this room.

23 THE COURT: But you don't get -- well, you have to  
24 hire the attorney. You don't get an appointment of an attorney  
25 in a civil case.

1 MS. CHAN: I have an appointment to see one tomorrow,  
2 so that's why --

3 THE COURT: Okay.

4 MS. CHAN: -- I'm hoping --

5 THE COURT: All right.

6 MS. CHAN: -- to continue until I have the  
7 representative.

8 THE COURT: Well, as I said, I'm entering the order.  
9 Get me -- get me an order --

10 MS. CHAN: Just an order for today's hearing.

11 THE COURT: Just an order for -- I'm entering an order  
12 relating to their motion for write of execution on the monies  
13 that are held in escrow, the realtor fees held in escrow.  
14 That's all I'm doing here today.

15 MS. CHAN: Thank you, sir.

16 THE COURT: And like I said --

17 MR. OLSEN: Do you want me to include anything about  
18 the reconsideration or not --

19 MS. CHAN: No.

20 MR. OLSEN: -- at this point?

21 THE COURT: No.

22 MR. OLSEN: Okay.

23 THE COURT: I'll enter a minute order in reference to  
24 that.

25 MR. OLSEN: That's fine.



1           THE COURT:   Okay.   So, like I said, the 26th, if you  
2 can find an attorney and they can see something that would  
3 justify me stopping the order, they can -- your attorney will  
4 understand how to file a motion for order shortening time, and  
5 we'll deal with it at that point in time, all right?

6           MS. CHAN:   Okay.

7           THE COURT:   Okay.   Thank you.

8           MR. OLSEN:   Thank you.

9           MS. CHAN:   Thank you for still giving a chance.

10          THE COURT:   Sure.   No problem.

11                       (Proceedings concluded at 9:20 a.m.)

12                               \* \* \* \* \*

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**CERTIFICATION**

I CERTIFY THAT THE FOREGOING IS A CORRECT TRANSCRIPT FROM THE AUDIO-VISUAL RECORDING OF THE PROCEEDINGS IN THE ABOVE-ENTITLED MATTER.

**AFFIRMATION**

I AFFIRM THAT THIS TRANSCRIPT DOES NOT CONTAIN THE SOCIAL SECURITY OR TAX IDENTIFICATION NUMBER OF ANY PERSON OR ENTITY.

**Julie Potter**  
**Kingman, AZ 86402**  
**(702) 635-0301**

  
\_\_\_\_\_  
JULIE POTTER  
TRANSCRIBER

*Heather S. Shuman*  
CLERK OF THE COURT

**Notice**

Betty Chan and Asian American Realty  
& Property Management  
4651 Spring Mountain Road  
Las Vegas, NV 89102  
702-222-0078  
aarpm09@gmail.com

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

BETTY CHAN and ASIAN AMERICAN  
REALTY & PROPERTY MANAGEMENT,

Plaintiff,

vs.

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

Defendant

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

**NOTICE OF APPEAL**

Date of Hearing: N/A

Time of Hearing: N/A

**NOTICE OF APPEAL**

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

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

RECEIVED  
APR 22 2019  
CLERK OF THE COURT



1 **CERTIFICATE OF SERVICE**

2 I certify that I am an employee of FRIZELL LAW FIRM, and that on April 24, 2019, I  
3 caused the foregoing **NOTICE OF APPEARANCE**, to be served upon the following parties:  
4

5 MICHAEL A. OLSEN, ESQ.  
Nevada State Bar No. 6076  
6 THOMAS R. GROVER, ESQ.  
Nevada State Bar No. 12387  
7 KEITH D. ROTSONG, ESQ.  
Nevada State Bar No. 14944  
8 BLACKROCK LEGAL, LLC  
10155 W. Twain Ave., Suite 100  
9 Las Vegas, Nevada 89147  
*Attorneys for Defendants/Counterclaimants*  
10 *Wayne Wu, Judith Sullivan, Nevada Real*  
*Estate Corp., and Jerrin Chiu*  
11

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.*

12 By causing a full, true and correct copy thereof to be sent, together with any and all exhibits and  
13 other attachments, by the following indicated method(s):  
14

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

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

18 by hand delivery;

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

20 by electronic mail to the last known e-mail address of the attorney/the party.  
21  
22

23 /s/ R. Duane Frizell  
24 R. DUANE FRIZELL, ESQ.  
25  
26  
27  
28

**REGISTER OF ACTIONS****CASE NO. A-16-744109-C****Betty Chan, Plaintiff(s) vs. Wayne Wu, Defendant(s)**§  
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Case Type: **Other Contract**  
 Date Filed: **09/27/2016**  
 Location: **Department 20**  
 Cross-Reference Case Number: **A744109**  
 Supreme Court No.: **78666**  
**82208**

**P. TY INFORMATION**

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

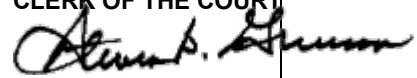
**EVENTS & ORDERS OF THE COURT**

05/01/2019 **All Pending Motions** (8:30 AM) (Judicial Officer Johnson, Eric)**Minutes**

05/01/2019 8:30 AM

- 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.

[Parties Present](#)[Return to Register of Actions](#)



TRAN

DISTRICT COURT  
CLARK COUNTY, NEVADA

BETTY CHAN,

Plaintiff,

vs.

WAYNE WU,

Defendant.

CASE NO. A-16-744109-C

DEPT. XX

BEFORE THE HONORABLE ERIC JOHNSON, DISTRICT COURT JUDGE

WEDNESDAY, MAY 01, 2019

***TRANSCRIPT OF HEARING***

**MOTION TO STAY EXECUTION ON ORDER SHORTENING TIME  
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**

**APPEARANCES:**

For the Plaintiff: DUANE R. FRIZELL, ESQ.

For the Defendant: MICHAEL A. OLSEN, ESQ.

RECORDED BY: ANGIE CALVILLO, COURT RECORDER

TRANSCRIBED BY: MANGELSON TRANSCRIBING



1 Las Vegas, Nevada, Wednesday, May 01, 2019

2  
3 [Case called at 9:09 a.m.]

4 THE COURT: Okay. Betty Chan versus Wayne Wu. Case  
5 Number A744109. Counsel, please note your appearances for the  
6 record.

7 MR. FRIZELL: Your Honor, Duane Frizell here on behalf of  
8 the Plaintiffs.

9 MR. OLSEN: Good morning, Your Honor. Michael Olsen  
10 on behalf of the Defendants; Bar Number 6076.

11 MR. FRIZELL: And just for the record, Your Honor, Ms.  
12 Betty Chan is also present.

13 THE COURT: Okay. We're here on the Motion for Stay. I  
14 received the part -- the -- how was it titled? The Partial Opposition  
15 to Plaintiff's Motion to Stay Execution Pending Appeal.

16 So what's your thoughts looking -- after looking at the  
17 Defendant's response?

18 MR. FRIZELL: Your Honor, it's very simple that the statute  
19 and the rules allow for a supersedeas bond or in this case we would  
20 ask for a cash bond to be able to stay and the full amount of the  
21 judgment is 22,000 and some change. That would be amount  
22 under the case law *Nelson Heer*, which is actually a case stated by  
23 the Defendants, just for full satisfaction. The Plaintiff is willing to  
24 make that cash bond and pay it. We'd just ask for a little time.  
25 We'd ask for a week to get that posted.

1           In terms of what is -- has been stated by Defendants, Your  
2 Honor, that -- there's a lot of issues there. One, I think that the  
3 District Court likes jurisdiction to amend its judgment when the  
4 Notice of Appeal has been docketed. Beyond that, it's not  
5 germane -- the only thing -- amend the judgment, Your Honor.  
6 They're looking to amend the judgment and that has nothing to do  
7 with staying the judgment as it is right here.

8           It's not timely, what they're asking for. If they wanted  
9 more attorney fees under Rule 54, they had 21 days after the Notice  
10 of Entry and that passed on April 12th. If they're looking for a  
11 Motion to Amend the Judgment, which is actually what they're  
12 asking for, they had 28 days and that passed on April 19th and  
13 those deadlines cannot be extended by the Court under Rule 6.

14           The -- it's improper procedurally what they're asking for.  
15 The Court does not have jurisdiction to amend its order once the  
16 appeal is docketed and we're asking for a very straightforward thing  
17 and that is to allow us to post a bond that would allow for full  
18 satisfaction, which is for the 22,000 and some change and we're  
19 willing to do that.

20           And they're asking for more than what's the satisfaction  
21 judgment. They're wanting some post-judgment amount that --  
22 which is actually more than what the judgment is. They want an  
23 additional 24,000 which is more than doubling the judgment. And  
24 an appeal, they have not won an appeal and there's nothing in --

25           THE COURT: Well, I think I --

1 MR. FRIZELL: -- the judgment that would allow this.

2 THE COURT: -- do have the ability to order more than the  
3 judgment outstanding because there are obviously going to be  
4 costs related to the conduct of the appeal. And, you know, the fees  
5 here are essentially coming in pursuant to the arbi -- assuming that  
6 it's all uphill, pursuant to the arbitration agreement which allows for  
7 the recovery of fees necessary to collect. So I think I can do more.

8 Now, I have to admit, I'm a little bit hesitant, you know,  
9 to -- on the issue of whether I can add anything to the judgment at  
10 this point in time. You know, I -- if -- I know I can make decisions  
11 relating to fees, when you make the motion before the appeal was  
12 filed, I've got -- there's case law that says I can, you know, finalize  
13 the issue as far as fees when you make a motion and things go on  
14 appeal.

15 But I'm not sure now that we're on appeal, if I have  
16 jurisdiction to take a -- essentially a new motion for additional fees.

