

**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 05:37 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 5)**

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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 5)***, 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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**Appendix (Chronological Index)**

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<b>1</b>	11/15/2016	Amended Complaint	Appx000011- Appx000018
<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>	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
<b>1</b>		Exhibit 1 - City-Data.com Forum	Appx000078- Appx000079
<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
<b>1</b>		Exhibit 4 - Hall letter to First American Title	Appx000111- Appx000113
<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
<b>1</b>	2/6/2017	Certificate of Service	Appx000122- Appx000123



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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>2</b>		Exhibit 6 - Code of Ethics and Arbitration Manual	Appx000398- Appx000459
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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
<b>3</b>		Exhibit O - 11/30/15 Chan email to Chiu	Appx000571- Appx000572



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<b>3</b>		Exhibit S - 5/17/2018 Chan letter to GLVAR	Appx000585- Appx000589
<b>3</b>		Exhibit T - Code of Ethics and Arbitration Manual	Appx000590- Appx000591
<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
<b>3</b>	8/22/2018	Transcript of Hearing: All Pending Motions	Appx000618- Appx000648
<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
<b>3</b>		Exhibit C - 2/5/2016 Chan email to "aaroffer"	Appx000671- Appx000672
<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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<b>4</b>	9/18/2018	Notice of Entry of Order	Appx000695- Appx000701



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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
4		Exhibit 1 - Declaration of Betty Chan	Appx000728- Appx000736
4		Exhibit 2 - 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	Appx000737- Appx000741
4		Exhibit 3 - Supplemental Declaration of Betty Chan	Appx000742- Appx000745
4		Exhibit 4 - 11/2/2015 Chiu email to Chan	Appx000746- Appx000748
4		Exhibit 5 - 12/30 text string	Appx000749- Appx000750
4		Exhibit 6 - 1/15 text string	Appx000751- Appx000754
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
4	10/31/2018	Memorandum of Costs and Disbursements	Appx000764
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<b>4</b>	3/22/2019	Order Granting Defendants Countermotion for Summary Judgment and Attorney Fees and Costs	Appx000816- Appx000822
<b>4</b>	3/22/2019	Notice of Entry of Order	Appx000823- Appx000831
<b>4</b>	3/25/2019	Certificate of Service	Appx000832- Appx000833
<b>4</b>	4/17/2019	Transcript of Hearing: Defendants' Motion for Writ of Execution	Appx000834- Appx000859
<b>4</b>	4/22/2019	Notice of Appeal	Appx000860
<b>4</b>	4/24/2019	Notice of Appearance	Appx000861- Appx000862
<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 Parte Application for an Order Shortening Time) and Demand for Supersedeas Bond and Countermotion to Amend Order)	Appx000863- Appx000864
<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
<b>4</b>	5/7/2019	Plaintiffs' Notice of Posting Supersedeas Bond	Appx000887- Appx000891
<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- Appx000899
<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 3 - Register of Actions	Appx000913- Appx000920
<b>4</b>		Exhibit 4 - 4/1/2019 Minutes re Plaintiff's Motion for Reconsideration	Appx000921- Appx000923
<b>4</b>		Exhibit 5 - 4/22/2019 Notice of Appeal	Appx000924- Appx000925
<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 8 - 11/14/2019 Order to Show Cause	Appx000935- Appx000937
<b>5</b>		Exhibit 9 - Plaintiffs-Appellants' Response to Order to Show Cause	Appx000938- Appx000947
<b>5</b>		Exhibit 10 - 12/16/19 Frizell email to Olsen	Appx000948- Appx000952
<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 for Summary Judgment on Abuse of Process Claim	Appx000953- Appx000967
<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 3 - Request and Agreement to Arbitrate (P001 - P003)	Appx000980- Appx000983
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<b>5</b>		Exhibit 5 - 3/24/2016 Hall letter to First American Title	Appx000992- Appx000994
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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>	1/22/2020	Transcript of Hearing: All Pending Motions	Appx001008- Appx001017
<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
<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 and Countermotion for Summary Judgment on Abuse of Process Claim	Appx001023- Appx001030
<b>5</b>	4/6/2020	Plaintiff's Amended Notice of Appeal	Appx001031- Appx001033
<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- Appx001050
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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
<b>5</b>		Exhibit 3 - Register of Actions (dated Jan. 7, 2020)	Appx001134- Appx001141
<b>5</b>		Exhibit 4 - Minute Order (dated Apr. 1, 2019)	Appx001142- Appx001144
<b>5</b>		Exhibit 5 - Notice of Appeal (dated Apr. 22, 2019)	Appx001145- Appx001146
<b>5</b>		Exhibit 6 - Order on Plaintiff's Motion to Stay Execution Pending Appeal (filed May 1, 2019)	Appx001147- Appx001149
<b>5</b>		Exhibit 7 - Plaintiffs' Notice of Posting Supersedeas Bond (filed May 7, 2019)	Appx001150- Appx001155
<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 9 - Plaintiffs-Appellants' Response to Order to Show Cause (filed in Supreme Court Dec. 16, 2019)	Appx001159- Appx001168
<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 14 - Supplemental Declaration of Betty Chan (dated Aug. 15, 2018)	Appx001194-Appx001197
6		Exhibit 15 - Declaration of Betty Chan (dated Jan. 21, 2020)	Appx001198-Appx001205
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
6		Exhibit 1 - 2/5/2016 Chan email to "aaroffer"	Appx001250-Appx001252
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6		Exhibit 3 - 5/14/2020 Order Dismissing Appeal	Appx001256-Appx001260
6		Exhibit 4 - 5/1/19 Order on Plaintiffs' Motion to Stay Execution Pending Appeal	Appx001261-Appx001263
6		Exhibit 5 - Code of Ethics and Standards of Practice	Appx001264-Appx001267
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)***  
**Appendix (Alphabetical Index)**

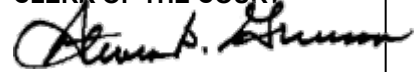
<b>VOL</b>	<b>DATE</b>	<b>DOCKET TEXT/DESCRIPTION</b>	<b>BATES NOS</b>
<b>7</b>	12/9/2020	Transcript of Hearing: Plaintiffs' Motion to Stay Execution Pending Appeal (on an Ex Parte Application for an Order	Appx001486-Appx001502
<b>5</b>	6/30/2020	Transcript of Hearing: Plaintiff's Motion to Strike or 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



# **EXHIBIT 7**

# **EXHIBIT 7**





1 **NOP(CIV)**  
2 **R. DUANE FRIZELL, ESQ.**  
3 Nevada Bar No. 9807  
4 **FRIZELL LAW FIRM**  
5 400 N. Stephanie St., Suite 265  
6 Henderson, Nevada 89014  
7 Office (702) 657-6000  
8 Facsimile (702) 657-0065  
9 [dfrizell@frizelllaw.com](mailto:dfrizell@frizelllaw.com)  
10 *Attorney for Plaintiffs/*  
11 *Counter-Defendants*

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

9 BETTY CHAN and ASIAN  
10 AMERICAN REALTY &  
11 PROPERTY MANAGEMENT,

12 Plaintiffs,

13 vs.

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

18 Defendants.

§ CASE NO: A-16-744109-C  
§  
§ DEPT NO: 20  
§  
§  
§  
§  
§  
§  
§  
§  
§  
§

16 **PLAINTIFFS' NOTICE OF POSTING SUPERSEDEAS BOND**

17 TO: The Court

18 TO: All Parties and their counsel of record

19 PLEASE TAKE NOTICE that, pursuant to the Court's Order on Plaintiffs' Motion to Stay  
20 Execution Pending Appeal (filed May 1, 2019), Plaintiffs/Counter-Defendants BETTY CHAN and  
21 ASIAN AMERICAN REALTY & PROPERTY MANAGEMENT posted a supersedeas bond on  
22 May 3, 2019 in the amount of \$33,533.75. True and correct copies of the cashier's check and  
23 Court Clerk's official receipt are attached hereto as ***Exhibit 1***.

24  
25 DATED May 7, 2019.

26 **FRIZELL LAW FIRM**

27 By: /s/ R. Duane Frizell  
28 R. DUANE FRIZELL, ESQ.  
Nevada Bar No. 9807  
*Attorneys for Plaintiffs/*  
*Counter-Defendants*



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

## NEVADA STATE BANK

A division of Zions Bancorporation, N.A. Member FDIC

PURCHASER'S COPY OF CASHIER'S CHECK

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 90006437

THIS DOCUMENT CONTAINS A TRUE WATERMARK - HOLD TO LIGHT TO VIEW

## NEVADA STATE BANK

A division of Zions Bancorporation, N.A. Member FDIC

CASHIER'S CHECK

94-77/1224

894077

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\*\*\*

Authorized Signature

058 20 3559

5 Appx 000933



# 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**



# **EXHIBIT 8**

# **EXHIBIT 8**



IN THE SUPREME COURT OF THE STATE OF NEVADA

BETTY CHAN; AND ASIAN  
AMERICAN REALTY & PROPERTY  
MANAGEMENT,

Appellants,

vs.

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

Respondents.

No. 78666

**FILED**

NOV 14 2019

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY S. Young  
DEPUTY CLERK

*ORDER TO SHOW CAUSE*

This is an appeal from a district court order granting a motion for summary judgment and awarding attorney fees and costs. Initial review of the docketing statement and documents before this court reveals a potential jurisdictional defect. It appears that the notice of appeal may have been prematurely filed after the filing of a timely tolling motion for reconsideration on April 1, 2019, but before that motion was formally resolved by the district court. *See* NRAP 4(a)(4), 4(a)(6); *AA Primo Builders, LLC, v. Washington*, 126 Nev. 578, 585, 245 P.3d 1190, 1195 (2010) (explaining when a post-judgment motion carries tolling effect).

Accordingly, appellants shall have 30 days from the date of this order to show cause why this appeal should not be dismissed for lack of jurisdiction. This court notes that any jurisdictional defect may be cured by providing this court with a copy of a written, file-stamped order resolving the April 1, 2019, motion. Respondents may file any reply within 14 days of service of appellants' response. Failure to demonstrate that this court has jurisdiction may result in the dismissal of this appeal.



The deadlines to file documents in this appeal are suspended pending further order of this court.

It is so ORDERED.

 C.J.

cc: Frizell Law Firm, PLLC  
Wood, Smith, Henning & Berman, LLP/Las Vegas  
Blackrock Legal, LLC



# **EXHIBIT 9**

# **EXHIBIT 9**



Nevada Bar No. 9807  
**FRIZELL LAW FIRM**  
 400 N. Stephanie St., Suite 265  
 Henderson, Nevada 89014  
 Office (702) 657-6000  
 Facsimile (702) 657-0065

Electronically Filed  
Dec 16 2019 10:33 p.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

Clerk of Supreme Court

[illegible]

SUPREME COURT CASE NO. 78666

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

Eighth Judicial District Court  
(Hon. Eric Johnson)

§

Plaintiffs-Appellants BETTY CHAN (“Chan”) and ASIAN AMERICAN  
REALTY & PROPERTY MANAGEMENT (“Asian American” or “Asian Am.”)  
now file this, Plaintiffs-Appellants’ Response to Order to Show Cause—and  
Alternative Request for Leave and Additional Time to Cure Any Jurisdictional



1 Defendant by Stipulation, Motion, or Order in the District Court. In this  
2 connection, Plaintiffs-Appellants would respectfully show the Court as follows:

3 **I. Summary of the Response and Alternative Request**

4 The subject motion Plaintiff filed in the District Court was, in form and  
5 substance, nothing more than a request for an extension of time to file a tolling  
6 motion; however, such time extensions were not allowed. Therefore, the deadline to  
7 appeal was not tolled, this appeal was not prematurely taken, and it should not be  
8 dismissed.  
9

10  
11 All the same, to resolve the potential jurisdictional defect identified in this  
12 Court's Order to Show Cause, Plaintiffs' counsel has conferred with Defendants-  
13 Respondents' attorney in an attempt to cure by stipulation. Thus far, Defendants'  
14 attorney has taken the position that the appeal is premature; however, to be fair, it  
15 appears that Defendants' attorney is still considering the matter. Thus, Plaintiffs  
16 alternatively seek additional time to cure any jurisdictional defect by stipulation,  
17 motion, or order in the District Court.  
18  
19  
20

21 **II. Background**

- 22 1. On March 22, 2019, the District Court entered its Order Granting  
23 Defendants Countermotion for Summary Judgment and Attorneys  
24 Fees and Costs. The notice of entry of that order was served and filed  
25 the same day. (See attached *Exhibit 1* [hereinafter "Summary  
26 Judgment Order" or "MSJ Ord."]).  
27  
28



1           2.     Prior to retaining new counsel,<sup>1</sup> on April 1, 2019, Plaintiffs filed their  
2                 Motion to Vacate Entry of Order or Motion for Extension of Time to  
3                 File Reconsideration to the Entry of Order Granting Defendants'  
4                 Countermotion for Summary Judgment and Attorney Fees and Costs.  
5                 (See attached **Exhibit 2** [hereinafter "Motion to Vacate/Extend Time"  
6                 or "Mot. Vac./Extend Time"]).

7  
8  
9           3.     Also on April 1, 2019, the District Court entered a Minute Order on a  
10                separate motion. In the Minute Order, the District Court explained:  
11                "[T]he Court finds that there is nothing pending in this litigation. The  
12                Court has granted Summary Judgment in favor of Defendants and  
13                dealt with all claims pending in this litigation." (See attached **Exhibit**  
14                **3** [hereinafter "Minute Order" or "Min. Ord."]).

15  
16  
17           4.     Later, still without new counsel, on April 22, 2019, Plaintiffs filed  
18                their Notice of Appeal and Case Appeal Statement.

19  
20           5.     On November 14, 2019, this Court recently entered an Order to Show  
21                Cause ("Order to Show Cause" or "OSC"), in which it directed  
22                Plaintiffs-Appellants "to show cause why this appeal should not be  
23                dismissed for lack of jurisdiction."  
24

25     ///

---

26  
27     <sup>1</sup> Plaintiffs' previous counsel withdrew on March 21, 2019. (See Order Granting  
28     Motion to Withdraw as Counsel of Record (filed with separate notice of entry on  
   Mar. 21, 2019)).



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1 for new trial); NRCP 59(e) (motion to alter or amend judgment). The 28-day  
2 deadline may not be extended. *See* NRCP 6(b)(2), 50(b), 52(b), 59(f).

3 In their *pro se* Motion to Reconsider, Plaintiffs sought only an extension of  
4 time to find a new attorney who could review the District Court's Summary  
5 Judgment Order and then file an actual motion for reconsideration. (Mot.  
6 Reconsider ¶ 4, at p.2). Plaintiffs requested two alternative means to achieve this  
7 end: (1) vacate the Summary Judgment Order for one month or (2) extend the time  
8 to file a motion for reconsideration. (*Id.*). Here are Plaintiffs' exact words:  
9  
10

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

17 (*Id.*) (emphases added).  
18

19 It is clear that, in substance and form, Plaintiffs' so-called Motion to  
20 Vacate/Extend Time as nothing more than a request an extension of time to file a  
21 tolling motion (motion for reconsideration). (*Id.*). Nevertheless, as shown above, no  
22 such time extensions are allowed. *See* NRCP 6(b)(2), 50(b), 52(b), 59(f). Plaintiffs'  
23 Motion to Vacate/Extend Time did not address the merits of the Summary  
24 Judgment Order. Subsequently, Plaintiffs never filed any motion for  
25 reconsideration or other tolling motion. Hence, Plaintiffs' Motion to Vacate/Extend  
26  
27  
28



1 Time did not toll the deadline to appeal, Plaintiffs' Notice of Appeal was not  
2 premature, and this appeal should not be dismissed.