17 MR. OLSEN: Yeah, that's a valid concern, Your Honor.

18 I've known Counsel Frizell for quite some time. He's very  
19 astute, a very good attorney. Much like all the former attorneys Ms.  
20 Chan has had. They've been astute attorneys. The disadvantage  
21 that Mr. Frizell has is he doesn't know the procedural history of  
22 this case or the factual --

23 THE COURT: Well, I --

24 MR. OLSEN: -- history in -- if I may, Your Honor.

25 THE COURT: All right.

1 MR. OLSEN: Just briefly.

2 Ms. Chan has created a procedural morass here that I  
3 think may impact on the validity of the Notice of Appeal, if I may.  
4 She filed a Notice of Appeal, but she filed a Notice of Appeal on her  
5 own and on behalf of Asian American Realty. She -- an individual  
6 cannot represent an entity. Only an attorney can represent any  
7 entity.

8 THE COURT: Yeah.

9 MR. OLSEN: So I haven't -- because this is here on an  
10 order shortening time, I haven't had a chance to brief that issue  
11 because I had to address the supersedeas bond issue. But there is  
12 a concern as to whether that Notice of Appeal is even valid because  
13 it was filed by an individual on behalf of an entity.

14 THE COURT: Well would I hear that or would the -- I -- or  
15 the Court of --

16 MR. OLSEN: It may be something --

17 THE COURT: Or Court of Appeals?

18 MR. OLSEN: -- we have to take to the Supreme Court.

19 Now your --

20 MR. FRIZELL: That's a matter for the Supreme Court.

21 THE COURT: I was going to say. Yeah.

22 MR. OLSEN: Your Honor, your concern about jurisdiction  
23 is a valid concern. Totally get that. Like I said, I -- we may have to  
24 address this issue of whether or not the Notice of Appeal is valid  
25 and if it's not valid, the time has now passed for the appeal period,

1 so if it's nullified, I think we're beyond the appeal period and we  
2 may have to take that up with the Supreme Court.

3 But, Your Honor, I just want to address a couple other  
4 issues here procedurally. I've got two case appeal statements filed  
5 and I can't make heads or tails over what this appeal is even over.  
6 One of the case appeal statements goes through a litany -- an entire  
7 list of issues from the beginning of this case three years ago until  
8 now and that was filed by Ms. Chan. And that's her case appeal  
9 statement. I can't make heads or tails of it. I cannot decipher from  
10 that document what is on appeal; even what order is on appeal.

11 Now, Mr. Frizell, I think has tried to correct that and he's  
12 filed another case appeal statement. So again, I haven't had a  
13 chance yet to look into -- from a Supreme Court standpoint what  
14 the net result of all this is going to be.

15 I would point also though, Your Honor, we discussed at  
16 the last hearing. There was also apparently a Motion to Reconsider  
17 filed and a Supplement to a Motion to Reconsider filed. I was never  
18 served with those documents. Those have to be e-served by rule. I  
19 was never served with those documents. The Court indicated at the  
20 last hearing that you were going to issue an order because there  
21 was no grounds for the Motion to Reconsider and there were no  
22 points of authority cited but that also didn't happen.

23 Now I don't know if that --

24 THE COURT: Well on that one -- I mean, I was going to let  
25 essentially the time limits for the various filings go through before I

1 issued --

2 MR. OLSEN: Understood.

3 THE COURT: -- an order on that. But I did -- I think I was  
4 pretty specific but my indication was to indicate to Ms. Chan that  
5 my -- at -- you know, reading as I was reading it at that point in  
6 time, I did not see any reason to reconsider.

7 MR. OLSEN: Right.

8 THE COURT: I anticipated you'd file something and then  
9 she would have a right to respond to that but -- and I'd go from  
10 there but I --

11 MR. FRIZELL: Yeah.

12 THE COURT: -- just was making it clear that I didn't really  
13 see that as an avenue that we were going to be going down.

14 MR. OLSEN: I understand, Your Honor. The only reason I  
15 bring it up is it could potentially have an impact on the order that's  
16 on appeal, assuming the order on appeal is the last order that was  
17 filed.

18 It -- I understand that a Motion to Reconsider does not toll  
19 the time period --

20 THE COURT: Yep.

21 MR. OLSEN: -- to file an appeal. So if what they are in  
22 fact appealing is the order granting summary judgment, then I  
23 guess we can decide at this point that that -- for now that's a final  
24 order. The Court probably lacks jurisdiction to even look at the  
25 Motion to Reconsider at this point.

1 THE COURT: What's your position on the Motion to  
2 Reconsider?

3 MR. FRIZELL: Well, Your Honor, it does not toll from the --

4 THE COURT: Right, it doesn't toll --

5 MR. FRIZELL: -- as is --

6 THE COURT: -- no, he had to --

7 MR. FRIZELL: And so --

8 THE COURT: He had to file that, that's fine. But I mean,  
9 do I have any --

10 MR. FRIZELL: The whole --

11 THE COURT: -- jurisdiction to look at the Motion to  
12 Reconsider?

13 MR. FRIZELL: No. Your Honor, I do not believe that --  
14 we're here on a simple matter, Your Honor. We're here on posting  
15 a bond to stay execution. We are proposing that we will pay the full  
16 amount to go as a supersedeas bond to stay the execution.

17 All these other issues, Your Honor, whether the Notice of  
18 Appeal is valid -- and by the way, the second case appeal statement  
19 was filed by the Clerk of the Court, it was not filed by me. The  
20 amount -- all these things are --

21 THE COURT: Well --

22 MR. FRIZELL: -- under -- these are matters to be brought  
23 before the Supreme Court and we believe that they are valid. The  
24 Supreme Court has made it very clear that erroneous or tech -- or  
25 you know, or flawed Notices of Appeal still will, for jurisdictional

1 purposes -- the best jurisdiction --

2 THE COURT: That's going to be decided by them on the  
3 issue of whether or not the --

4 MR. FRIZELL: Sure.

5 THE COURT: -- Notice of Appeal was okay or not. They  
6 are the ones that get to decide that.

7 MR. OLSEN: I agree. So, Your Honor, if I could address  
8 the supersedeas bond issue?

9 THE COURT: All right.

10 MR. OLSEN: The Court has discretion with regard to the  
11 amount of the supersedeas bond that is going to be required. Case  
12 law in Nevada says that it should cover the full amount of the  
13 judgment.

14 Now, let me -- just -- I won't belabor the point, Your  
15 Honor, but historically this case is three years old. My clients are  
16 now 75 to 80,000 dollars deep in litigation between the arbitration  
17 and this litigation. And you'll recall, Your Honor, that Ms. Chan  
18 signed a document with the GLVAR that said rather than litigate, I  
19 agree to take all contested matters to binding arbitration.

20 She breached that contract, she breached her ethical  
21 duties and filed a lawsuit first. Only after we threatened her with --  
22 in writing, did she then stay this court action in order to go to  
23 binding arbitration.

24 Now, Your Honor, you've pointed this out before, we're  
25 probably 100 to 150,000 deep on both sides fighting over a \$13,000



1 commission and we know why that is because Ms. Chan made it  
2 very clear in an e-mail that she wrote to KB Homes where she said:  
3 Honestly from Day 1 I met you, my focus is not on the commission.  
4 I felt insulted and humiliated and -- that another agent dare  
5 challenge me and really do not know who I am.

6 And then she said: I'd like to teach them a lesson. Turns  
7 out I do have a few hundred thousand dollars if they want to play  
8 this game.

9 That's what she -- those are her words, Your Honor, those  
10 aren't mine. That's why we're here three years later in a case  
11 involving a \$13,000 commission that should have gone only to  
12 arbitration. That's why we're here.

13 And she signed an Arbitration Agreement that says the  
14 following: In the event I do not comply with the reward and it is  
15 necessary for any party to obtain judicial confirmation and  
16 enforcement of the award against me, I agree to pay that parties'  
17 costs and reasonable attorney's fees incurred in obtaining such  
18 confirmation and enforcement.

19 That's an ongoing obligation. She has to pay all of our  
20 attorney's fees and costs until we collect. And Your Honor has  
21 already ruled on that. It's *res judicata*. So I -- even if I agree with  
22 Counsel and the Court, there may be an issue with regard to  
23 jurisdiction as to whether this Court can amend the order today. I  
24 think the day will come when we get to come back here and amend  
25 the order and seek all of our attorney's fees and costs pursuant to

1 this contractual provision.

2           However, the Court can consider this with regard to  
3 setting the supersedeas bond. And so what we're asking, Your  
4 Honor, is for the Court to set a supersedeas bond sufficient to cover  
5 at least our attorney's fees and costs since your last ruling until  
6 now, which is another \$23,000 in the last eight and a half months;  
7 over multiple proceedings, multiple pleadings, multiple hearings,  
8 and some fees and costs that are going to be incurred in the appeal.

9           And so we already have an award of 23 or 24,000. What  
10 we're asking is for a supersedeas bond to cover that amount, plus  
11 what we've incurred to date, since then, which is another 23 -- it's in  
12 our pleading, Your Honor. I think it's 23,680. Plus, we're asking for  
13 20 to 25,000 for the appeal.

14           And so all we're saying is let's get a bond in place so that  
15 after this is finally over, my client can finally recover a portion of the  
16 attorney's fees and costs that they have incurred, as well as the  
17 commission.

18           THE COURT: Well let me just -- I mean, -- now I don't see  
19 anything in -- I agree with you, I have a decent amount of discretion  
20 in terms of setting it, but I haven't heard of setting it three times  
21 essentially what the current judgment is and that's the thing. I  
22 don't have any problem doing one and a half times the current  
23 judgment because I know of other cases where that's been done  
24 but -- and I do think, you know, there's going to be additional costs  
25 beyond the judgment that's going to be incurred because of this

1 appeal.

2 But I haven't seen anything that suggests -- you're  
3 essentially asking me to go three times. I'm comfortable going one  
4 and a half times, but I'm not real comfortable going three times.  
5 Especially since I haven't ruled on the validity of the --

6 MR. OLSEN: The last eight months of --

7 THE COURT: The last eight months.

8 MR. OLSEN: -- fees and costs.

9 THE COURT: And --

10 MR. OLSEN: I get that.

11 THE COURT: -- you know, I --

12 MR. OLSEN: Your Honor, the only thing I would say to  
13 that is --

14 THE COURT: I always hate to give --

15 MR. OLSEN: -- the contractual provision is clear.

16 THE COURT: Well and -- you know, and the -- I agree that  
17 the contractual provision is clear and that you, you know,  
18 eventually may be entitled to those fees, depending upon what  
19 happens and the Supreme Court and when I get jurisdiction back.  
20 I'm not saying that you're not, but I'm just saying right now, in  
21 terms of the supersedeas bond, I'm only inclined to go one and a  
22 half times what the current judgment is. So, I mean, let me turn to  
23 you.

24 MR. FRIZELL: Your Honor, I appreciate it. Again, we  
25 would take the position that even one and a half times is just too

1 much, Your Honor. There is a judgment in effect. The Court has  
2 discretion but it's to satisfy the full amount of the judgment.

3 Now I understand there's interest accruing. That I get.  
4 And if we want to put tiers of interest, which I calculate to be about  
5 \$3,000 then that would be reasonable and I think that would be  
6 within the discretion. But even to take it up to another half, when  
7 there's issues that would require -- *res judicata* is exactly what the  
8 Opposing Counsel has said, Your Honor, and *res judicata* has this at  
9 \$23,000 judgment. And --

10 THE COURT: Well, I mean, yeah, at the moment we're at a  
11 \$23,000 judgment but, you know, the bond is intended to deal with  
12 issues related to the judgment, relating to costs. And, you know, I  
13 think I have discretion to do that and I know of other cases where,  
14 you know, the -- in view of, the Court has set it at one and a half  
15 times and so I'm generally comfortable with doing that.

16 So I am -- I'm willing to order a Stay with a bond of one  
17 and a half times the current judgment. So I mean, that's what I'm  
18 willing to do.

19 MR. OLSEN: Thank you, Your Honor.

20 MR. FRIZELL: Your Honor, I -- so then I would -- may I  
21 confer with my client just a minute?

22 THE COURT: Sure.

23 [Colloquy between Counsel and Plaintiff]

24 MR. FRIZELL: Your Honor, we just want -- we understand  
25 the Court's ruling, we'll respect the Court's ruling. Just asking for a

1 reasonable amount of time to get that posted and that's --

2 THE COURT: What do you need?

3 MR. FRIZELL: Can we have a week?

4 THE COURT: Sure. I'm good with that. Unless you've got

5 some major issue, I'm --

6 MR. OLSEN: That's fine, Your Honor.

7 THE COURT: -- good with that.

8 All right. Do you want to talk with your client and make

9 sure she feels comfortable with a week? I mean, I --

10 MR. FRIZELL: Your Honor, she's indicated that she's fine

11 with a week.

12 THE COURT: Okay. Well -- what day is today?

13 THE CLERK: Today is the 1st.

14 THE COURT: The 1st, okay.

15 THE CLERK: Of May.

16 THE COURT: All right. We'll -- you know, I'll go through --

17 I'll give you until May 10th to post the bond.

18 MR. FRIZELL: Thank you, Your Honor.

19 I do have a proposed order, just kind of fill in the blank

20 order if you'd like to look at it?

21 MR. OLSEN: I'd like to review that first, Your Honor.

22 MR. FRIZELL: I have a --

23 THE COURT: Yeah.

24 MR. FRIZELL: -- copy right here. It's like one and a half

25 pages. It's very short.

1 THE COURT: All right.

2 MR. FRIZELL: May I approach?

3 THE COURT: Well why don't you two look at it, see if you

4 can reach an agreement as to what one and a half equals and

5 everything good with it and I'll sign off on that.

6 MR. OLSEN: Yeah, let's -- and give us a chance to

7 calculate the figures here and --

8 THE COURT: All right. You can do that right now.

9 You're -- is this it?

10 THE CLERK: Yeah.

11 THE COURT: Okay.

12 THE CLERK: Well, we have one more but --

13 THE COURT: Okay.

14 THE CLERK: -- nobody is here on it.

15 THE COURT: Why don't you guys go back and I'll finish

16 out my calendar and I'll -- when you hopefully, knock wood, reach

17 an agreement as to the language, I'll go ahead and sign off on it.

18 MR. OLSEN: Okay.

19 MR. FRIZELL: Understood.

20 [Matter trailed at 9:27 a.m.]

21 [Matter reconvened at 9:32 a.m.]

22 THE COURT: All right. Did we reach a concurrence?

23 MR. FRIZELL: Yes, Your Honor, we read -- we reached a

24 concurrence as to what the order should state.

25 May I approach?

1 THE COURT: Sure.  
2 All right. Okay. And today's May 1, right?  
3 MR. FRIZELL: Yes, sir. It's May Day.  
4 THE COURT: Okay. Oh, you're right. Huh? Okay. All  
5 right.

6 [Colloquy between the Court and the Clerk]

7 THE COURT: All right. I'll give you that.

8 MR. FRIZELL: Thank you, Your Honor.

9 THE COURT: All right. Thank you.

10 MR. FRIZELL: Thank you.

11 MR. OLSEN: Thank you.

12 THE COURT: All right, everybody, have a good day.

13 MR. FRIZELL: Have a good day and Happy May Day.

14 THE COURT: Happy May Day, yeah.

15 [Proceeding concluded at 9:33 a.m.]

16 \* \* \* \* \*

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20

21 ATTEST: I do hereby certify that I have truly and correctly  
22 transcribed the audio/video proceedings in the above-entitled case  
23 to the best of my ability.

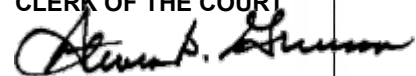
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Brittany Mangelson  
Independent Transcriber



**ORDR**

**R. DUANE FRIZELL, ESQ.**

Nevada Bar No. 9807

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*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

**ORDER ON PLAINTIFFS' MOTION TO STAY EXECUTION PENDING APPEAL**

On May 1, 2019, the Court heard Plaintiffs' Motion to Stay Execution Pending Appeal  
(filed Apr. 24, 2019) [hereinafter the "Motion"]. Present at the hearing were the following:

For Plaintiffs: R. Duane Frizell, Esq.

For Defendants: Michael A. Olsen, Esq.

~~Thomas R. Grover, Esq.~~ 

~~Keith D. Routsong, Esq.~~ 

Having reviewed Plaintiffs' Motion, Defendants' Opposition and Countermotion, the  
other pleadings and papers on file with the Court, and the arguments of counsel, the Court finds  
just, good, and sufficient cause for granting the Motion pursuant to the following terms:

1. Plaintiffs' Motion is hereby GRANTED.




1 2. Pursuant to NRCP 62(d)(1)-(2), a supersedeas (or cash) bond is hereby set in the  
2 amount of \$ 33,533 75, which the Court finds to be a fair and  
3 just "amount that will permit full satisfaction of the judgment." *Nelson v. Heer*,  
4 121 Nev. 832, 834, 122 P.3d 1252, 1253 (2005).

5 3. Plaintiffs hereby have until May 10, 2019 at 5:50 a.m./(p.m.) to  
6 post the supersedeas (or cash) bond set in the preceding paragraph, and execution  
7 upon any judgment or order of this Court is hereby stayed until that date and time.

8 4. Upon the posting of the supersedeas (or cash) bond, execution shall be stayed  
9 pending appeal and until the appeal is fully disposed of and a remittitur issued by  
10 the Nevada Supreme Court or the Nevada Court of Appeals to this Court, and  
11 thereafter as allowed by law.

12 5. *Defendants counter motion as denied, without prejudice.*  
13 IT IS SO ORDERED.

14 DATED: May 1, 2019.


15  
16  
17   
18 DISTRICT COURT JUDGE  
CASE NO. A-16-744109-C

19 *Submitted by:*

20 FRIZELL LAW FIRM

21  
22 By: 

23 R. DUANE FRIZELL, ESQ.  
24 Attorney for Plaintiffs/  
Counter-Defendants

25 *Approved*  
26   
27 Attorney for defendant  
28

Case Number: A-16-744109-C

1 **CERTIFICATE OF SERVICE**

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

5 On May 1, 2019, I served the foregoing ***NOTICE OF ENTRY OF ORDER ON***  
6 ***PLAINTIFFS' MOTION TO STAY EXECUTION PENDING APPEAL*** on interested party(ies)  
in this action, as follows:

7 MICHAEL A. OLSEN, ESQ.  
Nevada State Bar No. 6076  
8 THOMAS R. GROVER, ESQ.  
Nevada State Bar No. 12387  
9 KEITH D. ROTSONG, ESQ.  
Nevada State Bar No. 14944  
10 BLACKROCK LEGAL, LLC  
10155 W. Twain Ave., Suite 100  
11 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.*

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

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

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

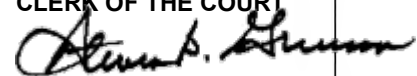
17 by hand delivery;

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

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

20 */s/ Aiqin Niu*

21 Aiqin Niu, an employee of  
22 Frizell Law Firm, PLLC



**ORDR**  
**R. DUANE FRIZELL, ESQ.**  
Nevada Bar No. 9807  
**FRIZELL LAW FIRM**  
400 N. Stephanie St., Suite 265  
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[dfrizell@frizelllaw.com](mailto: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.

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For Plaintiffs: R. Duane Frizell, Esq.