3 ***B. Alternatively, Plaintiffs Seek Additional Time to Cure Any***  
4 ***Jurisdictional Defect by Stipulation, Motion, or Order.***

5 This Court may allow Plaintiffs additional time to cure any jurisdictional  
6 defects. "A premature notice of appeal does not divest the district court of  
7 jurisdiction.... If ... a written order or judgment, or a written disposition of the last-  
8 remaining timely motion listed in Rule 4(a)(4), is entered before dismissal of the  
9 premature appeal, the notice of appeal shall be considered filed on the date of and  
10 after entry of the order, judgment or written disposition of the last-remaining timely  
11 motion." NRAP 4(a)(6).  
12  
13  
14

15 The appeal was taken as a an "order[] confirming or denying confirmation of  
16 an [arbitration] award," NRS 38.247(1)(c), and as a "final judgment entered  
17 pursuant to [the Uniform Arbitration Act of 2000]," NRS 38.247(1)(f); *see also*  
18 NRAP 3A(b)(1). (*See* Docketing Statement Civil Appeals (filed Jun. 3, 2019)).  
19 Moreover, as explained by the District Court: "The Court has granted Summary  
20 Judgment in favor of Defendants and dealt with all claims pending in this  
21 litigation." (Min. Ord.).  
22  
23

24 To resolve the potential jurisdictional defect identified in this Court's Order  
25 to Show Cause, Plaintiffs' counsel has conferred with Defendants-Respondents'  
26 attorney in an attempt to cure by stipulation. (*See* emails between counsel (Nov.  
27 20, 2019 to Dec. 16, 2019) [attached hereto as ***Exhibit 4***]). Thus far, Defendants'  
28



1 attorney has taken the position that the Summary Judgment Order is not  
2 appealable; however, to be fair, it appears that Defendants' attorney is still  
3 considering the matter. (*See id.*)  
4

5 In the event the Court determines that there is an actual jurisdictional defect,  
6 Plaintiffs are hereby requesting an additional 60 days (due to the holidays) to cure  
7 it by stipulation, motion, or order in the District Court. Plaintiff thus seek leave to  
8 that end.  
9

10 **IV. Request for Relief**

11 WHEREFORE, Plaintiffs-Appellants BETTY CHAN ("Chan") and ASIAN  
12 AMERICAN REALTY & PROPERTY MANAGEMENT ("Asian American" or  
13 "Asian Am.") hereby request this Court as follows:  
14

15 A. not to dismiss this appeal;

16  
17 B. alternatively, to grant Plaintiffs-Appellants' Request for Leave and  
18 Additional Time to Cure Any Jurisdictional Defendant by Stipulation,  
19 Motion, or Order in the District Court, and allow them an additional  
20 60 days (due to the holidays) to that end; and  
21

22 ///

23 ///

[THE REST OF THIS PAGE IS INTENTIONALLY LEFT BLANK]



1 C. to grant Plaintiffs-Appellants all such other and further relief to which  
2 they may justly deserve at law or in equity.

3 DATED: December 16, 2019.

4  
5 Respectfully submitted,

6 **FRIZELL LAW FIRM**  
7 400 N. Stephanie St., Suite 265  
8 Henderson, Nevada 89014  
9 Telephone (702) 657-6000  
Facsimile (702) 657-0065

10 By: /s/ R. Duane Frizell  
11 **R. DUANE FRIZELL, ESQ.**  
12 Nevada Bar. No 9807  
13 [DFrizell@FrizellLaw.com](mailto:DFrizell@FrizellLaw.com)  
14 *Attorney for Plaintiffs-Appellants*



**CERTIFICATE OF SERVICE**

I hereby certify pursuant to NRAP 25(c), that on December 16, 2019, I served a true and correct copy of the forgoing ***PLAINTIFFS-APPELLANTS' RESPONSE TO ORDER TO SHOW CAUSE—AND—ALTERNATIVE REQUEST FOR LEAVE AND ADDITIONAL TIME TO CURE ANY JURISDICTIONAL DEFENDANT BY STIPULATION, MOTION, OR ORDER IN THE DISTRICT COURT***, together with any and all exhibits and attachments, via the Supreme Court's Electronic Filing System to the following:

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-Respondents*  
*Wayne Wu, Judith Sullivan, Nevada*  
*Real Estate Corp., and Jerrin Chiu*

/s/ R. Duane Frizell  
**R. DUANE FRIZELL, ESQ.**  
Nevada Bar. No 9807  
[DFrizell@FrizellLaw.com](mailto:DFrizell@FrizellLaw.com)  
*Attorney for Plaintiffs-Appellants*



# **EXHIBIT 10**

# **EXHIBIT 10**



## Duane Frizell

**From:** Duane Frizell  
**Sent:** Monday, December 16, 2019 9:52 PM  
**To:** Mike Olsen  
**Subject:** RE: Chan v. Wu, et al.  
**Attachments:** 2019-04-01 Minute Order.pdf

Hey Mike:

Here's an easier read: They Court's April 1, 2019 Minute Order (attached). In the Minute Order, the District Court explained: "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."

Let me know.

--Duane



**R. Duane Frizell**

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*Licensed in Nevada, New Mexico, and Texas*

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**From:** Mike Olsen <Mike@blackrocklawyers.com>  
**Sent:** Thursday, December 5, 2019 10:40 AM  
**To:** Duane Frizell <dfrizell@frizelllaw.com>  
**Subject:** RE: Chan v. Wu, et al.

Duane:

Since you have reviewed this much more recently than I have, could you please send me the transcript indicating a ruling on my client's counterclaims? I do not recall the judge addressing our counterclaims at all.

Mike

Michael A. Olsen, Esq.





**Michael A. Olsen**  
**Managing Partner**  
10155 West Twain Avenue, Suite 100  
Las Vegas, NV 89147  
T: 702.855.5658  
F: 702.869.8243

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**From:** Duane Frizell [<mailto:dfrizell@frizelllaw.com>]  
**Sent:** Wednesday, December 04, 2019 4:35 PM  
**To:** Mike Olsen <[Mike@blackrocklawyers.com](mailto:Mike@blackrocklawyers.com)>  
**Subject:** RE: Chan v. Wu, et al.

Mike:

Hope you had a fantastic Thanksgiving.

So, I just want to make sure I understand – you are taking the position that the Court’s Order on your MSJ does not resolve the counterclaims? Because, as I read the briefing and transcripts for the hearings on the MSJ, it looks to me that the Court was rendering a final order as to all claims between Plaintiff and your clients. Please let me know.

--Duane



**R. Duane Frizell**  
*Attorney at Law*  
*Licensed in Nevada, New Mexico, and Texas*  
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**From:** Mike Olsen <[Mike@blackrocklawyers.com](mailto:Mike@blackrocklawyers.com)>  
**Sent:** Monday, November 25, 2019 5:48 PM  
**To:** Duane Frizell <[dfrizell@frizelllaw.com](mailto:dfrizell@frizelllaw.com)>  
**Subject:** RE: Chan v. Wu, et al.

Duane:



Assuming a remand (which looks inevitable) my clients want me to go ahead and file an MSJ on our counterclaims. That should clear up any remaining issues and make the judgment final. There really are no issues of material fact with regard to my claims.

Mike

Michael A. Olsen, Esq.



**Michael A. Olsen**  
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---

**From:** Duane Frizell [<mailto:dfrizell@frizelllaw.com>]  
**Sent:** Wednesday, November 20, 2019 6:08 PM  
**To:** Mike Olsen <[Mike@blackrocklawyers.com](mailto:Mike@blackrocklawyers.com)>  
**Subject:** Chan v. Wu, et al.  
**Importance:** High

Senor Olsen:

Que pasa?

I'm sure you've seen the S Ct's OSC. Pretty standard. (As you may recall, I did not file the notice of appeal.)

Without any authority, I am just floating an idea here: Would you be willing to stipulate that (1) the tolling motion is denied and (2) the judgment is certified as final as to your clients. I would think that you would want to reach finality on all that. So, I presuming that you would be fine with the idea, but what do I know? Obviously, my client would have to approve too.

Just let me know.

Thanks.

--Duane



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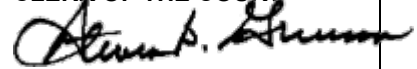
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**OPPC**

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**DISTRICT COURT  
CLARK COUNTY, NEVADA**

BETTY CHAN and ASIAN AMERICAN  
REALTY & PROPERTY MANAGEMENT,

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.

Case No. A-16-744109-C

Dept. XX

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

COMES NOW WAYNE WU, JUDITH SULLIVAN, NEVADA REAL ESTATE CORP.  
and JERRIN CHIU, (collectively "Defendants" or "Defendants/ Counterclaimants"), by and  
through their attorney of record, MICHAEL A. OLSEN, ESQ. of the law firm of BLACKROCK  
LEGAL, LLC, and hereby bring this *Opposition to Plaintiffs' Motion to Formally Resolve*





1 *Motion for Reconsideration and to Certify Judgment as Final (on an Application for an Order*  
2 *Shortening Time)* (hereafter “Opposition”). This Opposition and Countermotion are based upon  
3 the pleadings papers on file herein, the following memorandum of points and authorities, and any  
4 oral argument that may be presented at the time of hearing.

5  
6 **MEMORANDUM OF POINTS AND AUTHORITIES**

7 **BACKGROUND**

8 The dispute in this case involved realtor commissions totaling \$13,795.32 which  
9 belonged to the procuring real estate agent, Wayne Wu (herein after “Wu”), for the sale of the  
10 property located at 477 Cabral Peak Street, Las Vegas, Nevada 89138, APN # 137-34-119-012,  
11 (herein after “Subject Property”), to Jerrin Chiu on January 8, 2016. Betty Chan (herein after  
12 “Chan”) asserted that she was the procuring agent and the commissions rightfully belonged to  
13 her. The matter was submitted to a GLVAR binding Arbitration Panel on April 17, 2018 as  
14 required by the Code of Ethics and Arbitration Manual subscribed to by Realtors. The Panel  
15 found Wu to be the procuring agent of the sale and entitled to the commissions. However, the  
16 panel also allowed Chan to retain one quarter of the disputed commissions, a total of \$3,448.83.<sup>1</sup>

17  
18  
19 Following that binding decision, Chan continued her litigious activities and sought to  
20 overturn the decision of the Arbitration Panel. This court found the arbitration binding on August  
21 22, 2018 and signed the Order Denying the Motion to Vacate<sup>2</sup> on September 18, 2018. Not  
22 willing to take no for an answer, Chan again petitioned for this Court to overturn the arbitration  
23 award and again her request was struck down October 31, 2018 when the Court granted the  
24 Defendants’ request for Summary Judgment and approved Defendants’ request for Attorneys’  
25 fees and costs incurred in obtaining judicial confirmation of the Arbitration Award. The *Request*  
26  
27

28 <sup>1</sup> **Exhibit “1”** GLVAR Arbitration Award.

<sup>2</sup> **Exhibit “2”** Order Denying Motion to Vacate or Modify Arbitration Award, Sep, 18, 2017.



1 *and Agreement to Arbitrate*, signed by Chan on November 9, 2016, contained an agreement to  
2 pay “costs and reasonable attorney’s fees incurred in obtaining such confirmation and  
3 enforcement” of the arbitration award.<sup>3</sup> Chan has continued to prevent collection of the  
4 arbitration award, thus attorney’s fees and costs continue to accrue in pursuit of the award.  
5

6 The Court entered the *Order Granting Defendant’s Countermotion for Summary*  
7 *Judgment and Attorney Fees and Costs* (hereafter “Order”) on March 22, 2019. The Order  
8 confirmed the Court’s determination that Wu was the procuring cause as well as the validity of  
9 the Arbitration Award. Additionally, the Court awarded fees against Chan in the amount of  
10 \$22,435.00 as well as costs totaling \$920.83.<sup>4</sup>  
11

12 Before the Defendants could execute on the commission held by GLVAR, Ms. Chan filed  
13 her *Notice of Appeal* on April 22, 2019. Prior to filing her *Notice of Appeal*, Ms. Chan also filed  
14 a *Motion to Vacate Entry of Order or Motion for Extension of Time to File Reconsideration to*  
15 *the Entry of Order Granting Defendant Countermotion* on April 1, 2019 (hereafter  
16 “Reconsideration Motion”). The Reconsideration Motion was never formally resolved by an  
17 order from this Court. This caused the Supreme Court to issue an *Order to Show Cause* on  
18 November 14, 2019 whereby Ms. Chan must show cause why the Supreme Court of Nevada has  
19 jurisdiction to hear her appeal.  
20

21 The jurisdictional issue is still pending before the Supreme Court of Nevada and both Ms.  
22 Chan and Defendants have filed their replies to the *Order to Show Cause*. However, On January  
23 7, 2020, Ms. Chan filed *Plaintiffs’ Motion to Formally Resolve Motion for Reconsideration and*  
24 *to Certify Judgment as Final (on an Application for an Order Shortening Time)* (hereafter  
25 “Motion”). This Motion seeks resolution of Ms. Chan’s Reconsideration Motion as well as a  
26  
27

---

28 <sup>3</sup> **Exhibit “3”**.

<sup>4</sup> **Exhibit “4”**.



1 certification that the March 22, 2019 Order is final, pursuant to NRCP 54(b). What Ms. Chan  
2 fails to account for, is the fact that Defendants’ still have an outstanding abuse of process claim.  
3 Ms. Chan will claim that the March 22, 2019 Order resolved all claims pending in this litigation,  
4 however her only evidence of this fact is a minute order which is not dispositive. The March 22,  
5 2019 Order does not dispose of Defendants’ counterclaim for abuse of process. Additionally, this  
6 Court lacks jurisdiction to hear a matter which is not collateral to the appeal.  
7

### 8 LEGAL ARGUMENT

#### 9 **I. THE MARCH 22, 2019 ORDER DID NOT ADJUDICATE THE DEFENDANTS’** 10 **COUNTERCLAIMS**

11 Ms. Chan points to dicta in the April 1, 2019 Minute Order as proof that the district court  
12 determined that “there [was] nothing pending in this litigation.”<sup>5</sup> Minute orders and oral  
13 pronouncements, like the April 1, 2019 Minute Order are not dispositive and are ineffective for  
14 making any determination in a civil case. The Supreme Court of Nevada, in Div. of Child &  
15 Family Servs. V. Eighth Judicial Dist. Court, examined whether oral pronouncements from the  
16 bench, clerk’s minute orders and unfiled written orders have any dispositive effect on the  
17 outcome of case. This Court determined that “[b]efore the court reduces its decision to writing,  
18 signs it, and files it with the clerk, the nature of the judicial decision is impermanent.”<sup>6</sup>  
19 Therefore, “a court’s oral pronouncement from the bench, **the clerk’s minute order**, and even  
20 an unfiled written order are ineffective for **any purpose**.”<sup>7</sup> Therefore, the April 1, 2019 Minute  
21 Order cannot be relied upon as ruling on Respondents’ counterclaims. There is no order  
22 resolving the abuse of process claim nor the declaratory relief claim and Ms. Chan cannot use  
23  
24  
25

---

26 <sup>5</sup> See April 1, 2019 *Minute Order* attached as Exhibit “4” to Ms. Chan’s *Plaintiffs’ Motion to*  
27 *Formally Resolve Motion for Reconsideration and to Certify Judgment as Final (on an*  
28 *Application for an Order Shortening Time)*

<sup>6</sup> Div. of Child & Family Servs. v. Eighth Judicial Dist. Court, 120 Nev. 445, 451. 92 P.3d 1239, 1243 (2004).