For Defendants: Michael A. Olsen, Esq.

~~Thomas R. Grover, Esq.~~ 

~~Keith D. Routsong, Esq.~~ 

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other pleadings and papers on file with the Court, and the arguments of counsel, the Court finds  
just, good, and sufficient cause for granting the Motion pursuant to the following terms:

1. Plaintiffs' Motion is hereby GRANTED.




1 2. Pursuant to NRCP 62(d)(1)-(2), a supersedeas (or cash) bond is hereby set in the  
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4 121 Nev. 832, 834, 122 P.3d 1252, 1253 (2005).

5 3. Plaintiffs hereby have until May 10, 2019 at 5:50 a.m./(p.m.) to  
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8 4. Upon the posting of the supersedeas (or cash) bond, execution shall be stayed  
9 pending appeal and until the appeal is fully disposed of and a remittitur issued by  
10 the Nevada Supreme Court or the Nevada Court of Appeals to this Court, and  
11 thereafter as allowed by law.

12 5. *Defendants counter motion as denied, without prejudice.*  
13 IT IS SO ORDERED.

14 DATED: May 1, 2019.

15  
16  
17   
18 DISTRICT COURT JUDGE  
CASE NO. A-16-744109-C

19 *Submitted by:*

20 FRIZELL LAW FIRM

21  
22 By: 

23 R. DUANE FRIZELL, ESQ.  
24 Attorney for Plaintiffs/  
Counter-Defendants

25 *Approved*  
26   
27 Attorney for defendant  
28

Case Number: A-16-744109-C

1 **CERTIFICATE OF SERVICE**

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

5 On May 7, 2019, I served the foregoing ***PLAINTIFFS' NOTICE OF POSTING***  
***SUPERSEDEAS BOND*** on interested party(ies) in this action, as follows:

6 MICHAEL A. OLSEN, ESQ.  
7 Nevada State Bar No. 6076  
8 THOMAS R. GROVER, ESQ.  
9 Nevada State Bar No. 12387  
10 KEITH D. ROTSONG, ESQ.  
11 Nevada State Bar No. 14944  
12 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.*

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

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

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

18 by hand delivery;

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

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

21 */s/ Aiqin Niu*  
22 Aiqin Niu, an employee of  
23 FRIZELL LAW FIRM  
24  
25  
26  
27  
28

# **EXHIBIT 1**

# **EXHIBIT 1**



894077

PURCHASER'S COPY OF CASHIER'S CHECK

NEVADA STATE BANK

A division of Zions Bancorporation, N.A. Member FDIC

94-77/1224

ASIAN AMERICAN REALTY AND PROPERTY MGMT

Remitter

Date

MAY 03, 2019

Pay

\$ \*\*\*33,533.75\*\*\*

\*\*\*THIRTY THREE THOUSAND FIVE HUNDRED THIRTY THREE and 75/100\*\*\* US Dollars

To

The Order

Of \*\*\*DISTRICT COURT\*\*\*

NOTICE TO CUSTOMER: The purchase of a Surety Bond and/or execution of an Indemnity Agreement may be required before the check may be replaced or refunded in the event it is lost, misplaced or stolen.

NON NEGOTIABLE  
CUSTOMER COPY

058 20 3559

HARLAND CLARKE M17945 90008437

THIS DOCUMENT CONTAINS A TRUE WATERMARK - HOLD TO LIGHT TO VIEW

NEVADA STATE BANK

A division of Zions Bancorporation, N.A. Member FDIC

94-77/1224

894077

ASIAN AMERICAN REALTY AND PROPERTY MGMT

Remitter

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To

The Order

Of \*\*\*DISTRICT COURT\*\*\*

Authorized Signature

058 20 3559

4 Appx 000890

# OFFICIAL RECEIPT

District Court Clerk of the Court 200 Lewis Ave, 3rd Floor Las Vegas, NV 89101

Payor  
Asian American Realty and Property Mgmt

Receipt No.  
**2019-27560-CCCLK**

Transaction Date  
05/3/2019

Description	Amount Paid
-------------	-------------

On Behalf Of Asian American Realty & Property Management  
A-16-744109-C  
Betty Chan, Plaintiff(s) vs. Wayne Wu, Defendant(s)  
Supersedeas Bond

Supersedeas Bond	33,533.75
<b>SUBTOTAL</b>	<b>33,533.75</b>

**PAYMENT TOTAL** **33,533.75**

Cashier Check (Ref #894077) Tendered	33,533.75
Total Tendered	<b>33,533.75</b>
Change	0.00

Order filed 5/1/19

05/03/2019  
03:36 PM

Cashier  
Station AIKO

Audit  
36445188

**OFFICIAL RECEIPT**

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

**DECLARATION OF R. DUANE FRIZELL, ESQ.  
IN SUPPORT OF APPLICATION SHORTENING TIME**

I, R. DUANE FRIZELL, hereby make the following declaration:

1. My name is R. Duane Frizell. I have never been convicted of a felony. I am over 18 years of age, am of sound mind, and am fully competent to make this Declaration.
2. With the exception of any and all matters stated upon information and belief, all of the facts stated in this Declaration are based upon my personal knowledge and are true and correct, to the best of my recollection. Regarding any and all matters stated upon information and belief, I believe such matters to be true.
3. Since April 24, 2019, I have been the attorney of record for the Plaintiffs in this action. As such, I have personal knowledge of events in this case.
4. The present action relates to an arbitration award from the Greater Las Vegas Association of Realtors, which arose from a dispute between real estate agents.
5. On March 22, 2019, prior to my appearance in this matter, the Court entered its Order Granting Defendants Countermotion for Summary Judgment and Attorney Fees and Costs ("MSJ Order"). (See attached **Exhibit 1**).<sup>1</sup> In that order, the Court ruled, among other things, that the "Arbitration Award was confirmed." (*Id.* at p.7).
6. On April 1, 2019, Plaintiffs, who were representing themselves *pro se* at the time, filed their Motion to Vacate Entry of Order or Motion for Extension of Time to File Reconsideration to the Entry of Order Granting Defendants Counter Motion for Summary Judgment and Attorney Fees and Costs ("Motion for Reconsideration"). (See attached **Exhibit 2**). It does not appear that a hearing was ever set on the Motion for Reconsideration or that the Court ever ruled upon it. (See Register of Actions (dated Jan. 7, 2020) and attached hereto as **Exhibit 3**).
7. On that same day, the Court ruled separately: "[T]he 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." (See Minute Order (dated Apr. 1, 2019) and attached hereto as **Exhibit 4**).
8. On April 22, 2019, Plaintiffs, who were still representing themselves *pro se*, filed their Notice of Appeal. (See attached **Exhibit 5**).
9. Subsequently, Defendants sought to execute upon their summary judgment. Plaintiffs filed a motion to stay, which was granted on May 1, 2019 in the Court's Order on Plaintiff's Motion to Stay Execution Pending Appeal. (See attached **Exhibit 6**).
10. On May 3, 2019, Plaintiffs posted a supersedeas bond and on May 7, 2019, filed Plaintiffs' Notice of Posting Supersedeas Bond. (See attached **Exhibit 7**).
11. 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 Plaintiff's April 1, 2019 motion, which this Court had not "formally resolved." (See attached **Exhibit 8**).

///

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<sup>1</sup> Unless otherwise indicated, all of the exhibits, sub-exhibits, and other attachments to this Declaration and Motion are fully incorporated herein by reference.

12. Per the OSC, all that is required is “a written, file-stamped order resolving the April 1, 2019, motion.” (*See id.*).
13. The Supreme Court originally gave the Plaintiffs until December 14, 2019 to have the motion resolved. (*See Ex.8*). However, in Plaintiffs-Appellants’ Response to Order to Show Cause, filed in the Supreme Court on December 16, 2019, Plaintiffs have requested an extension. (*See attached Exhibit 9*). That request is pending.
14. Given that the Supreme Court may, at any time, dismiss the appeal as being premature, Plaintiffs request the Court to hear this matter on an order shortening time.
15. Declarant states the foregoing under penalty of perjury under the laws of the United States and the State of Nevada.

FURTHER DECLARANT SAYETH NAUGHT.

/s/ R. Duane Frizell  
R. DUANE FRIZELL, Declarant  
Nevada Bar No. 9807

January 7, 2020  
DATE

Henderson, NV  
CITY, STATE where signed

## **MEMORANDUM OF POINTS AND AUTHORITIES**

### **I. INTRODUCTION AND SUMMARY OF THE ARGUMENT.**

While representing themselves *pro se*, Plaintiffs appealed this Court's order granting Defendants' motion for summary judgment. Nevertheless, on appeal, the Supreme Court has determined that there may be a potential defect as to appellate jurisdiction: a pending motion for reconsideration.

Plaintiffs now bring the present motion for two main reasons: First, to cure any appellate jurisdictional issues, all that is required is a written, file-stamped order resolving the motion for reconsideration. Second, in order to address all issues on appeal, it would be proper for this Court to certify the summary judgment order as final. Plaintiffs are requesting the Court to take this action now.

### **II. BACKGROUND.**

For background, see the foregoing Declaration of R. Duane Frizell, Esq. in Support of Application Shortening Time, which is fully incorporated herein by this reference.

### **III. ARGUMENT AND AUTHORITIES.**

#### **A. To Cure Any Appellate Jurisdictional Issues, All That Is Required Is a Written, File-Stamped Order Resolving the Motion for Reconsideration.**

In its MSJ Order, this Court ruled that the "Arbitration Award was confirmed." (*Id.* at p.7). The appeal was taken as a an "order[] confirming or denying confirmation of an [arbitration] award," NRS 38.247(1)(c), and as a "final judgment entered pursuant to [the Uniform Arbitration Act of 2000]," NRS 38.247(1)(f). Thus, the MSJ Order was generally appealable.

Nevertheless, 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

1 were representing themselves *pro se*. This Court may resolve issues relating to any such  
2 prematurity.

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

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

9 The Supreme Court's OSC explained that all that is required to cure appellate jurisdiction  
10 is "a written, file-stamped order resolving the April 1, 2019, [Motion for Reconsideration]." (*See*  
11 Ex.8). For this reason, Plaintiffs hereby request the Court to formally resolve that motion.

12 **B. In Order to Address All Issues on Appeal, It Would Be Proper for this  
13 Court to Certify the MSJ Order as Final.**

14 "When an action presents more than one claim for relief — whether as a claim,  
15 counterclaim, crossclaim, or third-party claim — or when multiple parties are involved, the court  
16 may direct entry of a final judgment as to one or more, but fewer than all, claims or parties only  
17 if the court expressly determines that there is no just reason for delay." NRCP 54(b). Here the  
18 Court has already held as follows: "The Court has granted Summary Judgment in favor of  
19 Defendants and dealt with all claims pending in this litigation." (*See* Ex.4).

20 Despite this holding, Defendants have recently taken the position that their counterclaims  
21 have not been adjudicated. (*See* emails between counsel (Nov. 20, 2019 to Dec. 16, 2019))  
22 attached hereto as **Exhibit 10**). To resolve any uncertainty, and to allow the parties to address all  
23 issues on appeal, Plaintiffs are hereby seeking to have the Court certify the MSJ Order as final  
24 and, in that connection, to make an express determination that "there is no just reason for delay."

25 ///

26 ///

27 ///

1                   **IV.     REQUEST FOR RELIEF.**

2                   WHEREFORE, Plaintiffs/Counter-Defendants BETTY CHAN and ASIAN AMERICAN  
3 REALTY & PROPERTY MANAGEMENT (“Plaintiffs” or “Counter-Defendants”) hereby  
4 request the Court as follows:

- 5                   1.     to grant Plaintiffs’ Motion to Formally Resolve Motion for Reconsideration and  
6                   to Certify Judgment as Final;  
7  
8                   2.     to grant Plaintiffs’ Application for an Order Shortening Time and to hear  
9                   Plaintiffs’ Motion on an expedited basis;  
10  
11                  3.     to issue a written, file-stamped order resolving Plaintiff’s pending Motion to  
12                  Vacate Entry of Order or Motion for Extension of Time to File Reconsideration to  
13                  the Entry of Order Granting Defendants Counter Motion for Summary Judgment  
14                  and Attorney Fees and Costs (“Motion for Reconsideration”) (filed Apr. 1, 2019);  
15                  4.     to certify as final the Court’s Order Granting Defendants Countermotion for  
16                  Summary Judgment and Attorney Fees and Costs (“MSJ Order”) (filed Mar. 22,  
17                  2019), and in that connection to make an express determination that there is no  
18                  just reason for delay; and  
19                  5.     to grant Plaintiffs all such other and further relief to which they are entitled at law  
20                  or in equity.

21                   DATED: January 7, 2020.

22  
23                                   **FRIZELL LAW FIRM**  
24                                   400 N. Stephanie St., Ste. 265  
25                                   Henderson, Nevada 89014  
26                                   Telephone (702) 657-6000  
27                                   Facsimile (702) 657-0065

26                                   By: /s/ R. Duane Frizell  
27                                   **R. DUANE FRIZELL, ESQ.**  
28                                   Nevada Bar. No 9807  
                                  [dfrizell@frizelllaw.com](mailto:dfrizell@frizelllaw.com)  
                                  Attorney for Plaintiffs/  
                                  Counter-Defendants



**CERTIFICATE OF SERVICE**

I certify that on January 7, 2020, I caused the foregoing ***PLAINTIFFS' MOTION TO FORMALLY RESOLVE MOTION FOR RECONSIDERATION AND TO CERTIFY JUDGMENT AS FINAL (ON AN APPLICATION FOR AN ORDER SHORTENING TIME)***, 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.

**EXHIBITS**

- Exhibit 1      Order Granting Defendants Countermotion for Summary Judgment and Attorney Fees and Costs (filed Mar. 22, 2019) ["MSJ Order"]
- Exhibit 2      Motion to Vacate Entry of Order or Motion for Extension of Time to File Reconsideration to the Entry of Order Granting Defendants Counter Motion for Summary Judgment and Attorney Fees and Costs (filed Apr. 1, 2019) ["Motion for Reconsideration"]
- Exhibit 3      Register of Actions (dated Jan. 7, 2020)
- Exhibit 4      Minute Order (dated Apr. 1, 2019)
- Exhibit 5      Notice of Appeal (dated Apr. 22, 2019)
- Exhibit 6      Order on Plaintiff's Motion to Stay Execution Pending Appeal (filed May 1, 2019)
- Exhibit 7      Plaintiffs' Notice of Posting Supersedeas Bond (filed May 7, 2019)
- Exhibit 8      Supreme Court's Order to Show Cause (filed Nov. 14, 2019) ["OSC"]
- Exhibit 9      Plaintiffs-Appellants' Response to Order to Show Cause (filed in Supreme Court Dec. 16, 2019) (text only without exhibits)
- Exhibit 10      Emails between counsel (Nov. 20, 2019 to Dec. 16, 2019)

# **EXHIBIT 1**

# **EXHIBIT 1**

*Steven D. Grierson*

**ORDR**

MICHAEL A. OLSEN, ESQ.

Nevada Bar No: 6076

THOMAS R. GROVER, ESQ.

Nevada Bar No. 12387

**BLACKROCK LEGAL, LLC**

10155 W. Twain Ave., Suite 100

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Telephone (702) 855-5658

Facsimile (702) 869-8243

[mike@blackrocklawyers.com](mailto:mike@blackrocklawyers.com)

[tom@blackrocklawyers.com](mailto:tom@blackrocklawyers.com)

*Attorneys for Defendants/Counterclaimants*

*Wayne Wu, Judith Sullivan, Nevada*

*Real Estate Corp. and Jerrin Chiu*

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

BETTY CHAN and ASIAN AMERICAN  
REALTY & PROPERTY MANAGEMENT,

Plaintiffs/Counterdefendants,  
v.

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

Defendants/Counterclaimants.

) Case No: A-16-744109-C

) Dept. No: XX

) **ORDER GRANTING  
DEFENDANTS**

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

**APPEARANCES**

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

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

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

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

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

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

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



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

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

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

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

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

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

11  
12 **B. COUNTERMOTION FOR ATTORNEY FEES AND COSTS GRANTED**

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

16  
17 9. The Court finds that the Defendants fees are reasonable and were actually  
18 incurred in the confirmation and enforcement of the award of the Arbitration Panel. The Court  
19 finds that the contractual provision contained in the Arbitration Agreement signed by both  
20 Plaintiff and Defendant provided that "In the event [a party does] not comply with the award and  
21 it is necessary for any party to obtain judicial confirmation and enforcement of the award against  
22 me, [the party] agree[s] to pay that party costs and reasonable attorney's fees incurred in  
23 obtaining such confirmation and enforcement."

24  
25 10. The Court further finds that provision was reasonable and enforceable. As costs  
26 were never challenged, the Court hereby ORDERS costs in the amount of \$920.83 pursuant to  
27 Defendants' Memorandum of Costs and Disbursements, which was unopposed.  
28



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

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

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



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

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

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

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

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

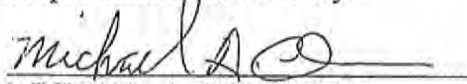
1 **IT IS HEREBY ORDERED, AJUDICATED, AND DECREED:**

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

10 IT IS SO ORDERED this 19 <sup>MARCH</sup> of ~~FEBRUARY~~ 2019.

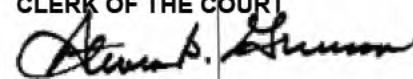
11  
12  
13   
14 DISTRICT COURT JUDGE SS  
15 ERIC JOHNSON  
16

17 Prepared and submitted by:

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

# **EXHIBIT 2**

# **EXHIBIT 2**



MOTION

Betty Chan and Asian American Realty and Property Management  
(Name)

4651 Spring Mountain Road  
(Address)

Las Vegas, NV89102  
(City, State, Zip)

702-222-0078  
(Telephone)

aarpm09@gmail.com  
(E-mail Address)

☐ Plaintiff/ ☐ Defendant, In Proper Person

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

Betty Chan and Asian American Realty and  
Property Management

Plaintiffs/Counterdefendants,

vs.

Wayne Wu, Judith Sullivan, Nevada Real Estate Corp  
Jerrin Chiu, KB Homes Sales-Nevada Inc.

Defendant(s)/Counterclaimants.

Case No.: A-16-744109-C

Dept. No.: xx

**MOTION to Vacate entry of Order or Motion for extension of time to file reconsideration to the  
entry of Order Granting Defendants Counter Motion For Summary Judgment and Attorney Fees and Costs**

Plaintiff/Counterdefendants Betty Chan and Asian American Realty and Property  
Management appear in Proper Person submit this Motion based on the following:

1) The hearing took place back in October 31 2018 and the Court find for the Defendants and  
Court directed Defendants' Counsel to draft the proposed order and to circulate it to Counsel prior  
to submission to chambers.(Exhibit 1)

2) Without any explanation or reasons, Defendant Counsel never produced the draft order for  
5 months. As soon as the Plaintiff's Counsel was granted withdrawal, then Defendant Counsel  
conveniently seized the opportunity to submit the Order without circulating to Plaintiff's former.  
counsel or Plaintiff herself in ProSe. With the experience of the Denfendant's Counsel as  
illustrated in the Order there is no reason he would not know that Plaintiff should be informed.