<sup>7</sup> *Id.*, internal quotations omitted, emphasis added.



1 the minute order to show otherwise. The March 22, 2019 Order does not dispose of the  
2 counterclaims, and therefore, it operates as an order granting partial summary judgment. The  
3 Supreme Court of Nevada in Lee v. GNLV Corp. states that they determine “the finality of an  
4 order or judgment by looking to what the order or judgment actually *does*, not what it is  
5 called.”<sup>8</sup> Thus, courts examine the effect of an order, not by what it is titled or what the court  
6 says in a minute order, but by the effect of the order. Since the March 22, 2019 Order does not  
7 adjudicate the Defendants’ counterclaims, it cannot be a final order. Ms. Chan is scrambling to  
8 keep her appeal afloat when she knows that she has acted inappropriately. This Court should not  
9 certify that the March 22, 2019 Order is final pursuant to NRCP 54(b) because there has never  
10 been a formal order resolving Defendants’ counterclaims.  
11

12  
13 Defendants filed their *Countermotion to Recognize Wu as the Procuring Cause, for*  
14 *Summary Judgment and for Attorney Fees* on August 6, 2018 pursuant to NRS 38.239. The  
15 action confirming the arbitration award, as Wu as the procuring cause, was a separate action  
16 from the district court action filed by Ms. Chan. Once the district court confirmed the arbitration  
17 award, the judgment was final as to the award’s sufficiency. The issue then became whether the  
18 result of arbitration rendered the declaratory action Ms. Chan filed in district court moot as there  
19 was no longer a need for declaratory relief. It was in the district court case whereby Defendants  
20 asserted their counterclaims against Ms. Chan. The result of the binding arbitration wiped out  
21 Ms. Chan’s claims in the district court case, but did not nullify the abuse of process claim  
22 initiated by Defendants. This is an important distinction, as it shows that the order confirming  
23 the arbitration award is final, as to that claim, but the entire case, itself, was not disposed of by  
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28 <sup>8</sup> Lee v. GNLV Corp., 116 Nev. 424, 428, 996 P.2d 416, 418 (Nev. 2000), citing Valley Bank of Nevada v. Ginsburg, 110 Nev. 440, 445, 874 P.2d 729, 733 (1994), internal quotations omitted.



1 that order. Not only have the counterclaims not been resolved, but this Court lacks jurisdiction  
2 to entertain Ms. Chan's Motion altogether.

3 **II. THIS COURT LACKS JURISDICTION TO RULE ON THE**  
4 **RECONSIDERATION MOTION**

5 While an appeal is pending before the Nevada Supreme Court, the District Court is  
6 typically "divested of jurisdiction to revisit issues that are pending" before the Nevada Supreme  
7 Court.<sup>9</sup> In fact, the Supreme Court of Nevada has "repeatedly held that the timely filing of a  
8 notice of appeal divests the district court of jurisdiction to act and vests jurisdiction in this  
9 court."<sup>10</sup> It is clear Nevada Law, that a timely filed notice of appeal divests the District Court of  
10 jurisdiction, except to hear matters via the procedure outlined in Huneycutt v. Huneycutt or  
11 collateral matters. Ms. Chan, however, cites to NRAP 4(a)(6) as a basis for allowing this Court to  
12 revisit the Reconsideration Motion and enter an order resolving it. Ms. Chan misunderstands the  
13 thrust of NRAP 4(a)(6). The full text of NRAP 4(a)(6) is as follows:

16 [a] premature notice of appeal does not divest the district court of jurisdiction.  
17 The court may dismiss as premature a notice of appeal filed after the oral  
18 pronouncement of a decision or order but before entry of the written judgment or  
19 order, or before entry of the written disposition of the last-remaining timely  
20 motion listed in Rule 4(a)(4). If, however, a written order or judgment, or a  
21 written disposition of the last-remaining timely motion listed in Rule 4(a)(4), is  
22 entered before dismissal of the premature appeal, the notice of appeal shall be  
23 considered filed on the date of and after entry of the order, judgment or written  
24 disposition of the last-remaining timely motion.

25 NRAP 4(a)(6) states that the District Court can enter an order, but it does not allow the District  
26 Court to entertain motions regarding issues already appealed to the Supreme Court of Nevada.  
27 What Ms. Chan is requesting is the modification, by way of NRCp 54(b) certification, of an  
28 order already pending before the Supreme Court of Nevada. She also has asked this Court to

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<sup>9</sup> Mack-Manley v. Manley, 122 Nev. 849, 855, 138 P.3d 525, 529 (2006).

<sup>10</sup> Foster v. Dingwall, 126 Nev. 49, 228 P.3d 453 (2010), citing to Mack-Manley v. Manley, 122 Nev. 849, 138 P.3d 525 (2006), internal quotations omitted.



1 reconsider an order timely appealed to the Supreme Court of Nevada. This Court simply does not  
2 have jurisdiction to make decisions which would directly impact the merits of an appeal.

3 Ms. Chan’s Reconsideration Motion specifically asks this Court to “vacate the entry of  
4 order.”<sup>11</sup> Such a request relates directly to the appeal pending before the Supreme Court of  
5 Nevada. It is explicitly asking this Court to vacate the order appealed to the Supreme Court of  
6 Nevada. Pursuant to Huneycutt v. Huneycutt, this Court can certify its intent to grant a motion  
7 that is not collateral, but it cannot rule on such a motion. Under Huneycutt, and later clarified by  
8 Foster v. Dingwall, a party may file a motion for limited remand if they believe “a basis exists to  
9 alter, vacate, or otherwise modify or change an order or judgment challenged on appeal” in the  
10 Nevada Supreme Court.<sup>12</sup> The District Court only has jurisdiction “on matters that are collateral  
11 to and independent from the appealed order, *i.e.*, matters that in no way affect the appeal’s  
12 merits.”<sup>13</sup> This matter was appealed in a timely manner pursuant to NRAP 4(a)(1) since it was  
13 filed 30 days after notice of entry of the March 22, 2019 Order. Currently, until the Supreme  
14 Court rules otherwise, this appeal was timely filed and therefore, perfected. Since the appeal was  
15 timely filed, and the present Motion involves matters directly related to the merits of the appeal,  
16 this court lacks jurisdiction to do anything other than certify its intent to grant the motion,  
17 pursuant to Huneycutt and Foster. If the District Court is inclined to grant the Motion, “then it  
18 may certify its intent to do so,” but it cannot grant a Motion addressing matter directly related to  
19 the appeal.<sup>14</sup> Until the Supreme Court of Nevada rules on the question of jurisdiction, this Court  
20  
21  
22  
23  
24

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25 <sup>11</sup> See Ms. Chan’s *Motion to Vacate Entry of Order or Motion for Extension of Time to File*  
26 *Reconsideration to the Entry of Order Granting Defendants Counter Motion for Summary*  
27 *Judgment and Attorney Fees and Costs* filed on April 1, 2019.

28 <sup>12</sup> Foster v. Dingwall, 126 Nev. 49, 52, 228 P.3d 453, 455 (2010).

<sup>13</sup> Mack-Manley v. Manley, 122 Nev. 849, 855, 138 P.3d 525, 529-30 (2006).

<sup>14</sup> Foster v. Dingwall, 126 Nev. 49, 52, 228 P.3d 453, 455 (2010).



1 cannot make a ruling on Ms. Chan's Motion, as there is no determination that the appeal was  
2 premature.

3 Pursuant to NRAP 4(a)(6), this Court has jurisdiction to enter orders for matters that it  
4 has already decided, but not for motions that are still pending and have not had a hearing on the  
5 merits. Defendants never had a chance to file an opposition to Ms. Chan's Reconsideration  
6 Motion, nor did the Court entertain any argument or make any decision regarding the request.  
7 Moreover, the Reconsideration Motion was not properly served and Defendants did not receive  
8 proper notice. Ms. Chan cannot now, after realizing her appeal has some jurisdictional problems,  
9 file a request with the District Court to resolve a motion for reconsideration which directly  
10 addresses the merits on appeal. The March 22, 2019 Order confirms the order confirming the  
11 arbitration award. Ms. Chan's appeal is challenging the confirmation of the arbitration award.  
12 There is no conceivable way in which Ms. Chan's Reconsideration Motion could be considered  
13 collateral, thus allowing this Court to rule on it. The issues are the same. The order is the one on  
14 appeal. The District Court does not have jurisdiction. NRAP 4(a)(6) does not provide this Court  
15 with jurisdiction to hear new motions on dispositive issues after an appeal has been timely filed.  
16 Instead, NRAP 4(a)(6)

17  
18  
19  
20 **COUNTERMOTION FOR SUMMARY JUDGMENT ON ABUSE OF PROCESS CLAIM**

21 **OVERVIEW**

22 Should this court determine it has jurisdiction to hear Ms. Chan's *Plaintiffs' Motion to*  
23 *Formally Resolve Motion for Reconsideration and to Certify Judgment as Final (on an*  
24 *Application for an Order Shortening Time)* then Defendants request that this Court issue a ruling  
25 for summary judgment on their counterclaim of abuse of process. Ms. Chan initiated this lawsuit  
26 not because she has a good faith claim to the commission on the sale, through this Court, but for  
27 the ulterior purpose of extorting Counterclaimant into sharing a portion, or all of his commission,  
28



1 with Plaintiffs solely to avoid incurring the legal fees and costs of defending this frivolous  
2 lawsuit. Her claim also violates her ethical responsibility as a member of the Greater Las Vegas  
3 Association of Realtors (hereafter “GLVAR”) requiring that any and all legitimate disputes  
4 regarding commissions be handled by way of arbitration before the GLVAR. Her sole purpose in  
5 initiating this lawsuit was to harass, abuse process and unnecessarily drive up the cost of  
6 litigation.  
7

### 8 **STANDARD OF REVIEW**

9 A party is entitled to summary judgment when there are no genuine issues of material  
10 fact in dispute and the moving party is entitled to summary judgment as a matter of law.<sup>15</sup> In  
11 Wood v. Safeway, Inc., 121 P.3d 1026 (2005), the Nevada Supreme Court stated that a factual  
12 dispute is “genuine” when the evidence is such that a rational trier of fact could return a verdict  
13 for the nonmoving party.<sup>16</sup> Once the moving party has shown that there is no genuine dispute as  
14 to material facts, the burden shifts to the nonmoving party to set forth specific facts  
15 demonstrating the existence of a genuine issue for trial or have summary judgment entered  
16 against that party.<sup>17</sup> In meeting this burden, the nonmoving party, “is not entitled to build a case  
17 on the gossamer threads of whimsy, speculation and conjecture.”<sup>18</sup>  
18  
19

### 20 **STATEMENT OF UNDISPUTED FACT**

21 1. On November 2, 2015, Dr. Jerrin Chiu emailed Ms. Chan expressing an interest in  
22 searching for a home to purchase while his parents were in town visiting in late December 2015.  
23

24 2. Ms. Chan failed to respond to Defendants’ requests to see houses on December  
25 31, 2015. Ms. Chan was aware that Dr. Chiu and his parents had a tight window in which to  
26

---

27 <sup>15</sup> NRCP 56.

<sup>16</sup> See also NRCP 56.

<sup>17</sup> NGA #2, LLC v. Rains, 113 Nev. 1151, 1156, 946 P.2d 163, 166 (1997).

<sup>18</sup> Collins v. Union Federal Savings and Loan Association, 99 Nev. 284, 302, 662 P.2d 610, 621 (1983) (citations omitted).



1 purchase a home, so when she failed to return their calls, they assumed that she had abandoned  
2 them.

3 3. Though Ms. Chan showed Dr. Chiu and his parents several homes, she did not  
4 show them the home they ended up purchasing.  
5

6 4. While waiting for Chan to return their call, Dr. Chiu and his parents, without the  
7 assistance of any broker, met with a KB Home representative and were informed that if they did  
8 not make a deposit towards a lot before the end of the day, they would be subject to the  
9 development-wide price increase of \$3,000.00.  
10

11 5. Dr. Chiu and his parents ended up purchasing a home with the assistance of  
12 Wayne Wu.

13 6. There was never any written or verbal agreement setting forth the terms of any  
14 agreement between the Ms. Chan and Defendants.

15 7. Wu is the only realtor listed on the closing documents and is listed as the realtor  
16 of record and was the agent who did all of the work in procuring and closing the sale of the  
17 home.  
18

19 8. Ms. Chan is a member of the GLVAR which requires that any and all legitimate  
20 disputes regarding commissions be handled by way of arbitration before the GLVAR.

21 9. Chan fraudulently represented to Dr. Chiu and to First American Title Company  
22 that she possessed a broker registration card identifying her as Dr. Chiu's agent without being  
23 able to produce any such document upon challenge.<sup>19</sup>  
24

25 10. On September 27, 2016, Ms. Chan, filed a *Complaint* in the Eighth Judicial  
26 District Court, prior to submitting the matter to GLVAR for mediation and possible arbitration as  
27  
28

---

<sup>19</sup> See Exhibit "5"; Exhibit "6".



1 required by rule.<sup>20</sup> She sued Wu, Nevada Real Estate Corp. (the real estate company where Wu  
2 works), Judith Sullivan (designated Realtor® and officer of Nevada Real Estate Corp.), Dr. Chiu  
3 (the buyer), and KB Homes (the property developer/seller).

4  
5 11. Ms. Chan signed an *Agreement to Arbitrate*, attached as **Exhibit “3”**. In the  
6 *Agreement to Arbitrate*, Ms. Chan agreed to abide by the arbitration award as well as paying  
7 attorney’s fees incurred in seeking district court confirmation of the award should she challenge  
8 it.<sup>21</sup>

9  
10 12. The parties attended arbitration on April 17, 2018, wherein the GLVAR  
11 Arbitration Panel found Wu to be the procuring agent of the sale and entitled to the commissions.  
12 However, the panel also allowed Chan to retain one quarter of the disputed commissions, a total  
13 of \$3,448.83.<sup>22</sup>

14 13. On July 2, 2018, Ms. Chan filed her *Motion to Vacate or Modify Arbitration*  
15 *Award*, which was followed by Defendants’ *Opposition to Motion to Vacate or Modify Award*  
16 *and Countermotion to Recognize Wu as the Procuring Case, for Summary Judgment, and for*  
17 *Attorney’s Fees* on August 8, 2018.

18  
19 14. This Court entered an order on September 18, 2018 denying Ms. Chan’s *Motion*  
20 *to Vacate or Modify Arbitration Award* and subsequently entered an order granting Defendants’  
21 *Countermotion for Summary Judgment and Attorney’s Fees and Costs* on March 22, 2019.

22  
23  
24  
25 <sup>20</sup> Arbitration Manual, Article 17, page 13 (“Realtors shall submit the dispute to arbitration in  
26 accordance with the policies of the Board rather than litigate the matter.”); Part Ten – Arbitration  
27 of Disputes, Section 53(a) The Award, page 150 (“The award shall be in writing and signed by  
28 the arbitrators or a majority of them, shall state only the amount of the award, and, when so  
signed and transmitted to each of the parties, shall be valid and binding and shall not be subject  
to review or appeal.”).

<sup>21</sup> See **Exhibit “3”**.

<sup>22</sup> **Exhibit “1”** GLVAR Arbitration Award.



1           15.     Ms. Chan, unwilling to abide by a binding decision issued by the GLVAR, to  
2     which she agreed, and the District Court’s ruling confirming the arbitration award, filed her  
3     *Notice of Appeal* on April 22, 2019.

4           16.     During this entire process, Ms. Chan has been represented by five different law  
5     firms and has refused offers at settlement made privately and through the settlement conference  
6     required by the Supreme Court of Nevada.

7           17.     Ms. Chan has stated that her only desire was to punish Defendants for what she  
8     perceives as misconduct. In an email, Ms. Chan stated the following:

9                     Honestly from day one i met you my focus is not the commission, i felt insulted and  
10                    humiliated, **another agent dared challenge me** and he really do not know who I am. I  
11                    have been really sad more than i am angry. Last night i read many court cases. Even  
12                    though **my card has disappeared**, it wont hurt me winning. I liked to teach them a  
13                    lesson. Life is not about money. So happen **i do have few hundred thousand in hand**  
14                    **that i can use**. If they are willing to go along with me to spend equal amount of money,  
15                    **then I will be very happy to play their game**. I got my direction last nite, so i felt  
16                    peaceful now. All i need KB to understand I don’t hate kb for this, and i need them to  
17                    **work with me on my plan**. Jana, i dont blame you either and take care of yourself.<sup>23</sup>

18           18.     Ms. Chan has caused Defendants to incur thousands in attorney’s fees due to her  
19     unwillingness to settle this matter or concede the validity of the GLVAR arbitration award.

## 20                                     **LEGAL ARGUMENT**

### 21     **I.     MS. CHAN HAS ACTED VEXATIONOUSLY AND WITH THE INTENT OF** 22     **HARASSING DEFENDANTS AND INCREASING THE COST OF LITIGATION**

23           Ms. Chan’s conduct and her own admissions have demonstrated that she did not initiate  
24     the lawsuit in good faith, but rather to harass defendants and punish them. To establish a valid  
25     claim for abuse of process, one must establish “(1) an ulterior purpose [...] other than resolving a  
26     legal dispute, and (2) a willful act in the use of the legal process not proper in the regular conduct  
27

28     

---

  
29     <sup>23</sup> **Exhibit “7”**.



1 of the proceeding.”<sup>24</sup> To successfully obtain motion for summary judgment on an abuse of  
2 process claim, the moving party must “present specific facts that [the nonmoving party] had an  
3 ulterior purpose in the underlying lawsuit, other than resolving [their] legal dispute [...] and  
4 improperly used the legal process to accomplish that purpose.”<sup>25</sup>

5  
6 Ms. Chan has already admitted that she has an ulterior motive for filing her lawsuit. In  
7 her email, attached as Exhibit “7” she states that she “felt insulted and humiliated, **another**  
8 **agent dared challenge me** and he really do not know who I am.”<sup>26</sup> She continues: “I liked to  
9 teach them a lesson. Life is not about money. So happen **i do have few hundred thousand in**  
10 **hand that i can use**. If they are willing to go along with me to spend equal amount of money,  
11 **then I will be very happy to play their game**.”<sup>27</sup> In her own words, she has admitted that she  
12 filed the lawsuit, not because of a valid legal dispute, but because she wanted to avenge her pride  
13 and teach the Defendants a lesson. She even talks about how she has enough money to carry a  
14 lawsuit and make them pay attorney’s fees to keep up with her. This is a clear ulterior motive,  
15 and Ms. Chan cannot point to any specific fact on the record to indicate otherwise. Indeed, her  
16 conduct during the lawsuit has also been vexatious and improper.

17  
18  
19 Ms. Chan improperly used the legal system to accomplish her ulterior motive. First, she  
20 fraudulently represented that she possessed a broker registration card identifying her as Dr.  
21 Chiu’s agent. This was not true, yet Ms. Chan alleges in her initial complaint that “Plaintiff Chan  
22 located a buyer registration card and Defendant Chiu filled in the buyer portion and Plaintiff  
23 Chan filled in the realtor portion.”<sup>28</sup> Ms. Chan never had such a card, yet she continued to claim  
24 that she did, to the point of including it in her original complaint and trying to take the  
25

26  
27 <sup>24</sup> LaMantia v. Redisi, 118 Nev. 27, 30, 38 P.3d 877, 879 (2002).

<sup>25</sup> Id at 31, 880.

28 <sup>26</sup> Exhibit “7”.

<sup>27</sup> Exhibit “7”.

<sup>28</sup> See Ms. Chan’s *Complaint* at 3:24-25.



1 commission by claiming she possessed the card. Not only did Ms. Chan misrepresent the  
2 existence of the buyer registration card, she also filed this lawsuit in contravention of her  
3 responsibility to seek arbitration through GLVAR. She filed this civil suit prior to seeking  
4 resolution through arbitration, and only agreed to stay the case when Defendants threatened her  
5 with sanctions. She also breached the *Agreement to Arbitrate*, in which she specifically agreed to  
6 abide by the arbitration award. Her conduct during the litigation has been inappropriate and has  
7 only served as evidence of her desire to run-up costs and punish the Defendants. She has  
8 propagated this litigation, at the expense of tens of thousands of dollars, yet she can only recover,  
9 at most, the \$13,000.00 commission held by GLVAR. This court has even entered an award of  
10 attorney's fees against Ms. Chan.  
11

12  
13 Ms. Chan cannot provide any specific facts to show that she has not abused the legal  
14 system while litigating that matter. Her intentions have been clear from the beginning: vengeance  
15 on those who dared cross her. She has used the assistance of five different law firms to  
16 accomplish this task. The matter has been before the GLVAR Arbitration panel, this Court and  
17 now the Supreme Court of Nevada. Ms. Chan is the posterchild of one who abuses the legal  
18 system to accomplish her own ulterior motive.  
19

20 Though an appeal is pending before the Supreme Court of Nevada, this Court has  
21 jurisdiction, pursuant to the Supreme Court's direction found in Mack-Manley v. Manley. In  
22 Mack, the Supreme Court of Nevada States that the District Court retains jurisdictions "on  
23 matters that are collateral to and independent from the appealed order, *i.e.*, matters that in no way  
24 affect the appeal's merits."<sup>29</sup> This matter is collateral. It has never been adjudicated by an order  
25 in this matter. However, if this Court determines that it has jurisdiction to entertain Ms. Chan's  
26 pending Motion, it should also rule on Defendants' abuse of process claim. However, Defendants  
27  
28

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<sup>29</sup> Mack-Manley v. Manley, 122 Nev. 849, 855, 138 P.3d 525, 529-30 (2006).



1 do not believe that this Court has jurisdiction over Ms. Chan's pending Motion but that it does  
2 have jurisdiction to enter an order on the collateral abuse of process claim.

3 **CONCLUSION.**

4 *Plaintiffs' Motion to Formally Resolve Motion for Reconsideration and to Certify*  
5 *Judgment as Final (on an Application for an Order Shortening Time)* must be denied. This Court  
6 does not have jurisdiction to entertain motions on substantive issues currently pending before the  
7 Supreme Court of Nevada. It also cannot modify the March 22, 2019 Order and certify it as final,  
8 as the abuse of process claim is still pending, and Ms. Chan has not complied with the  
9 requirements outline in Huneycutt v. Huneycutt. This Court simply does not have jurisdiction to  
10 enter the relief Ms. Chan is requesting. Additionally, Defendants request that this Court enter an  
11 order for summary judgment on the counterclaim for abuse of process. Ms. Chan cannot present  
12 any facts to withstand such a motion and she has demonstrated over and over that her lawsuit  
13 was filed for ulterior motives.

14  
15  
16 Dated this 16<sup>th</sup> day of January 2020.

17  
18 BLACKROCK LEGAL, LLC

19 /s/Keith D. Routsong, Esq.  
20 MICHAEL A. OLSEN, ESQ.  
21 Nevada Bar No. 6076  
22 THOMAS R. GROVER, ESQ.  
23 Nevada Bar No. 12387  
24 KEITH D. ROUTSONG, ESQ  
25 Nevada Bar No. 14944  
26  
27  
28



**EXHIBIT “1”**





April 27, 2018

Nevada Real Estate Corp.  
Mr. Wayne Wu (Agent) and  
Judith Sullivan (Broker)  
3512 Wynn Road  
Las Vegas, NV 89103

VIA EMAIL and CERTIFIED MAIL

**RE: Arbitration Case #16201A**

Dear Mr. Wayne Wu,

Enclosed is a amended letter referencing the actual Award of Arbitrators decision for the above-referenced case. Please reference the "Award of Arbitrators" that actually states that \$3,448.83 to be paid by Respondent to Complainant, and the remaining \$10,346.49 be paid to Respondent from the title company.

**The award must be paid no later than 5:00 p.m. on May 7, 2018,** either directly to the Respondent or to the Greater Las Vegas Association of REALTORS®. The funds will be deposited in a GLVAR escrow account and are held by GLVAR pending the outcome of a procedural review and/or legal challenge. A request for procedural review must be filed within twenty (20) days of the award. Alternatively, a notice of legal challenge must be received within that same twenty (20) day period.

**The appeal period runs until 5:00 p.m. on May 17, 2018.** If no appeal is received by that date at the offices of the Greater Las Vegas Association of REALTORS®, 6360 S Rainbow Blvd., Las Vegas, NV 89118, a letter will be sent to all named parties and the file will be closed.

Please note our new location at 6360 S. Rainbow Boulevard, Las Vegas, NV 89118. If you should have any questions, please feel free to contact me.



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5 Appx 000969





Thank you for participating in the Arbitration process.

Sincerely,

A handwritten signature in cursive script, appearing to read "Ingrid Trillo", is written over the typed name.

Ingrid Trillo, Director  
GLVAR Professional Standards

Enclosures:

- A12 Award of Arbitrators
- A13 (Appeal) Request for Procedural Review (Arbitration)
- A7 Notice of Right to Challenge Tribunal Members  
Designation of Counsel

Cc: Todd Kennedy, Esq., Black & Lobello  
Michael Olsen, Esq., GoodsellOlsen  
Judith Sullivan, Esq., Nevada Real Estate Corp  
Betty Chan-Broker, Asian American Realty



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5 Appx 000970



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**1750 E Sahara Ave**  
**Las Vegas, NV 89109**  
**702-784-5000**

Case #16201A

**Award of Arbitrators**

The undersigned, duly appointed as the Hearing Panel to hear and determine an arbitrable dispute between

Betty Chan, Asian American Realty and Wayne Wu and Judith Sullivan, Nevada Real Estate Corp

Complainant

Respondent

certify that on April 17th, 2018, we heard the evidence of the parties and having heard all the evidence and arguments of the parties, a majority of the panel finds there is due and owing \$3,448.83 to be paid by Respondent to


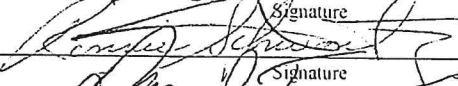
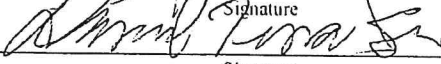
Complainant 10,346.49 be paid to Respondent from title company.  
 (2) ~~Respondent~~ and the remaining. The non-prevailing party must, within ten (10) days following transmittal of the award, either (1) pay the award to the party(ies) named in the award or (2) deposit the funds with the Professional Standards Administrator to be held in an escrow or trust account maintained for this purpose. Failure to satisfy the award or to deposit the funds in the escrow or trust account within this time period may be considered a violation of a membership duty and may subject the member to disciplinary action at the discretion of the Board of Directors.

The deposits of the parties shall be used to cover the costs of arbitration or shall go into the general operating funds of the Association of REALTORS®. In the event the award of the arbitrators is in an amount other than that requested by any of the parties, the disposition of the deposits shall be directed by the arbitrators.

Requests for procedural review of the arbitration hearing procedures must be filed in writing with the President within twenty (20) days after the award has been transmitted to the parties\* and must be accompanied by a deposit of \$ 250.00. \*\*The request for procedural review must cite the alleged procedural deficiencies or other irregularities the party believes constitute a deprivation of due process. If no procedural review is filed within twenty (20) days following transmittal of the award and the non-prevailing party does not notify the Professional Standards Administrator that a legal challenge to the validity of the award has been initiated during that time, the award will be paid from the escrow or trust account. If a procedural review request is timely filed and the award is confirmed by the directors following the procedural review, the award will be paid from the escrow or trust unless the non-prevailing party advises the association in writing within fifteen (15) days from the transmittal of the directors' confirmation that a suit challenging the validity of the award has been filed. If the directors invalidate the award, the funds shall be returned to the individual who made the deposit.

Dated: April 17th, 2018

Arbitrators:

<u>Keith Lynam (Chair)</u>		Chairperson
Type/Print	Signature	
<u>Ronnie Schwartz</u>		Panel Member
Type/Print	Signature	
<u>David Tina Sr.</u>		Panel Member
Type/Print	Signature	
Type/Print	Signature	Panel Member
Type/Print	Signature	Panel Member

Many arbitration hearings are convened to determine questions of procuring cause. For purposes of arbitration conducted by Boards and Associations of REALTORS®, procuring cause is considered to be the initiation of the unbroken chain of causal events that results in a successful transaction, defined as a sale that closes or a lease that is executed.

(Revised 05/15)

\*Award becomes final twenty (20) days from the date the award is transmitted absent a procedural review request being filed.

\*\*Appeal deposits Can Not exceed \$500.



Greater Las Vegas Association of REALTORS®  
1750 E Sahara Ave  
Las Vegas, NV 89109  
702-784-5000

Request for Procedural Review (Arbitration)  
Case #16201A

To the President of the Greater Las Vegas Association of REALTORS®

In the case of: Betty Chan (Broker) Asian American Realty vs. Wayne Wu (Agent), Judith Sullivan (Broker)  
Complainant Respondent

I (we), \_\_\_\_\_, do hereby request a procedural review of the arbitration hearing procedures in the above-cited case before the Board of Directors of the \_\_\_\_\_.

NOTE: The Directors will not hear an appeal on the merits of the arbitration award. A request for procedural review must be based on allegation(s) of procedural deficiency or other irregularities which may have deprived a party of due process.

My (our) request is based on the following:

(Set forth in reasonable detail [narrative] the facts which support the request for review. Attach narrative to request form if the narrative exceeds the space below. The procedural review request must be accompanied by a deposit in the amount of \$ 250.00 \* made payable to the Greater Las Vegas Association of Realtors ®.

---

---

---

NOTE: Only those facts and issues raised in this written request will be considered by the Board of Directors at the procedural review hearing.

Dated: \_\_\_\_\_

Name (Type/Print): \_\_\_\_\_

Signature: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

Name (Type/Print): \_\_\_\_\_

Signature: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

(Revised 5/05)

\*Not to exceed \$500.