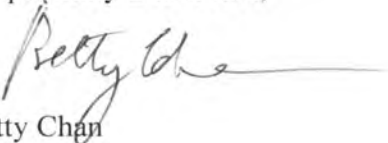
If that was not an intentional misconduct, then what else?



1 3) Plaintiff's due process right is now severely prejudiced and deprived of any fair  
2 chance to review and object. Further, Plaintiff is entitled to have the notice and review with her  
3 attorney. At this time, Plaintiff does not have any legal representation to help achieve that  
4 purpose to explain, to correct and to advise any legal deficiency to the Plaintiff.  
5 4) Under such circumstances, Plaintiff Betty Chan and Asian American Realty and Property  
6 Management respectfully requests this Court to vacate the entry of order so Plaintiff can have a  
7 month to locate an attorney to review before the entry of order as originally ordered by the Court.  
8 Or in the alternative Plaintiff is requesting the Court to grant a reconsideration of the Order and  
9 allow extension of reconsideration time beyond the 10 day period so that I can locate a  
10 replacement attorney and put this reconsideration on hold until then if the request is granted.  
11

12 Dated this April 1, 2019  
13

14 Respectfully Submitted,  
15

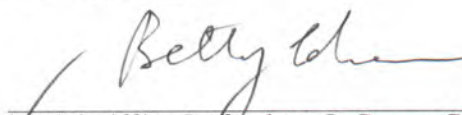
16   
Betty Chan  
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25

**CERTIFICATE OF MAILING**

Pursuant to Nev. R. Civ. P. 5(b), I HEREBY CERTIFY that on April 1 2019  
I placed a true and correct copy of the above **MOTION to reconsider Order Granting  
Defendants Countermotion FOR Summary Judgment and Attorney Fees and Costs**  
in the United States Mail at Las Vegas, Nevada, with first-class postage prepaid, addressed to the  
following:

Michael A Olsen Esq \_\_\_\_\_  
10155 W Twain Ave., #100 \_\_\_\_\_  
Las Vegas, NV 89147 \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
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\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

DATED: April 1 \_\_\_\_\_, 2019.

  
\_\_\_\_\_  
☒ Plaintiff/ ☐ Defendant, In Proper Person (Signature)

**From:** Sullivan, Skyler [mailto:Dept20LC@clarkcountycourts.us]  
**Sent:** Friday, November 30, 2018 2:03 PM  
**To:** Michael Cristalli <mcristalli@gcmaslaw.com>; 'olsenlaw@lvcm.com' <olsenlaw@lvcm.com>;  
Janiece Marshall <jmarshall@gcmaslaw.com>  
**Subject:** A744109 Chan v. Wu Motion for Attorney's Fees

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Good Afternoon,

Please be advised that the Court will be issuing a Minute Order in the above matter. The Motion for Attorney's Fees has been GRANTED. The Court's reasoning will be contained in the Minute Order. Counsel for the Defendants is directed to prepare a proposed order and circulate it to counsel prior to submission to chambers. Please let me know if you have any further questions or concerns.

Thank you,

Skyler Sullivan

Law Clerk to the Honorable Eric Johnson

Eighth Judicial District Court, Department XX

702.671.4437 (phone)

702.671.4439 (fax)

Dept20LC@clarkcountycourts.us

Exhibit 1

# **EXHIBIT 3**

# **EXHIBIT 3**



**REGISTER OF ACTIONS****CASE NO. A-16-744109-C****Betty Chan, Plaintiff(s) vs. Wayne Wu, Defendant(s)**§  
§  
§  
§  
§  
§  
§Case Type: **Other Contract**Date Filed: **09/27/2016**Location: **Department 20**Cross-Reference Case Number: **A744109**Supreme Court No.: **78666****P. TY INFORMATION**

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

**EVENTS & ORDERS OF THE COURT****DISPOSITIONS**

03/22/2019 **Summary Judgment** (Judicial Officer: Johnson, Eric)  
Debtors: Betty Chan (Plaintiff), Asian American Realty & Property Management (Plaintiff)

**4 Appx 000914**

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)  
Judgment: 03/22/2019, Docketed: 03/22/2019  
Total Judgment: 22,355.83

#### OTHER EVENTS AND HEARINGS

09/27/2016 **Complaint**  
*Complaint*

11/15/2016 **Amended Complaint**  
*Amended Complaint*

11/21/2016 **Affidavit of Service**  
*Affidavit of Service*

11/21/2016 **Affidavit of Service**  
*Affidavit of Service*

11/21/2016 **Affidavit of Service**  
*Affidavit of Service*

11/21/2016 **Affidavit of Service**  
*Affidavit of Service*

11/21/2016 **Affidavit of Service**  
*Affidavit of Service*

12/01/2016 **Affidavit of Service**  
*Affidavit of Service*

12/06/2016 **Answer and Counterclaim**  
*Answer and Counterclaim*

12/06/2016 **Initial Appearance Fee Disclosure**  
*Initial Appearance Fee Disclosure*

12/07/2016 **Certificate of Service**  
*Certificate of Service*

12/19/2016 **Reply to Counterclaim**  
*Reply to Counterclaim*

01/06/2017 **Motion to Amend**  
*Counterdefendant's Motion to Amend Reply to Counterclaim and to Strike Initial Reply to Counterclaim from the Record*

01/10/2017 **Stipulation**  
*Stipulation to Continue Early Case Conference*

01/10/2017 **Notice of Non Opposition**  
*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**  
*Certificate of Service*

01/13/2017 **Motion to Stay**  
*Motion for Stay Pending Arbitration*

01/23/2017 **Motion to Withdraw As Counsel**  
*Motion to Withdraw as Counsel of Record for Plaintiffs Betty Chan and Asian American Realty and Property Management*

02/02/2017 **Opposition**  
*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**  
*Initial Appearance Fee Disclosure*

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*  
[Parties Present](#)  
[Minutes](#)  
Result: Granted

02/06/2017 **Certificate of Service**  
*Certificate of Service*

02/07/2017 **Certificate of Service**  
*Certificate of Service*

02/07/2017 **Supplemental**  
*Supplement to Opposition to Motion to Stay Pending Arbitration and Countermotion to Dismiss with Prejudice or in the Alternative for Summary Judgment*

02/09/2017 **Order**  
*Order to Amend Reply to Counterclaim and to Strike Initial Reply to Counterclaim from the Record.*

02/10/2017 **Amended**  
*Amended Reply to Counterclaim*

02/14/2017 **Reply to Opposition**  
*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*

02/16/2017 **Stipulation and Order**  
*Stipulation and Order to Continue Hearing*

02/27/2017 **Motion For Stay** (8:30 AM) (Judicial Officer Leavitt, Michelle)  
*Plaintiffs' Motion for Stay Pending Arbitration*  
*02/13/2017 Reset by Court to 02/27/2017*  
Result: 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*  
*02/13/2017 Reset by Court to 02/27/2017*  
Result: Denied

02/27/2017 **All Pending Motions** (8:30 AM) (Judicial Officer Leavitt, Michelle)  
[Parties Present](#)

	<a href="#">Minutes</a>
	Result: Matter Heard
02/28/2017	<b>Notice of Hearing</b>
	<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	<b>Order</b>
	<i>Order Granting Motion to Stay and Denying Motion to Dismiss and Motion for Summary Judgment</i>
04/03/2017	<b>Motion to Withdraw as Counsel</b> (8:30 AM) (Judicial Officer Leavitt, Michelle)
	<i>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</i>
	<a href="#">Parties Present</a>
	<a href="#">Minutes</a>
	Result: Granted
04/03/2017	<b>Notice of Entry of Order</b>
	<i>Notice of Entry of Order Granting Motion to Stay and Denying Motion for Summary Judgment</i>
04/17/2017	<b>Order Granting Motion</b>
	<i>Order Granting Motion to Withdraw as Counsel of Record for Plaintiffs Betty Chan and Asian American Realty &amp; Property Management</i>
05/01/2017	<b>Status Check</b> (8:30 AM) (Judicial Officer Leavitt, Michelle)
	<i>Status Check: New Counsel For Plaintiffs</i>
	<a href="#">Parties Present</a>
	<a href="#">Minutes</a>
	Result: Off Calendar
05/04/2017	<b>Notice of Appearance</b>
	<i>Notice of Appearance</i>
05/09/2017	<b>Notice of Entry of Order</b>
	<i>Notice of Entry of Order Granting Motion to Withdraw as Counsel of Record for Plaintiffs</i>
07/02/2018	<b>Case Reassigned to Department 20</b>
	<i>Reassigned From Judge Leavitt - Dept 12</i>
07/18/2018	<b>Motion to Vacate</b>
	<i>MOTION TO VACATE OR MODIFY ARBITRATION AWARD</i>
08/06/2018	<b>Opposition and Countermotion</b>
	<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>
08/07/2018	<b>Initial Appearance Fee Disclosure</b>
	<i>Initial Appearance Fee Disclosure</i>
08/15/2018	<b>Reply in Support</b>
	<i>Reply In Support Of Motion to Vacate or Modify Arbitration Award and Opposition to Countermotions</i>
08/21/2018	<b>Change of Address</b>
	<i>Change of Address of Attorneys for Defendant KB Home Sales - Nevada, Inc.</i>
08/22/2018	<b>Motion</b> (8:30 AM) (Judicial Officer Johnson, Eric)
	<i>Plaintiffs' Motion to Vacate or Modify Arbitration Award</i>
	Result: Denied
08/22/2018	<b>Opposition and Countermotion</b> (8:30 AM) (Judicial Officer Johnson, Eric)
	<b>08/22/2018, 10/31/2018</b>
	<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>
	<a href="#">Parties Present</a>
	<a href="#">Minutes</a>
	<i>10/10/2018 Reset by Court to 10/31/2018</i>
	<i>10/31/2018 Reset by Court to 10/31/2018</i>
	Result: Matter Continued
08/22/2018	<b>Response and Countermotion</b> (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>
	Result: Denied
08/22/2018	<b>All Pending Motions</b> (8:30 AM) (Judicial Officer Johnson, Eric)
	<a href="#">Parties Present</a>
	<a href="#">Minutes</a>
	Result: Matter Heard
09/05/2018	<b>Supplement</b>
	<i>First Supplement to Countermotion to Recognize Wu as the Procuring Cause, for Summary Judgment, and for Attorney Fees</i>
09/12/2018	<b>Supplement</b>
	<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	<b>Order</b>
	<i>Order Denying Motion to Vacate or Modify Arbitration Award</i>
09/18/2018	<b>Notice of Entry of Order</b>
	<i>Notice of Entry of Order</i>
09/20/2018	<b>Certificate of Service</b>
	<i>Certificate of Service</i>
09/21/2018	<b>Certificate of Service</b>
	<i>Certificate of Service</i>
09/25/2018	<b>Declaration</b>
	<i>Declaration of Service</i>
10/04/2018	<b>Stipulation and Order</b>
	<i>Stipulation and Order Extending Briefing and Continuing Hearing</i>
10/09/2018	<b>Substitution of Attorney</b>
	<i>Substitution of Attorneys</i>
10/12/2018	<b>Motion to Extend</b>
	<i>Motion to Extend Briefing on Order Shortening Time and Continue Hearing Date</i>
10/15/2018	<b>Notice of Entry</b>