**Greater Las Vegas Association of REALTORS®**  
**1750 E Sahara Ave**  
**Las Vegas, NV 89109**

CASE NO.:

**Notice of Right to Challenge Tribunal Members\***

Notice is given herewith to parties in the matter of \_\_\_\_\_ vs. \_\_\_\_\_, an ethics proceeding, that a party has a right to challenge the qualifications of any individual who may be appointed to serve on a Hearing Panel or the Board of Directors. A list of such individuals is provided below. If you wish to challenge the qualifications of any of the individuals listed who may be appointed to sit on the Tribunal, please indicate by checking the appropriate blank, and return this form or a copy of same with a letter (or enclosed Form #A-8, if preferred) to the (Professional Standards Committee Chairperson) (Professional Standards Administrator) explaining your reason ("cause") for challenge. If your reason is deemed sufficient to support your challenge, the individual challenged will not be appointed to the Tribunal. Pursuant to Section 27, Qualification for Tribunal, challenges must be filed with the Board within ten (10) days from the date the list of names is transmitted.

Brian Tod Barton	Tina Helleberg	Dale E Puhl	BOD Appeal Process	
Vandana Bhalla	Melissa Jones	Di Redman-Wolfgang	Christopher Bishop	Amber Diskin
Honey Borla	Jean Sharon Jones	Linda Rheinberger	Janet Carpenter	Tim Kelly Kiernan
Kathryn Bovard	Patty Kelley	Bradford Roberts	Krystal Sherry	Aldo M. Martinez
Teri Brenkus	Keith Kelley	Louise Rozich	Thomas Blanchard	Christopher McGarey
Rick Brenkus	Joan Kuptz	Ronnie Schwartz	David J. Tina	Mark Sivek
Damon Caldwell	Donald Lainer	Carol Severe	Jillian Batchelor	Chantel Tilley
Teresa Chapman	Patrick Leibovici	Susan Sippel	David Crete	Julie Youngblood
Elaine Christensen	Keith Lynam	Nora Slagle	Shawn Cunningham	Shyla Magee
Roz Cobb	Charles Martin	Linda Stegall		
Peggy Cook	Patrick Martino	Roger Stein		
Charles Doty	Ashley McCormick	Oana Sterlacci		
Candace Doyle	JC Melvin	David Tina		
Ross Fabrizio	Eric Mendoza	Tommy Uribe		
Mina Farah	Michele Mitemiller	Cheryl A Van Elsis		
Deirdre Felgar	Fafie Moore	Darryl Victorian		
Iddo Gavish	Eileen S. Pettengill	Susann Weisse		
Ernest Gonzales	Jacqueline Porter	Robyn Yates		

\_\_\_\_\_ Challenge: \_\_\_\_\_ Yes \_\_\_\_\_ No

\_\_\_\_\_ Challenge: \_\_\_\_\_ Yes \_\_\_\_\_ No

\_\_\_\_\_ Challenge: \_\_\_\_\_ Yes \_\_\_\_\_ No

\_\_\_\_\_ Challenge: \_\_\_\_\_ Yes \_\_\_\_\_ No

\_\_\_\_\_ Challenge: \_\_\_\_\_ Yes \_\_\_\_\_ No

\_\_\_\_\_  
 Party's Name (Type/Print)

\_\_\_\_\_  
 Party's Signature

\_\_\_\_\_  
 Date

\_\_\_\_\_  
 Party's Name (Type/Print)

\_\_\_\_\_  
 Party's Signature

\_\_\_\_\_  
 Date



Greater Las Vegas Association of REALTORS®  
6360 S Rainbow Boulevard, Las Vegas, NV 89118  
(702) 784-5052

DESIGNATION OF COUNSEL  
(Arbitration)

DATE: \_\_\_\_\_

CASE NUMBER: \_\_\_\_\_

COMPLAINANT(S):

RESPONDENT(S):

\_\_\_\_\_. v. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

☐ *I do not wish to designate counsel at this time*

OR

☐ I, \_\_\_\_\_, do hereby designate the following counsel for representation in all aspects of these proceedings (please check one):

☐ Legal Counsel

☐ REALTOR® Counsel

Counsel Name: \_\_\_\_\_

Firm/Company Name: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

Phone: (\_\_\_\_) \_\_\_\_\_

Email: \_\_\_\_\_

The Greater Las Vegas Association of REALTORS® is requested to send copies of any and all future notices and other documents pertaining to this case to the above and the undersigned does hereby designate said counsel as his/her agent and spokesman in these proceedings.

Date: \_\_\_\_\_ Signature: \_\_\_\_\_

Name (please print): \_\_\_\_\_

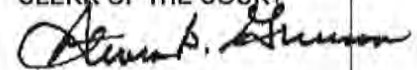
Date: \_\_\_\_\_ Signature: \_\_\_\_\_

Name (please print): \_\_\_\_\_



**EXHIBIT “2”**





ORD  
MICHAEL A. OLSEN, ESQ.  
Nevada Bar No. 6076  
ROMAN C. HARPER, ESQ.  
Nevada Bar No. 14374  
**Goodsell & Olsen, LLP**  
10155 W. Twain Ave., Suite 100  
Las Vegas, Nevada 89147  
Tel: (702) 869-6261  
Fax: (702) 869-8243  
[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	)	Case No: A-16-744109-C
REALTY & PROPERTY MANAGEMENT,	)	
	)	Dept. No: XX
Plaintiffs/Counterdefendants,	)	
v.	)	<b>ORDER DENYING MOTION TO</b>
	)	<b>VACATE OR MODIFY</b>
WAYNE WU, JUDITH SULLIVAN,	)	<b>ARBITRATION AWARD</b>
NEVADA REAL ESTATE CORP., JERRIN	)	
CHIU, KB HOME SALES – NEVADA INC.,	)	
	)	
Defendants/Counterclaimants.	)	

**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



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

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

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



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

KM

Prepared and submitted by:



MICHAEL A. OLSEN, ESQ.

Nevada Bar No. 6076

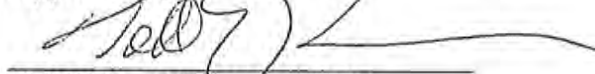
ROMAN C. HARPER, ESQ.

Nevada Bar No. 14374

**GOODSELL & OLSEN, LLP**

*Attorneys for Wayne Wu, Judith Sullivan,  
Nevada Real Estate Corp. and Jerrin Chiu*

Approved by:



TODD E. KENNEDY, ESQ.

Nevada Bar No. 6014

MAXIMILIANO COUVILLIER, ESQ.

Nevada Bar No. 7661

**KENNEDY & COUVILLIER, PLLC**

*Attorneys for Betty Chan and Asian  
American Realty & Property Management*



**EXHIBIT “3”**



Greater Las Vegas Association of REALTORS®  
1750 E. Sahara AV., Las Vegas, NV 89104  
(702) 784-5052

REQUEST AND AGREEMENT TO ARBITRATE (MEMBER)  
**PAGES 2, 3, 4 AND 5 MUST BE COMPLETED, SIGNED AND SUBMITTED  
WITH A SUMMARY AND SUPPORTING DOCUMENTS  
OR YOUR COMPLAINT WILL BE RETURNED TO YOU.**

DATE: 11/9/2016

CASE NUMBER: 16201A (assigned by GLVAR® staff)

1. The undersigned, by becoming and remaining a member of the Greater Las Vegas Association of REALTORS®, (or participate in its MLS), has previously consented to arbitration through the Association under its Rules and regulations.
2. Each person named below is a member in good standing of the Association or was a member at the time the dispute arose.
3. A dispute arising out of the real estate business as defined by Article 17 of the Code of Ethics exists between me (or my firm) and (list all persons and/or firms you wish to name as respondents to this arbitration):\*

**PLEASE NAME RESPONDENTS:**

Judith Sullivan, Principal Broker of Nevada Real Estate Corp. Company  
Wayne Wu, Agent of Nevada Real Estate Corp. Company

(Note: Arbitration is generally conducted between REALTORS® (principals) or between firms comprised of REALTOR® principals.)

4. There is due, unpaid, and owing to me (or I retain) from the above named person(s) the sum of \$ 13,795.32. My claim is predicated upon the statement attached, marked Exhibit "1", and supporting documents which are incorporated by reference into this application. **DO NOT STAPLE** your packet - turn in original complaint form and copies of supporting documents.  
disputed funds are held by First American Title: Escrow No. 112-24908656.

Parties are strongly encouraged to provide any and all documents and evidence they intend to introduce during the hearing to the other party(ies) and to the association prior to the day of the hearing. Providing documents and evidence in advance can expedite the hearing process and prevent costly, unnecessary continuances.

5. I request and consent to arbitration through the Association in accordance with the *Code of Ethics and Arbitration Manual* (alternatively, "in accordance with the professional standards procedures set forth in the bylaws of the Board"). I agree to abide by the arbitration award and, if I am the non-prevailing party, to, within ten (10) days following transmittal of the award, either (1) pay the award to the party(ies) named in the award or (2) deposit the funds with the Professional Standards Administrator to be held in an escrow or trust account maintained for this purpose. Failure to satisfy the award or to deposit the funds in the escrow or trust account within this time period may be considered a violation of a membership duty and may subject the member to disciplinary action at the discretion of the Board of Directors consistent with Section 53, The Award, *Code of Ethics and Arbitration Manual*.

In the event I do not comply with the award and it is necessary for any party to obtain judicial confirmation and enforcement of the award against me, I agree to pay that party costs and reasonable attorney's fees incurred in obtaining such confirmation and enforcement.

11/9/16  
JK



6. I have enclosed my check in the sum of \$500.00 for the arbitration filing deposit of commissions of \$501.00 and above. I have enclosed my check in the sum of \$100.00 for the arbitration filing deposit of commissions \$500.00 and below which I understand is refundable to the prevailing party or if arbitration does not take place.
7. I understand that I may be represented by counsel and that I must provide written notice no less than (15) fifteen days before the hearing of the name, address and phone number of my attorney to all parties and the Association. Failure to provide this notice may result in a continuance of the hearing, if the Hearing Panel determines that the rights of the other party (ies) require representation.

All parties appearing at a hearing may be called as a witness without advance notice.

Notice of witnesses and legal and/or REALTOR® Counsel must be submitted at least **15 days prior to the hearing date**. Each party shall arrange for his witnesses to be present at the time and place designates for the hearing. The following REALTOR® non-principal (or REALTOR-ASSOCIATE® nonprincipal) affiliated with my firm has a financial interest in the outcome of the proceeding and has the right to be present throughout the hearing:

8. I declare this application and the allegations contained herein are true and correct to the best of my knowledge and belief and this request for arbitration is filed within one hundred eighty (180) days after the closing of the transaction, if any, or within one hundred eighty (180) days after the facts constituting the arbitrable matter could have been in the exercise of reasonable diligence, whichever is later.
9. If either party to an arbitration request believes that the Grievance Committee has incorrectly classified the issue presented in the request (i.e., mandatory or voluntary), the party has twenty (20) days from the date of receipt of the Grievance Committee's decision to file a written appeal of the decision. Only those materials that the Grievance Committee had at the time of its determination may be considered with the appeal by the Board of Directors.
10. Are the circumstances giving rise to this arbitration request the subject of civil litigation? ☒ Yes ☐ No
11. Important note related to arbitration conducted pursuant to Standards of Practice 17-4 (1) or (2): Where arbitration is conducted between two (or more) cooperating brokers pursuant to Standards of Practice 17-4 (1) or (2), the amount in dispute and the amount of any potential resulting award is limited to the amount paid to the respondent by the listing broker, seller, or landlord and any amount credited or paid to a party to the transaction at the direction of the respondent.
12. Address of the property in the transaction given rise to this arbitration request  
477 Cabral Peak Street, Las Vegas, NV89138
13. The sale/lease closed on: May 27 2016

Agreements to arbitrate are irrevocable except as otherwise provided under state law.

By submission of this complaint and / or response, I consent to receive communications sent from the Greater Las Vegas Association of REALTORS® via U.S. Mail, e-mail telephone or facsimile at the numbers and locations noted by you on this form. This permission includes all future U.S. mailing address, e-mail, telephone, which I might supply to the Greater Las Vegas Association of REALTORS®. Permission continues until / unless specifically revoked, in writing, to the Greater Las Vegas Association of REALTORS®.

Signature (Broker): Betty Chan  
Broker's Name (print): Betty Chan  
Company: Asian American Realty & Property Management  
Address: 4651 Spring Mountain Road, Las Vegas, NV 89102

Signature (Agent): Betty Chan  
Agent's Name (print): Betty Chan  
Company: Asian American Realty & Property Management  
Address: 4651 Spring Mountain Road, Las Vegas, NV 89102



Telephone: ( 702 ) 222-0078

Telephone: ( 702 ) 222-0078

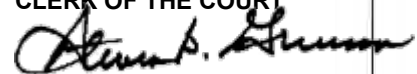
NOTE: This Association offers voluntary mediation, binding only if parties reach a written, signed settlement.

Rev 2/5/16 JK



**EXHIBIT “4”**





**ORDR**

MICHAEL A. OLSEN, ESQ.

Nevada Bar No: 6076

THOMAS R. GROVER, ESQ.

Nevada Bar No. 12387

**BLACKROCK LEGAL, LLC**

10155 W. Twain Ave., Suite 100

Las Vegas, NV 89147

Telephone (702) 855-5658

Facsimile (702) 869-8243

[mike@blackrocklawyers.com](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  
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.

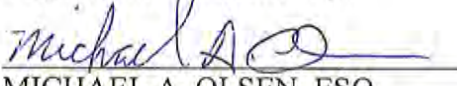
4 b. That the *Countermotion for Summary Judgment* is GRANTED

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



**EXHIBIT “5”**





PECCOLE PROFESSIONAL PARK  
10080 WEST ALTA DRIVE, SUITE 200  
LAS VEGAS, NEVADA 89145  
702.385.2500  
FAX 702.385.2086  
HUTCHLEGAL.COM

JEFFREY R. HALL  
PARTNER  
JHALL@HUTCHLEGAL.COM

FILE NO. 6495-001

March 24, 2016

First American Title  
Karen Patton  
8311 W. Sunset Road, #150  
Las Vegas, NV 89113  
[kapatton@firstam.com](mailto:kapatton@firstam.com)

**Re: ESCROW NO. 112-249-8656**

This firm represents Betty Chan with respect to the payment of a commission from the sale of the property located at 477 Cabral Peak Street, Las Vegas, Nevada 89138. Ms. Chan was the procuring cause of the sale of the home to Jerrin Chiu. She showed the property to Mr. Chiu on December 31, 2015. Mr. Chiu signed a broker registration identifying Ms. Chan as his agent on the same day. Subsequently, Mr. Chiu used a different broker, Wayne Wu, to close the transaction despite Ms. Chan showing Mr. Chiu the property. Ms. Chan disputes any commission payment to Mr. Wu since she was the procuring cause of the sale on the buyer's side of the transaction.

As you are aware, the broker who is the procuring cause of the sale is entitled to the commission for the sale. *See Schneider v. Biglieri*, 94 Nev. 426, 427, 581 P.2d 8, 9 (1978); *Bartsas Realty, Inc. v. Levertton*, 82 Nev. 6, 409 P.2d 627 (1966). The broker's presence at the sale is not required for that broker to earn his or her commission. *See Horton v. Colbron*, 60 Wyo. 263, 150 P.2d 315, 319 (1944). Ms. Chan became the procuring cause of the sale when she showed the property to Mr. Chiu as Mr. Chiu's broker.

By this correspondence, you have been made aware of Ms. Chan's claim to the buyer's commission from the sale of at 477 Cabral Peak Street, Las Vegas, Nevada 89138 to Mr. Chiu. In the event that buyer's commission's paid to anyone other than Ms. Chan as a result of this transaction, we will pursue the recovery of that commission from the payee. Ms. Chan reserves all rights against any party that pays or receives a buyer's commission for this transaction to anyone other than her.



First American Title  
Karen Patton  
Page 2

Please contact me if you have any questions regarding this matter.

Sincerely yours,

HUTCHISON & STEFFEN




Jeffrey R. Hall  
*For the Firm*

cc: *Wayne Wu*  
*Anthony C. Gordon*  
*Jerrin Chiu*  
*Betty Chan*



**EXHIBIT “6”**



  
CLERK OF THE COURT

1 **Marquis Aurbach Coffing**  
2 Avece M. Higbee, Esq.  
3 Nevada Bar No. 3739  
4 10001 Park Run Drive  
5 Las Vegas, Nevada 89145  
6 Telephone: (702) 382-0711  
7 Facsimile: (702) 382-5816  
8 ahigbee@maclaw.com  
9 Attorneys for Plaintiff

6 **DISTRICT COURT**  
7 **CLARK COUNTY, NEVADA**

8 **BETTY CHAN and ASIAN AMERICAN**  
9 **REALTY & PROPERTY MANAGEMENT,**

10 Plaintiff,

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

11 vs.

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

16 Defendants.

**AMENDED COMPLAINT**  
**EXEMPT FROM ARBITRATION:**  
**REQUESTS DECLARATORY RELIEF**

17 **COMPLAINT**

18 Plaintiffs, Betty Chan and Asian American Realty and Property Management  
19 ("Plaintiffs") by and through the law firm of Marquis Aurbach Coffing, hereby allege and  
20 complain against Defendants Wayne Wu, Judith Sullivan, Nevada Real Estate Corp. and Jerrin  
21 Chiu ("Defendants") as follows:

22 **JURISDICTIONAL ALLEGATIONS**

23 1. Plaintiff Betty Chan is a resident of the State of Nevada is and was doing business  
24 as a licensed real estate broker for her company Asian American Realty & Property  
25 Management.

26 2. Defendant Wayne Wu is a resident of the State of Nevada, is and was doing  
27 business in the County of Clark as a real estate agent with Nevada Real Estate Corp.

28 3. Defendant Judith Sullivan is a resident of the state of Nevada and is the licensed  
real estate broker for Nevada Real Estate Corp.



7. The transactions which are the subject matter of the instant Complaint occurred in Clark County, Nevada, and therefore, jurisdiction and venue are appropriate with this Court.

15. On or about November 11, 2015, Defendant Chiu emailed Plaintiff Chan regarding his intention to purchase a house and listed out the criteria.



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

17. On or about November 29, 2015, Plaintiff Chan responded concerning the viewing of the particular house.

18. On or about December 29, 2015, Plaintiff Chan prepared for the showing of homes to the Chiu family by pulling listings around Boca Park area.

19. Five resale homes were targeted to fit Defendant Chiu's criteria and Plaintiff Chan contacted the listing agents for the resales to set appointments.

20. Plaintiff Chan included the model homes in both a Toll Brothers development and a KB Home development previously viewed by Plaintiff Chan.

21. Plaintiff Chan checked the status of the listings, printed the information and arranged a route for the efficient showing of the properties.

22. On or about December 30, 2015, Plaintiff Chan picked up the Chiu family and showed the resale homes, the Toll Brother models and the KB Homes models.

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

24. At the front office of KB Homes, Plaintiff Chan spoke to Cheryl and picked up a price sheet.

25. Plaintiff Chan then showed the model homes to the Chiu family and Defendant Chiu liked the first and second model homes.

26. Back at the KB Homes model home office, Plaintiff Chan requested a floor plan and explained the buying process for a new home including the standards, elevations, prices, location of the site, etc. to the Chiu family.

27. Plaintiff Chan located a buyer registration card and Defendant Chiu filled in the buyer portion and Plaintiff Chan filled in the realtor portion.

28. No KB Homes representative was to be found so Plaintiff Chan left the registration card on the table in the KB Home front office to hurry to get the Chiu family to the next appointment.



1           29.     Plaintiff Chan emailed Dr. Kwang Chiu the four resale listings that were viewed.

2           30.     On or about December 31, 2015, Dr. Kwang Chiu called Plaintiff Chan and asked  
3 if she could “kick back 1% of the commission” like the other agent offered him.

4           31.     On or about January 5, 2016, Plaintiff Chan followed up with Defendant Chiu  
5 about the KB Home properties.

6           32.     Defendant Chiu did not respond.

7           33.     On or about January 15, 2016, Defendant Chiu admitted that he was using another  
8 agent.

9           34.     On or about January 22, 2016, Plaintiff Chan went to the KB Homes office and  
10 learned that Defendant Chiu had indeed signed a contract on the property shown by Plaintiff  
11 Chan with another agent on January 8, 2016.

12           35.     On or about January 30, 2016, Plaintiff Chan went to the KB Homes office to  
13 address the commission; both KB Homes representatives, Cheryl and Jana, stated that Defendant  
14 Chiu told them Plaintiff Chan introduced him to KB Homes but that he determined to use  
15 another agent.

16           36.     On or about February 1, 2016, KB Homes Sales Manager, Lara McLaughlin,  
17 contacted Plaintiff Chan on two occasions indicating she was looking into the commission  
18 dispute.

19           37.     Plaintiff Chan made efforts to resolve the dispute concerning her involvement in  
20 the transaction and the entitlement to the commission to no avail.

21           38.     On or about May 27, 2016, Defendant Chiu closed on the purchase of a home in  
22 the KB Home community known as 477 Cabral Peak, Las Vegas, Nevada (“Property”).

23           39.     Upon information and belief, before paying a commission to an agent for the sale  
24 of a KB home, KB Homes requires that that agent sign a registration upon the first visit with the  
25 buyer to the property.

26           40.     Upon information and belief, Defendant Wayne Wu signed a registration card at  
27 KB Homes knowing that Defendant Jerrin Chiu had first visited the Property with Plaintiff Chan.  
28



1 41. Defendant Wayne Wu and Defendant Judith Sullivan on behalf of Defendant  
2 Nevada Real Estate Corp claim to be entitled to the commission on the purchase and sale of the  
3 Property.

4 42. Upon information and belief, the commission is held with First American Title  
5 Company.

6 43. Plaintiffs were not paid any commission for the sale of the Property.

7 **FIRST CAUSE OF ACTION**

8 **(Declaratory Relief)**

9 44. Plaintiffs repeat and reallege the forgoing paragraphs as though fully stated  
10 herein.

11 45. A genuine controversy exists in this matter.

12 46. Plaintiffs and Defendants Wu, Sullivan and Nevada Real Estate Corp. claim  
13 adverse interests in the commission for the sale of the Property.

14 47. Defendant Chiu sought the assistance of Defendant Wu due to Wu's 1%  
15 commission kickback effectively circumventing Plaintiff Chan from the transaction and from the  
16 commission.

17 48. KB Homes offered the payment of a commission to brokers that brought buyers to  
18 KB Home Developments to Buyers first visit.

19 49. Plaintiff Chan brought Defendant Chiu to the KB Homes Development and  
20 showed him the model homes to decide which floor plan to purchase.

21 50. Defendant Chiu utilized another agent, Defendant Wayne Wu to write a contract  
22 for the purchase of the Property located in the same KB Homes Development.

23 51. Plaintiff Chan was the procuring cause of the sale of the Property but did not  
24 receive the commission.

25 52. Plaintiffs request a declaration from the Court that Plaintiffs are entitled to the  
26 commission on the sale of the Property.

27 53. Plaintiffs request a declaration from the court that Defendants Wu, Sullivan and  
28 Nevada Real Estate Corp. are not entitled to the commission on the sale of the Property.



1           54.     Plaintiffs request a declaration from the court that Defendant KB Homes breached  
2 its obligation to pay the commission to Plaintiffs.

3           55.     Plaintiffs request a declaration from the court that the commission be released  
4 from the title company to Plaintiffs and any shortfall be paid by Defendants.

5           56.     As a result of Defendants' actions, Plaintiffs have been forced to retain the  
6 services of an attorney to prosecute the instant action and therefore is entitled to reasonable  
7 attorneys fees and costs.

8                               **SECOND CAUSE OF ACTION**

9                               **(Breach of Contract)**

10          57.     Plaintiff Chan repeats, realleges, and incorporates each and every paragraph  
11 contained above as though fully set forth herein.

12          58.     KB Homes offered to compensate brokers for selling KB Homes to their buyers  
13 upon their first visit.

14          59.     Plaintiff Chan brought Defendant Chiu to the KB Homes community and showed  
15 the model homes to Defendant Chiu to decide which floor plan to purchase.

16          60.     Plaintiff Chan and Defendant Chiu filled out a registration card providing their  
17 information to KB Homes.

18          61.     Plaintiff Chan was the procuring cause of the sale of the Property to Defendant  
19 Chiu.

20          62.     Defendant purchased the Property which is located in the same KB Homes  
21 community.

22          63.     KB Homes failed to pay Plaintiffs the commission for the sale of the Property.

23          64.     KB Homes breached its obligation to pay a commission to Plaintiffs.

24          65.     As a result of KB Homes' action, Plaintiff Chan has been damaged in excess of  
25 \$10,000.

26          66.     It has been necessary for Plaintiff Chan to retain the services of an attorney and to  
27 incur attorney's fees and costs to prosecute this action, and therefore, Plaintiff is entitled to  
28 reimbursement for those attorney's fees and costs incurred herein.



**THIRD CAUSE OF ACTION****(Unjust Enrichment)**

67. Plaintiffs repeat, reallege, and incorporate each and every paragraph contained above as though fully set forth herein.

68. Plaintiff Chan was the procuring cause for the purchase of the Property by Defendant Chiu.

69. Defendant Wu interfered with the change of events set in motion by Plaintiff Chan by offering to kickback 1% of the commission to Defendant Chiu.

70. Defendant Chiu circumvented Plaintiff Chan's ability to complete the transaction when Defendant Chiu agreed to use Defendant Wu.

71. Upon information and belief, Defendant Wu and Defendant Chiu made misrepresentations to KB Homes concerning the initial showing of the Property.

72. Plaintiff Chan did not receive a commission despite being the procuring cause of the sale of the Property to Defendant Chiu.

73. Defendant Wu's receipt of any commission would be unjust.

74. Plaintiff Chan is entitled to the payment of the commission.

**PRAAYER FOR RELIEF**

WHEREFORE, Plaintiffs pray for judgment against Defendants as follows:

1. For damages in excess of \$10,000, plus interest.

2. For prejudgment and post judgment interest;

3. For a declaration that KB Homes breached the contract;

4. For a declaration that Plaintiffs are entitled to the commission on the sale of the

Property;

///

///

///



1  
2 5. For a declaration that Defendants Wu, Sullivan and Nevada Real Estate Corp. are  
3 not entitled to the commission on the sale of the Property;

4 6. For attorney's fees and costs; and

5 7. For any and other such relief as the Court deems just and proper.

6 Dated this 15<sup>th</sup> day of November, 2016.

7 MARQUIS AURBACH COFFING

8  
9  
10 By 

Avece M. Higbee, Esq.  
Nevada Bar No. 3739  
10001 Park Run Drive  
Las Vegas, Nevada 89145  
Attorneys for Plaintiff



**EXHIBIT “7”**



6/29/2016

Gmail - (no subject)



Betty Chan <aaroffer@gmail.com>

---

(no subject)

---

7025951268@mms.att.net <7025951268@mms.att.net>

Fri, Feb 5, 2016 at 6:01 PM

To: aaroffer@gmail.com

Honestly from day one i met you my focus is not on the commission, i felt insulted and humiliated, another agent dared challenge me and he really do not know who i am. I have been really sad more than i am angry. Last night i read many court cases. Even though my card was disappeared, it wont hurt me winning. I liked to teach them a lesson. Life is not about money. So happen i do have few hundred thousand in hand that i can use. If they are willing to go along with me to spend equal amount of money, then I will be very happy to play their game. I got my direction last nite, so i felt peaceful now. All i need KB to understand I dont hate KB for this, and i need them to work with me on my plan. Jana, i dont blame you either and take care of yourself.

<https://mail.google.com/mail/u/0/?ui=2&ik=2&fbccbb&view=pt&q=jana&qs=true&search=query&msg=152b44fa333a3405&siml=152b44fa333a3405>

9-8  
1-9 1/1

5 Appx 001005



**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**  
**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**



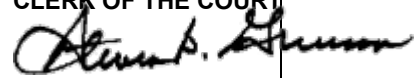
01/22/2020 **All Pending Motions** (8:30 AM) (Judicial Officer Johnson, Eric)**Minutes**

01/22/2020 8:30 AM

- PLAINTIFFS' MOTION TO FORMALLY RESOLVE MOTION FOR RECONSIDERATION AND TO CERTIFY JUDGMENT AS FINAL (ON AN APPLICATION FOR AN ORDER SHORTENING TIME)...OPPOSITION TO PLAINTIFF'S MOTION TO FORMALLY RESOLVE MOTION FOR RECONSIDERATION AND TO CERTIFY JUDGMENT AS FINAL (ON AN APPLICATION FOR AN ORDER SHORTENING TIME) AND COUNTERMOTION FOR SUMMARY JUDGMENT ON ABUSE OF PROCESS CLAIM Conference at the Bench. Court advised it does not believe it has jurisdiction as this case is on appeal. Arguments by Mr. Frizell and Mr. Olsen in support of their respective positions. Following, COURT ORDERED, Plaintiff's Motion is DENIED and Defendant's Motion is GRANTED IN PART/ DENIED IN PART. Mr. Frizell to prepare the Order.

[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, JANUARY 22, 2020

**TRANSCRIPT OF HEARING**  
**ALL PENDING MOTIONS**

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, January 22, 2020

2  
3 [Case called at 9:19 a.m.]

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

7 MR. FRIZELL: Good morning, Judge. Duane Frizell here  
8 on behalf of the Plaintiffs.

9 MR. OLSEN: Good morning, Your Honor. Mike Olsen  
10 here on behalf of the Defendants Wayne Wu, Judith Sullivan,  
11 Nevada Real Estate Corp, and Jerin Chiu.

12 THE COURT: Okay. Could I see Counsel at side bar for  
13 just a second?

14 MR. OLSEN: Yep.

15 MR. FRIZELL: Yes, Your Honor.

16 [Bench conference transcribed as follows:]

17 THE COURT: Okay. I wanted you to know that my wife  
18 and I, we're moving so we've sold our house and Mr. Frizell is a  
19 rotary member in my wife's rotary club and we hired him to do  
20 paperwork on the sale of our house.

21 MR. OLSEN: That's a wise choice.

22 THE COURT: So he is theoretic -- well he's not  
23 theoretically, he is our attorney on the sale, which may be  
24 concluded sometime next week. You probably have a basis to seek  
25 my recusal if you want to do that, so I wanted to let you know that



1 before we went forward.