	<i>Notice of Entry of Order on Shortening Time</i>
10/15/2018	<b>Opposition</b> <i>Opposition to Motion to Extend Briefing on Order Shortening Time and Continue Hearing</i>
10/17/2018	<b>Motion</b> (10:30 AM) (Judicial Officer Johnson, Eric) <i>Plaintiffs' Motion to Extend Briefing on Order Shortening Time and Continue Hearing Date</i> <a href="#">Parties Present</a> <a href="#">Minutes</a>
	Result: Denied
10/25/2018	<b>Supplement</b> <i>Plaintiffs/Counterdefendants Betty Chan and Asia American Realty &amp; Property Management's Supplement to Plaintiffs Opposition Defendants/Counterclaimants Wayne Wu, Judicity 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	<b>Reply</b> <i>Reply to Plaintiffs Supplement</i>
10/30/2018	<b>Certificate of Service</b> <i>Certificate of Service</i>
10/31/2018	<b>Memorandum of Costs and Disbursements</b> <i>Memorandum of Costs and Disbursements</i>
11/14/2018	<b>Transcript of Proceedings</b> <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>
11/30/2018	<b>Minute Order</b> (11:30 AM) (Judicial Officer Johnson, Eric) <a href="#">Minutes</a>
	Result: Minute Order - No Hearing Held
12/31/2018	<b>Transcript of Proceedings</b> <i>All Pending Motions, August 22, 2018</i>
01/03/2019	<b>Motion to Withdraw As Counsel</b> <i>Motion to Withdraw As Counsel of Record</i>
01/25/2019	<b>Recorders Transcript of Hearing</b> <i>Plaintiffs' Motion to Extend Briefing on Order Shortening Time and Continue Hearing Date, October 17, 2018</i>
01/29/2019	<b>Notice of Change of Firm Name</b> <i>Notice of Change and Firm Name</i>
02/11/2019	<b>Minute Order</b> (8:30 AM) (Judicial Officer Johnson, Eric) <a href="#">Minutes</a>
	Result: Minute Order - No Hearing Held
02/19/2019	<b>Motion</b> <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>
02/20/2019	<b>CANCELED Motion to Withdraw as Counsel</b> (8:30 AM) (Judicial Officer Johnson, Eric) <i>Vacated</i>
03/08/2019	<b>Opposition to Motion</b> <i>Gentile Cristalli Miller Armeni &amp; 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	<b>Order Granting Motion</b> <i>Order Granting Motion to Withdraw As Counsel of Record</i>
03/21/2019	<b>Notice of Entry of Order</b> <i>Notice of Entry of Order Granting Motion to Withdraw as Counsel of Record</i>
03/22/2019	<b>Order</b> <i>Order Granting Defendants Countermotion for Summary Judgment and Attorneys Fees and Costs</i>
03/22/2019	<b>Notice of Entry of Order</b> <i>Notice of Entry of Order</i>
03/25/2019	<b>Certificate of Service</b> <i>Certificate of Service</i>
03/27/2019	<b>Ex Parte Order</b> <i>Ex Parte Motion for an Order Shortening Time</i>
03/27/2019	<b>Motion for Writ of Attachment</b> <i>Motion for Writ of Execution on Plaintiffs Commissions Awarded by GLVAR Arbitration Panel</i>
03/28/2019	<b>Motion for Writ of Attachment</b> <i>Motion for Writ of Execution on Plaintiffs Commissions Awarded by GLVAR Arbitration Panel</i>
04/01/2019	<b>Response</b> <i>Response to Attorney Janiece Marshall's opposition and request additional time to locate another attorney replacement</i>
04/01/2019	<b>Minute Order</b> (7:15 AM) (Judicial Officer Johnson, Eric) <i>Minute Order Re: Plaintiff's Motion for Reconsideration</i> <a href="#">Minutes</a>
	Result: Minute Order - No Hearing Held
04/01/2019	<b>Motion</b> <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>
04/03/2019	<b>CANCELED Motion For Reconsideration</b> (8:30 AM) (Judicial Officer Johnson, Eric) <i>Vacated - per Law Clerk</i> <i>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</i>
04/04/2019	<b>Ex Parte Motion</b> <i>Ex Parte Motion for an Order Shortening Time</i>
04/04/2019	<b>Notice of Entry of Order</b> <i>Notice of Entry of Order</i>
04/05/2019	<b>Certificate of Service</b> <i>Certificate of Service</i>
04/07/2019	<b>Opposition</b>

	<i>motion to oppose Motion for writ of execution on Plaintiff's Commission awarded by GLVAR Arbitration Panel</i>
04/08/2019	<b>Motion</b> <i>Motion to Vacate notice of Entry of Order Granting Shortening Time</i>
04/14/2019	<b>Supplement</b> <i>Supplemental to Plaintiffs' Opposition to Writ of Execution Filed on 4/7/2019</i>
04/15/2019	<b>Supplement</b> <i>Supplemental Attachment to plaintiffs's motion filed on 4/1/2019 for reconsideration</i>
04/17/2019	<b>Motion</b> (8:30 AM) (Judicial Officer Johnson, Eric) <i>Defendant's Motion for Writ of Execution</i> <a href="#">Parties Present</a> <a href="#">Minutes</a> Result: Granted
04/22/2019	<b>Notice of Appeal</b> <i>Notice of Appeal</i>
04/22/2019	<b>Case Appeal Statement</b> <i>Case Appeal Statement</i>
04/24/2019	<b>Notice of Appearance</b> <i>Notice of Appearance</i>
04/24/2019	<b>Motion for Stay of Execution</b> <i>Plaintiffs Motion to Stay Execution Pending Appeal (on an Ex Parte Application for an Order Shortening Time)</i>
04/25/2019	<b>Case Appeal Statement</b> <i>Case Appeal Statement</i>
04/25/2019	<b>Writ Electronically Issued</b> <i>Writ of Execution</i>
04/26/2019	<b>Notice of Motion</b> <i>Notice of Motion; Order Shortening Time; Stay of Execution</i>
04/26/2019	<b>Notice of Entry of Order</b> <i>NOTICE OF ENTRY OF NOTICE OF MOTION; ORDER SHORTENING TIME; STAY OF EXECUTION</i>
04/26/2019	<b>Certificate of Service</b> <i>Certificate of Service</i>
04/29/2019	<b>Opposition</b> <i>Partial Opposition to Plaintiff's Motion to Stay Execution</i>
04/29/2019	<b>Notice</b> <i>Notice of Production of Documents in camera</i>
05/01/2019	<b>Motion to Stay</b> (8:30 AM) (Judicial Officer Johnson, Eric) <i>Motion to Stay Execution on OST</i> Result: Granted
05/01/2019	<b>Opposition and Countermotion</b> (8:30 AM) (Judicial Officer Johnson, Eric) <i>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</i> Result: Granted in Part
05/01/2019	<b>Certificate of Service</b> <i>Certificate of Service</i>
05/01/2019	<b>All Pending Motions</b> (8:30 AM) (Judicial Officer Johnson, Eric) <a href="#">Parties Present</a> <a href="#">Minutes</a> Result: Matter Heard
05/01/2019	<b>Transcript of Proceedings</b> <i>Defendant's Motion For Writ of Execution, April 17, 2019</i>
05/01/2019	<b>Order</b> <i>ORDER ON PLAINTIFFS MOTION TO STAY EXECUTION PENDING APPEAL</i>
05/01/2019	<b>Notice of Entry of Order</b> <i>NOTICE OF ENTRY OF ORDER ON PLAINTIFFS MOTION TO STAY EXECUTION PENDING APPEAL</i>
05/03/2019	<b>Order</b> <i>Order Denying Plaintiffs' Motion to Reconsider Order Granting Motion to Withdraw and Late-Filed Opposition to Motion to Withdraw</i>
05/03/2019	<b>Miscellaneous Filing</b> <i>Transcript Request Statement</i>
05/06/2019	<b>Notice of Entry of Order</b> <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>
05/07/2019	<b>Notice of Posting</b> <i>PLAINTIFFS NOTICE OF POSTING SUPERSEDEAS BOND</i>
12/11/2019	<b>Notice of Hearing</b> <i>Notice of Hearing</i>
06/17/2020	<b>Status Check</b> (8:30 AM) (Judicial Officer Johnson, Eric) <i>Status Check: Appeal</i>