2 MR. OLSEN: No, I don't want to seek recusal. I -- you  
3 have the history of the case. This has been going on far too long. I  
4 want to get this thing done. So no, I don't see a problem in --

5 THE COURT: Well I mean, I don't -- this has no real  
6 relation and I don't -- I'm not too worried in terms of whatever  
7 ruling I make on this case; that it's going to impact my sale of the  
8 house. So we'll keep my fingers crossed on that. Anyway, all right,  
9 so you're good with me continuing?

10 MR. OLSEN: Absolutely. I have no concerns.

11 THE COURT: All right. Thank you.

12 MR. OLSEN: Yeah.

13 [End of bench conference.]

14 THE COURT: Okay. We're on for Plaintiff's Motion to  
15 Formally Resolve Motion for Reconsideration and to Certify  
16 Judgment as Final.

17 So let me tell you where I'm sort of at. It's your motion. I  
18 don't have a real problem formally resolving the Motion for  
19 Reconsideration. I think I did decide that at the last hearing. We  
20 went back and listened to the JAVS and, you know, I -- and I think  
21 it's noted on the Minutes Order. So I don't have any problem  
22 entering an order finding that there was not a basis for  
23 reconsideration of the motion and denying the Motion for  
24 Reconsideration.

25 I'm not sure I really can go forward with that because



1 apparently there are the -- some counterclaims by the Defendant  
2 that were never formally resolved. It's unfortunate that we didn't  
3 sort of bring those matters up to where they could have been  
4 formally resolved at the time, but they weren't formally resolved  
5 and I don't think I have jurisdiction at this point with the case up on  
6 appeal to enter any -- to resolve them.

7 I know you say it was brought up in the context of the  
8 granting of attorney's fees, the abuse of process, but that was, you  
9 know, something considered in attorney's fees and wasn't  
10 considered in terms of whether the burden was met or not met or  
11 established as to that claim.

12 So I don't feel I can really do anything there, but I do feel I  
13 can issue an order definitively on the Motion for Reconsideration,  
14 which is in my reading of the Supreme Court's Order, the only thing  
15 that they were kicking this back on. So that's sort of where I'm at.  
16 So if you want to say anything more or --

17 MR. FRIZELL: Thank you, Your Honor. I'm -- really don't  
18 want to add too much other than I'm very impressed, it looks like  
19 you read whatever I filed at 2:00 this morning.

20 THE COURT: Well actually, in fairness to everybody -- my  
21 clerk what you filed at 2:00 this morning and gave me a summary --

22 MR. FRIZELL: Oh my --

23 THE COURT: -- of that.

24 MR. FRIZELL: My -- I salute you. And we were -- because  
25 this is on shortening time, which of course we requested, this was a



1 very truncated matter. I will have to say the Countermotion for  
2 Summary Judgment was a bit of a surprise but it was -- I only had  
3 two judicial days to work on it and my client was out-of-country, so  
4 it took me a while to put this together but I understand where Your  
5 Honor is going. I don't know if you would prefer to look and digest  
6 what I filed or if you're prepared to rule but I'll defer to the Court on  
7 that.

8 THE COURT: I just don't think I, at this point, have the  
9 jurisdiction to enter -- you know, enter a summary judgment. I can  
10 enter motion -- you know, orders relating to things that were  
11 pending before me. And this, I don't know -- I don't even really see  
12 it pending before me, I think I resolved it, but -- on the Motion for  
13 Reconsideration. But the rest of it, I don't think I have it before me  
14 to resolve and so I hesitate to do anything with that. At this point, it  
15 seems like the Supreme Court just was concerned about the Motion  
16 for Reconsideration.

17 So, what's your take?

18 MR. OLSEN: Your Honor, I'll be brief. We're dealing with  
19 two separate orders here. The first order was entered in September  
20 of '18. That order confirmed the arbitration award.

21 THE COURT: Right.

22 MR. OLSEN: In our view, that order was final, that order  
23 was never appealed. The issue that remained for the Court to  
24 resolve on -- was our Countermotion for Summary Judgment to get  
25 rid of the District Court case because it was our position that the



1 ruling in the Arbitration eliminated all claims against my clients as  
2 Defendants.

3 THE COURT: Right.

4 MR. OLSEN: So the Court entered another order in March  
5 granting summary judgment on all of the Plaintiff's claims against  
6 Defendants. And you're right, Your Honor, we just -- we did not  
7 clean up the counterclaim issue. I would point out, Your Honor,  
8 there was no Countermotion for Summary Judgment against us on  
9 our counterclaims, so by law they cannot have been adjudicated.

10 In other words, either our motion on the -- on our  
11 counterclaims was granted or it was not and I would agree that  
12 there was no ruling on that. But even if the Court had denied our  
13 Motion for Summary Judgment on our counterclaims, they would  
14 still exist. They would still be yet to be adjudicated.

15 With regard to the -- so one of the concerns I have, Your  
16 Honor, and I just want to make a record of this. Ms. Chan made a  
17 representation in her brief that the March order, quote: Ruled that  
18 the arbitration award was confirmed.

19 And I'm reading from page 4 of their brief.

20 And then they say: The appeal was taken as an order  
21 confirming or denying confirmation of an arbitration award.

22 That, Your Honor, is a misrepresentation. The March  
23 order did not confirm the arbitration award. What it -- all the Court  
24 did was affirm the September order. It has no legal effect.

25 In other words, in the March order, the only thing that was



1 said was, the September order, that I've already entered, is  
2 affirmed. The reason that's significant is because in our view, the  
3 time period for appeal on that issue had expired. The 30 days had  
4 lapsed. So the only way they get an appeal on the issue of whether  
5 the arbitration award was appropriate is to try and bootstrap it in  
6 through the later order.

7 So I --

8 THE COURT: Well you made your rec -- I mean, that's up  
9 to the Supreme Court --

10 MR. OLSEN: Right.

11 THE COURT: -- whether he has the right to appeal and  
12 what he has the right to --

13 MR. OLSEN: Understood.

14 THE COURT: -- appeal on. And you can make your record  
15 for whatever purpose here but I'm not going to rule whether --  
16 today whether he has the right to appeal --

17 MR. OLSEN: Understood.

18 THE COURT: -- or doesn't have the right to appeal.

19 MR. OLSEN: And I did just want to make a record of that.

20 Your Honor, with the regard to the Motion to Reconsider,  
21 our only concern there -- and believe me, we do not want to delay  
22 this. My only concern there was, I don't think that motion was ever  
23 properly served on us and I don't think it was ever properly noticed  
24 for a hearing.

25 And so I do recall the Court saying I don't see any basis



1 for this and there's no new evidence here and I recognize that's in  
2 the Minutes.

3 THE COURT: Well, I mean, the motion was definitely in  
4 front of me at the time of the last hearing, so I do think I can go  
5 ahead and resolve that.

6 MR. OLSEN: Okay.

7 THE COURT: I mean --

8 MR. OLSEN: I just --

9 THE COURT: -- I was resolving it in your favor. Do you  
10 really want to --

11 MR. OLSEN: No, no.

12 THE COURT: -- file a brief and have a hearing on it?

13 MR. OLSEN: No, Your Honor.

14 THE COURT: I'll be glad to set it and we'll get this -- get  
15 the loose ends tied up. But otherwise, I mean, I think -- you know, I  
16 think I did resolve it before.

17 MR. OLSEN: Okay. And I'm happy to accept that. My  
18 only concern was I did not want to see us create another appealable  
19 issue that would cause further delay down the road. But I think  
20 with what the Court has stated here and with that clarification, I  
21 would agree that an order could be entered denying that motion  
22 and then we'll work things out with the Supreme Court with regard  
23 to the appeal.

24 THE COURT: All right. I'll go -- do you want to draft it  
25 and -- I mean, it's --



1 MR. FRIZELL: Yes, Your Honor. That's fine. And I would  
2 just speak to -- if there's any concern about whether it was ever  
3 noticed, well, Your Honor, today's motion was noticed with a  
4 hearing asking the Court to consider that motion and rule on it, so.

5 THE COURT: Yeah, I mean -- I think I was trying to be  
6 considerate toward you and tell you, you didn't need to do anything  
7 and I denied it. So --

8 MR. OLSEN: Which I greatly appreciate.

9 THE COURT: I mean, you put together whatever motion --

10 MR. FRIZELL: I will.

11 THE COURT: -- language, run it by him to -- you think to  
12 make the Supreme Court happy and I'll -- I can certainly go, you  
13 know, deny the Motion for Reconsideration so that the appeal can  
14 go forward.

15 MR. OLSEN: Perfect.

16 MR. FRIZELL: Thank you, Your Honor. And I will prepare  
17 that order. I understand the Court's ruling and I don't want to  
18 belabor the point, other people are waiting today but I just want to  
19 say that I agree with the Court that the issue, in terms of whether or  
20 not the order was appealable, that's before the Supreme Court.

21 And again, it was filed at a time when my clients did not  
22 have an attorney. They're doing their best. And I know that the  
23 Courts construe a pro se pleadings and --

24 THE COURT: No, I --

25 MR. FRIZELL: -- the best that they can in their favor.



1 THE COURT: You know, like I said, I have no issue;  
2 however the Court comes out higher -- the High Court comes out on  
3 that, so.

4 MR. OLSEN: Your Honor, can we include in the order that  
5 our counterclaims remain to be resolved at a later time?

6 THE COURT: You want to red flag that? I thought you  
7 wanted this to move forward with the -- you know, I -- let's not do  
8 that. I -- what was before me was the Motion for Reconsideration.  
9 That was what was before me. We didn't have your counterclaims  
10 before me.

11 Let's just enter an Order that I'm grant -- deny the Motion  
12 for Reconsideration. That was all that was before at that point and  
13 that's all -- that's resolved.

14 MR. OLSEN: Okay.

15 MR. FRIZELL: I will prepare the Order, Your Honor.

16 THE COURT: All right.

17 MR. FRIZELL: Thank you.

18 THE COURT: Thank you.

19 [Proceeding concluded at 9:29 a.m.]

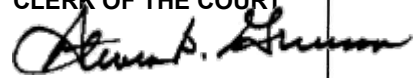
20 \* \* \* \* \*

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.

24 

25 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

§ **Hearing Date: 1/22/2020**

§ **Hearing Time: 8:30 a.m.**

And All Related Claims

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

**—AND—**

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

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



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

3 **FINDINGS OF FACT**

4 The Court hereby makes the following FINDINGS OF FACT:

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

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

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

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

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

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



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

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

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

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

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

## CONCLUSIONS OF LAW

The Court hereby makes the following CONCLUSIONS OF LAW:

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

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

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

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

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



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

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

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

13  
14 **ORDER**

15 IT IS THEREFORE ORDERED as follows:

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

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

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

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



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

3           IT IS SO ORDERED.

4           Date: 2-14, 2020

5  
6  
7 

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

10           ERIC JOHNSON

11           *Submitted by:*

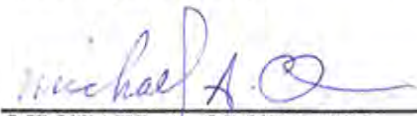
12           **FRIZELL LAW FIRM**  
13           400 N. Stephanie St., Suite 265  
14           Henderson, Nevada 89014

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

19           Date: 2-10-2020

20           *Approved:*

21           **BLACKROCK LEGAL, LLC**  
22           10155 W. Twain Ave., Suite 100  
23           Las Vegas, NV 89147

24           By:   
25           **MICHAEL A. OLSEN, ESQ.**  
26           Nevada Bar No. 6076  
27           Attorney for Plaintiffs

28           Date: 2/7/20



Case Number: A-16-744109-C



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

3 DATED this March 10, 2020.

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

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

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

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

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

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

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

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

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

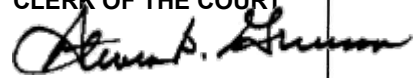
by hand delivery;

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

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

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





**ORDR**

**R. DUANE FRIZELL, ESQ.**

Nevada Bar No. 9807

**FRIZELL LAW FIRM**

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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

§ **Hearing Date: 1/22/2020**

§ **Hearing Time: 8:30 a.m.**

And All Related Claims

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

**—AND—**

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

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



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

3 **FINDINGS OF FACT**

4 The Court hereby makes the following FINDINGS OF FACT:

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

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

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

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

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

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



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

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

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

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

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

## CONCLUSIONS OF LAW

The Court hereby makes the following CONCLUSIONS OF LAW:

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

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

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

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

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



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

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

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

#### 13 ORDER

14 IT IS THEREFORE ORDERED as follows:

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

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

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

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



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

3           IT IS SO ORDERED.

4           Date: 2-14, 2020

5  
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8           DISTRICT COURT JUDGE  
9           Case No. A-16-744109-C

10           ERIC JOHNSON

11           *Submitted by:*

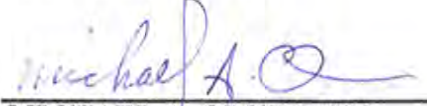
12           **FRIZELL LAW FIRM**  
13           400 N. Stephanie St., Suite 265  
14           Henderson, Nevada 89014

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

19           Date: 2-10-2020

20           *Approved:*

21           **BLACKROCK LEGAL, LLC**  
22           10155 W. Twain Ave., Suite 100  
23           Las Vegas, NV 89147

24           By:   
25           **MICHAEL A. OLSEN, ESQ.**  
26           Nevada Bar No. 6076  
27           Attorney for Plaintiffs

28           Date: 2/7/20



*Attorney for Plaintiffs/  
Counter-Defendants*



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

8       DATED: April 6, 2020.

9                               Respectfully submitted,

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

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

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

MICHAEL A. OLSEN, ESQ.

Nevada State Bar No. 6076

THOMAS R. GROVER, ESQ.

Nevada State Bar No. 12387

KEITH D. ROTSONG, ESQ.

Nevada State Bar No. 14944

BLACKROCK LEGAL, LLC

10155 W. Twain Ave., Suite 100

Las Vegas, Nevada 89147

*Attorneys for Defendants/Counterclaimants*

*Wayne Wu, Judith Sullivan, Nevada Real*

*Estate Corp., and Jerrin Chiu*

JANICE M. MICHAELS, ESQ.

Nevada State Bar No. 6062

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*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

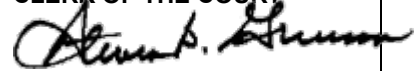
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17 *Wayne Wu, Judith Sullivan, Nevada*

18 *Real Estate Corp. and Jerrin Chiu*

19 **DISTRICT COURT**  
20 **CLARK COUNTY, NEVADA**

Case No. A-16-744109-C

Dept. XII

HEARING REQUESTED

21 BETTY CHAN and ASIAN AMERICAN  
22 REALTY & PROPERTY MANAGEMENT,

23 Plaintiff,

24 v.

25 WAYNE WU, JUDITH SULLIVAN,  
26 NEVADA REAL ESTATE CORP., JERRIN  
27 CHIU, KB HOME SALES – NEVADA INC.,  
28 DOES I through X, and ROES I through X,

Defendants.

29 **MOTION FOR SUMMARY JUDGMENT, OR IN THE ALTERNATIVE, FOR**  
30 **CONTRACTUAL AWARD OF ATTORNEY'S FEES, FOR WRIT OF EXECUTION ON**  
31 **PLAINTIFF'S COMMISSIONS AWARDED BY GLVAR ARBITRATION PANEL AND**  
32 **RELEASE OF BOND DEPOSITED ON APPEAL**

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





Blackrock Legal, LLC., and hereby submits this *Motion for Summary Judgment, or in the alternative, for Award of Attorney's Fees, for Writ of Execution for on Plaintiff's Commissions Awarded by GLVAR Arbitration Panel and Release of Bond Deposited on Appeal* (hereafter "Motion") on the grounds set forth in the Points and Authorities herein, Exhibits attached hereto and any paper or pleadings on file with this court.