## FINANCIAL INFORMATION

	<b>Counter Claimant</b> Chiu, Jerin	
	Total Financial Assessment	30.00
	Total Payments and Credits	30.00
	<b>Balance Due as of 01/07/2020</b>	<b>0.00</b>
12/06/2016	Transaction Assessment	30.00
12/06/2016	Efile Payment	Receipt # 2016-118241-CCCLK Chiu, Jerin (30.00)

**Counter Claimant Nevada Real Estate Corp**

Total Financial Assessment

30.00

Total Payments and Credits

30.00

**Balance Due as of 01/07/2020****0.00**

12/06/2016 Transaction Assessment

30.00

12/06/2016 Efile Payment

Receipt # 2016-118240-CCCLK

Nevada Real Estate Corp

(30.00)

**Counter Claimant Sullivan, Judith**

Total Financial Assessment

30.00

Total Payments and Credits

30.00

**Balance Due as of 01/07/2020****0.00**

12/06/2016 Transaction Assessment

30.00

12/06/2016 Efile Payment

Receipt # 2016-118239-CCCLK

Sullivan, Judith

(30.00)

**Counter Claimant Wu, Wayne**

Total Financial Assessment

633.00

Total Payments and Credits

633.00

**Balance Due as of 01/07/2020****0.00**

12/06/2016 Transaction Assessment

223.00

12/06/2016 Efile Payment

Receipt # 2016-118238-CCCLK

Wu, Wayne

(223.00)

02/06/2017 Transaction Assessment

200.00

02/06/2017 Efile Payment

Receipt # 2017-11511-CCCLK

Wu, Wayne

(200.00)

08/07/2018 Transaction Assessment

200.00

08/07/2018 Efile Payment

Receipt # 2018-52188-CCCLK

Wu, Wayne

(200.00)

04/26/2019 Transaction Assessment

10.00

04/26/2019 Efile Payment

Receipt # 2019-25725-CCCLK

Wu, Wayne

(10.00)

**Counter Defendant Chan, Betty**

Total Financial Assessment

350.00

Total Payments and Credits

350.00

**Balance Due as of 01/07/2020****0.00**

09/28/2016 Transaction Assessment

273.50

09/28/2016 Efile Payment

Receipt # 2016-94014-CCCLK

Chan, Betty

(270.00)

09/28/2016 Efile Payment

Receipt # 2016-94016-CCCLK

Chan, Betty

(3.50)

11/16/2016 Transaction Assessment

3.50

11/16/2016 Efile Payment

Receipt # 2016-111616-CCCLK

Chan, Betty

(3.50)

12/19/2016 Transaction Assessment

3.50

12/19/2016 Efile Payment

Receipt # 2016-122503-CCCLK

Chan, Betty

(3.50)

01/09/2017 Transaction Assessment

3.50

01/09/2017 Efile Payment

Receipt # 2017-01860-CCCLK

Chan, Betty

(3.50)

01/10/2017 Transaction Assessment

3.50

01/10/2017 Efile Payment

Receipt # 2017-02745-CCCLK

Chan, Betty

(3.50)

01/13/2017 Transaction Assessment

3.50

01/13/2017 Efile Payment

Receipt # 2017-04343-CCCLK

Chan, Betty

(3.50)

01/23/2017 Transaction Assessment

3.50

01/23/2017 Efile Payment

Receipt # 2017-07008-CCCLK

Chan, Betty

(3.50)

02/09/2017 Transaction Assessment

3.50

02/09/2017 Efile Payment

Receipt # 2017-13333-CCCLK

Chan, Betty

(3.50)

02/13/2017 Transaction Assessment

3.50

02/13/2017 Efile Payment

Receipt # 2017-14019-CCCLK

Chan, Betty

(3.50)

02/15/2017 Transaction Assessment

3.50

02/15/2017 Efile Payment

Receipt # 2017-15061-CCCLK

Chan, Betty

(3.50)

02/16/2017 Transaction Assessment

3.50

02/16/2017 Efile Payment

Receipt # 2017-15822-CCCLK

Chan, Betty

(3.50)

03/01/2017 Transaction Assessment

3.50

03/01/2017 Efile Payment

Receipt # 2017-19703-CCCLK

Chan, Betty

(3.50)

03/30/2017 Transaction Assessment

3.50

03/30/2017 Efile Payment

Receipt # 2017-30612-CCCLK

Chan, Betty

(3.50)

04/03/2017 Transaction Assessment

3.50

04/03/2017 Efile Payment

Receipt # 2017-31493-CCCLK

Chan, Betty

(3.50)

04/18/2017 Transaction Assessment

3.50

04/18/2017 Efile Payment

Receipt # 2017-36327-CCCLK

Chan, Betty

(3.50)

05/09/2017 Transaction Assessment

3.50

05/09/2017 Efile Payment

Receipt # 2017-42364-CCCLK

Chan, Betty

(3.50)

04/22/2019 Transaction Assessment

24.00

04/22/2019 Payment (Window)

Receipt # 2019-24610-CCCLK

Chan, Betty

(24.00)

**Plaintiff Asian American Realty & Property Management**

Total Financial Assessment

30.00

Total Payments and Credits

30.00

**Balance Due as of 01/07/2020****0.00**

1/7/2020		<a href="https://www.clarkcountycourts.us/Anonymous/CaseDetail.aspx?CaseID=11720168">https://www.clarkcountycourts.us/Anonymous/CaseDetail.aspx?CaseID=11720168</a>	
09/28/2016	Transaction Assessment		30.00
09/28/2016	Efile Payment	Receipt # 2016-94015-CCCLK	(30.00)
		Asian American Realty & Property Management	

# **EXHIBIT 4**

# **EXHIBIT 4**



# REGISTER OF ACTIONS

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

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

§  
§  
§  
§  
§  
§  
§

Case Type: **Other Contract**  
 Date Filed: **09/27/2016**  
 Location: **Department 20**  
 Cross-Reference Case Number: **A744109**  
 Supreme Court No.: **78666**

### PARTY INFORMATION

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

04/01/2019 **Minute Order** (7:15 AM) (Judicial Officer Johnson, Eric)  
*Minute Order Re: Plaintiff's Motion for Reconsideration*

**Minutes**

04/01/2019 7:15 AM

- 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.

[Return to Register of Actions](#)

# **EXHIBIT 5**

# **EXHIBIT 5**

*Heather S. Shuman*  
CLERK OF THE COURT

**Notice**

Betty Chan and Asian American Realty  
& Property Management  
4651 Spring Mountain Road  
Las Vegas, NV 89102  
702-222-0078  
aarpm09@gmail.com

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

BETTY CHAN and ASIAN AMERICAN  
REALTY & PROPERTY MANAGEMENT,

Plaintiff,

vs.

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

Defendant

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

**NOTICE OF APPEAL**

Date of Hearing: N/A

Time of Hearing: N/A

**NOTICE OF APPEAL**

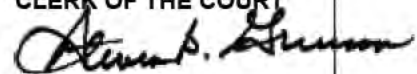
Notice is hereby given that Betty Chan and Asian American Realty & Property Management, Plaintiffs above named, hereby appeals to the Supreme Court of Nevada from the Order granting Defendants/Counter Claimants' Countermotion to recognize Wu as the Procuring clause, for Summary judgment, and for attorneys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

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

RECEIVED  
APR 22 2019  
CLERK OF THE COURT

# **EXHIBIT 6**

# **EXHIBIT 6**



**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](mailto: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

**ORDER ON PLAINTIFFS' MOTION TO STAY EXECUTION PENDING APPEAL**

On May 1, 2019, the Court heard Plaintiffs' Motion to Stay Execution Pending Appeal (filed Apr. 24, 2019) [hereinafter the "Motion"]. Present at the hearing were the following:

For Plaintiffs: R. Duane Frizell, Esq.

For Defendants: Michael A. Olsen, Esq.

~~Thomas R. Grover, Esq.~~ 

~~Keith D. Routsong, Esq.~~ 

Having reviewed Plaintiffs' Motion, Defendants' Opposition and Countermotion, the other pleadings and papers on file with the Court, and the arguments of counsel, the Court finds just, good, and sufficient cause for granting the Motion pursuant to the following terms:

1. Plaintiffs' Motion is hereby GRANTED.


1 2. Pursuant to NRCP 62(d)(1)-(2), a supersedeas (or cash) bond is hereby set in the  
2 amount of \$ 33,533 75, which the Court finds to be a fair and  
3 just "amount that will permit full satisfaction of the judgment." *Nelson v. Heer*,  
4 121 Nev. 832, 834, 122 P.3d 1252, 1253 (2005).

5 3. Plaintiffs hereby have until May 10, 2019 at 5:50 a.m./(p.m.) to  
6 post the supersedeas (or cash) bond set in the preceding paragraph, and execution  
7 upon any judgment or order of this Court is hereby stayed until that date and time.

8 4. Upon the posting of the supersedeas (or cash) bond, execution shall be stayed  
9 pending appeal and until the appeal is fully disposed of and a remittitur issued by  
10 the Nevada Supreme Court or the Nevada Court of Appeals to this Court, and  
11 thereafter as allowed by law.

12 5. Defendants counter-motion as denied, without prejudice.  
13 IT IS SO ORDERED.

14 DATED: May 1, 2019.

15  
16  
17   
18 DISTRICT COURT JUDGE  
CASE NO. A-16-744109-C

19 *Submitted by:*

20 FRIZELL LAW FIRM

21  
22 By: 

23 R. DUANE FRIZELL, ESQ.  
24 *Attorney for Plaintiffs/  
Counter-Defendants*

25 *Approved*  
26   
27 *Attorney for defendant*  
28