## **MEMORANDUM OF POINTS AND AUTHORITIES**

### **BACKGROUND**

This is the ongoing saga of the dispute over a real estate commission totaling \$13,795.32 which belonged to the procuring real estate agent, Wayne Wu (herein after "Wu"), for the sale of the property located at 477 Cabral Peak Street, Las Vegas, Nevada 89138, APN # 137-34-119-012, (herein after "Subject Property"), to Jerrin Chiu on January 8, 2016. Betty Chan (herein after "Chan") asserted that she was the procuring agent and the commissions rightfully belonged to her. Ms. Chan, in direct breach of contract and her ethical duties owed to GLVAR filed suit against the Defendants in this Court prior to submitting the matter to binding arbitration before the GLVAR. Then after being threatened with dismissal of the District Court case, the matter was submitted to a GLVAR binding Arbitration Panel on April 17, 2018 as required by the Code of Ethics and Arbitration Manual subscribed to by Realtors. The Panel found Wu to be the procuring agent of the sale and entitled to the commissions. However, the panel also allowed Chan to retain one quarter of the disputed commissions, a total of \$3,448.83.<sup>1</sup>

Following that binding decision, Chan continued her vexatious litigation, as she promised she would and sought to overturn the decision of the Arbitration Panel. This court found the arbitration binding on August 22, 2018 and signed the *Order Denying the Motion to Vacate* on

<sup>1</sup> **Exhibit 1** GLVAR Arbitration Award.



1 September 18, 2018.<sup>2</sup> On October 31, 2018 the Court granted the Defendants' request for  
2 Summary Judgment and approved Defendants' request for Attorneys' fees and costs incurred in  
3 obtaining judicial confirmation of the Arbitration Award.<sup>3</sup>  
4

5 Before Plaintiffs were able to execute on their judgment, Ms. Chan filed a *Notice of*  
6 *Appeal* on April 22, 2019. Ms. Chan, who has had five different law firms represent her in this  
7 matter, appealed the March 18, 2019 Order granting Defendants' attorney's fees. She, however,  
8 also tried to bootstrap an appeal of the validity of the confirmation of the arbitration award which  
9 was granted by Order dated September 18, 2018. Ms. Chan was forced to take this bootstrap  
10 approach because she had already blown the 30-day deadline to appeal the Order affirming the  
11 arbitration award.  
12

13 Over a year later, the parties have attended mandatory arbitration required by the  
14 Supreme Court of Nevada, filed two responses to the Supreme Court's two Orders to show  
15 cause, and finally received an order issued by the Supreme Court dismissing Ms. Chan's  
16 frivolous appeal. On May 19, 2020, the Supreme Court of Nevada issued their *Order Dismissing*  
17 *Appeal*, which dismissed Ms. Chan's appeal due to lack of subject matter jurisdiction. A copy of  
18 the order dismissing the appeal is attached as **Exhibit "7"**. This means that Defendants have  
19 been forced to incur another year's worth of attorney's fees trying to collect the \$10,000.00  
20 commission the GLVAR awarded back in 2018.  
21  
22

### 23 **UNDISPUTED FACTS**

24 1. On November 2, 2015, Dr. Jerrin Chiu emailed Ms. Chan expressing an interest in  
25 searching for a home to purchase on specific days while his parents were in town visiting in late  
26 December 2015.  
27

28 <sup>2</sup> **Exhibit 2** Order Denying Motion to Vacate or Modify Arbitration Award, Sep. 18, 2018.

<sup>3</sup> See *Order Granting Defendants Counter-motion for Summary Judgment and Attorney Fees and Costs* dated March 19, 2019, attached as **Exhibit 3**.



1           2.       Despite previously agreeing to be available on the specified dates in late  
2       December 2015, Ms. Chan failed to respond to Defendants' multiple requests to see houses on  
3       those dates. Ms. Chan was aware that Dr. Chiu and his parents had a tight window in which to  
4       purchase a home, so when she failed to return their calls, they assumed that she had abandoned  
5       them.  
6

7           3.       Though Ms. Chan showed Dr. Chiu and his parents several homes, she did not  
8       show them the home they ended up purchasing.  
9

10          4.       While waiting for Chan to return their call, Dr. Chiu and his parents, without the  
11       assistance of any broker, met with a KB Home representative and were informed that if they did  
12       not make a deposit towards a lot before the end of the day, they would be subject to the  
13       development-wide price increase of \$3,000.00.  
14

15          5.       Dr. Chiu placed a deposit on his home and he, and his parents, later ended up  
16       purchasing the home with the assistance of Wayne Wu.  
17

18          6.       There was never any written or verbal agreement setting forth the terms of any  
19       agreement between the Ms. Chan and Defendants.  
20

21          7.       Wu is the only realtor listed on the closing documents and is listed as the realtor  
22       of record and was the agent who did all of the work in procuring and closing the sale of the  
23       home.  
24

25          8.       Ms. Chan is a member of the GLVAR which requires that any and all legitimate  
26       disputes regarding commissions be handled by way of binding arbitration before the GLVAR.  
27  
28



1           9.       Chan fraudulently represented to Dr. Chiu and to First American Title Company  
2 that she possessed a broker registration card identifying her as Dr. Chiu's agent without being  
3 able to produce any such document upon challenge.<sup>4</sup>  
4

5           10.      On September 27, 2016, Ms. Chan, filed a *Complaint* in the Eighth Judicial  
6 District Court, prior to submitting the matter to GLVAR for mediation and possible arbitration as  
7 required by rule.<sup>5</sup> She sued Wu, Nevada Real Estate Corp. (the real estate company where Wu  
8 works), Judith Sullivan (designated Realtor® and officer of Nevada Real Estate Corp.), Dr. Chiu  
9 (the buyer), and KB Homes (the property developer/seller).  
10

11           11.      November 9, 2016 Ms. Chan signed an *Agreement to Arbitrate*, attached as  
12 **Exhibit "4"**. In the *Agreement to Arbitrate*, Ms. Chan agreed to abide by the arbitration award as  
13 well as paying attorney's fees incurred in seeking district court confirmation of the award should  
14 she challenge it.<sup>6</sup>  
15

16           12.      The parties attended arbitration on April 17, 2018, wherein the GLVAR  
17 Arbitration Panel found Wu to be the procuring agent of the sale and entitled to the commissions.  
18 However, the panel also allowed Chan to retain one quarter of the disputed commissions, a total  
19 of \$3,448.83.<sup>7</sup>  
20

21           13.      On July 2, 2018, Ms. Chan filed her *Motion to Vacate or Modify Arbitration*  
22 *Award*, which was followed by Defendants' *Opposition to Motion to Vacate or Modify Award*  
23  
24

25 <sup>4</sup> See **Exhibit "5"**; **Exhibit "6"**.

26 <sup>5</sup> Arbitration Manual, Article 17, page 13 ("Realtors shall submit the dispute to arbitration in  
27 accordance with the policies of the Board rather than litigate the matter."); Part Ten – Arbitration  
28 of Disputes, Section 53(a) The Award, page 150 ("The award shall be in writing and signed by  
the arbitrators or a majority of them, shall state only the amount of the award, and, when so  
signed and transmitted to each of the parties, shall be valid and binding and shall not be subject  
to review or appeal.").

<sup>6</sup> See **Exhibit "4"**.

<sup>7</sup> **Exhibit "1"** GLVAR Arbitration Award.



1 *and Countermotion to Recognize Wu as the Procuring Case, for Summary Judgment, and for*  
2 *Attorney's Fees on August 8, 2018.*

3 14. This Court entered an order on September 18, 2018 denying Ms. Chan's *Motion*  
4 *to Vacate or Modify Arbitration Award* and subsequently entered an order granting Defendants'  
5 *Countermotion for Summary Judgment and Attorney's Fees and Costs* on March 22, 2019.  
6

7 15. Ms. Chan, unwilling to abide by a binding decision issued by the GLVAR, to  
8 which she agreed, and the District Court's ruling confirming the arbitration award, filed her  
9 *Notice of Appeal* on April 22, 2019.  
10

11 16. During this entire process, Ms. Chan has been represented by five different law  
12 firms and has refused offers at settlement made privately and through the settlement conference  
13 required by the Supreme Court of Nevada.

14 17. Ms. Chan has stated that her only desire was to punish Defendants for what she  
15 perceives as misconduct. In an email, Ms. Chan stated the following:  
16

17 Honestly from day one i met you my focus is not the commission, i felt insulted and  
18 humiliated, **another agent dared challenge me** and he really do not know who I am. I  
19 have been really sad more than i am angry. Last night i read many court cases. Even  
20 though **my card has disappeared**, it wont hurt me winning. I liked to teach them a  
21 lesson. Life is not about money. So happen **i do have few hundred thousand in hand**  
22 **that i can use**. If they are willing to go along with me to spend equal amount of money,  
23 **then I will be very happy to play their game**. I got my direction last nite, so i felt  
24 peaceful now. All i need KB to understand I don't hate kb for this, and i need them to  
25 **work with me on my plan**. Jana, i dont blame you either and take care of yourself.<sup>8</sup>

26 18. Ms. Chan has caused Defendants to incur tens of thousands of dollars in  
27 attorney's fees and costs, chasing a relatively small commission, due to her unwillingness to  
28 settle this matter or acknowledge and accept the GLVAR arbitration award.

19. On May 19, 2020, the Supreme Court of Nevada dismissed Ms. Chan's appeal for  
lack of jurisdiction.

<sup>8</sup> **Exhibit "6"**.



## STANDARD OF REVIEW

Upon making a motion, a party is entitled to summary judgment when there are no genuine issues of material fact in dispute and the moving party is entitled to summary judgment as a matter of law.<sup>9</sup> In Wood v. Safeway, Inc., the Nevada Supreme Court clarified the standard upon which a motion for summary judgment should be evaluated. It states:

We take this opportunity to put to rest any questions regarding the continued viability of the “slightest doubt” standard . . . Summary judgment is appropriate under NRCP 56 when the pleadings, depositions, answers to interrogatories, admissions, and affidavits, if any, that are properly before the court demonstrate that no genuine issue of material fact exists, and the moving party is entitled to judgment as a matter of law.<sup>10</sup>

The Court further clarified the definitions of both genuine and material, stating, “[t]he substantive law controls which factual disputes are material and will preclude summary judgment; other factual disputes are irrelevant.”<sup>11</sup> The Court also stated, “a factual dispute is genuine when the evidence is such that a rational trier of fact could return a verdict for the nonmoving party.”<sup>12</sup> “The nonmoving party is not entitled to build a case on the **gossamer threads of whimsy, speculation, and conjecture**,” and “bears the burden to do more than simply show that there is **some metaphysical doubt**.”<sup>13</sup>

Once the moving party has shown an absence of a genuine dispute as to material facts, the burden shifts to the nonmoving party to set forth specific facts demonstrating the existence of a genuine issue for trial or have summary judgment entered against that party.<sup>14</sup>

<sup>9</sup> NRCP 56.

<sup>10</sup> Wood v. Safeway, Inc., 121 Nev. 724, 731, 121 P.3d 1026, 1031 (2005).

<sup>11</sup> Id.

<sup>12</sup> Wood v. Safeway, Inc., 121 Nev. 724, 731, 121 P.3d 1026, 1031 (2005).

<sup>13</sup> Wood v. Safeway, Inc., 121 Nev. 724, 732, 121 P.3d 1026, 1031 (2005) (citations omitted) (emphasis added).

<sup>14</sup> NGA #2 Ltd. Liability Co. v. Rains, 113 Nev. 1151, 1156, 946 P.2d 163, 166-67 (1997).



1 In *Boesiger v. Desert Appraisals, LLC*, a recent case from the Supreme Court of Nevada,  
2 the Court stated that “Courts should not hesitate to discourage meritless litigation in instances  
3 where [...] claims are deficient of evidentiary support and are based on little more than the  
4 complainants’ conclusory allegations and accusations.”<sup>15</sup>

## 6 **LEGAL ANALYSIS**

### 7 **A. MS. CHAN HAS ACTED VEXATIONOUSLY AND WITH THE INTENT OF** 8 **HARASSING DEFENDANTS AND INCREASING THE COST OF LITIGATION**

9 Ms. Chan’s conduct and her own admissions have demonstrated that she did not initiate  
10 the lawsuit in good faith, but rather to harass defendants and punish them. Defendants have,  
11 from the outset of this litigation, maintained a claim for abuse of process. To establish a valid  
12 claim for abuse of process, one must establish “(1) an ulterior purpose [...] other than resolving a  
13 legal dispute, and (2) a willful act in the use of the legal process not proper in the regular conduct  
14 of the proceeding.”<sup>16</sup> To successfully obtain motion for summary judgment on an abuse of  
15 process claim, the moving party must “present specific facts that [the nonmoving party] had an  
16 ulterior purpose in the underlying lawsuit, other than resolving [their] legal dispute [...] and  
17 improperly used the legal process to accomplish that purpose.”<sup>17</sup>

18 Ms. Chan has already admitted that she has an ulterior motive for filing her lawsuit. In  
19 her email, attached as **Exhibit “6”** she states that she “felt insulted and humiliated, **another**  
20 **agent dared challenge me** and he really do not know who I am.”<sup>18</sup> She continues: “I liked to  
21 teach them a lesson. Life is not about money. So happen **i do have few hundred thousand in**  
22 **hand that i can use**. If they are willing to go along with me to spend equal amount of money,  
23  
24  
25  
26

27 <sup>15</sup> *Boesiger v. Desert Appraisals, LLC*, 135 Nev., Advance Opinion 25 (2019).

28 <sup>16</sup> *LaMantia v. Redisi*, 118 Nev. 27, 30, 38 P.3d 877, 879 (2002).

<sup>17</sup> *Id* at 31, 880.

<sup>18</sup> **Exhibit “6”**.



1 **then I will be very happy to play their game.”**<sup>19</sup> In her own words, she has admitted that she  
2 filed the lawsuit, not because of a valid legal dispute, but because she wanted to avenge her pride  
3 and teach the Defendants a lesson. She even talks about how she has enough money to carry a  
4 lawsuit and make them pay attorney’s fees to keep up with her. More importantly, Ms. Chan  
5 knew that she was ethically bound to take the matter to binding arbitration before the GLVAR,  
6 RATHER THAN LITIGATE. This is a clear ulterior motive, and Ms. Chan cannot point to any  
7 specific fact on the record to indicate otherwise. Indeed, her conduct during the lawsuit has also  
8 been vexatious and improper. The Court can readily see from the multiple and vexatious  
9 pleadings in this matter that this is not a lawsuit launched with the simple intent to force payment  
10 of a commission. That could have easily been handled solely through binding arbitration with  
11 GLVAR, with no need for Court intervention. This litigation was meant to financially punish the  
12 defendants for daring to play in Ms. Chan’s sandbox, or in other words compete with her for real  
13 estate clients, particularly those who were of Chinese descent.

14  
15  
16  
17 Ms. Chan improperly used the legal system to accomplish her ulterior motive. First, she  
18 fraudulently represented that she possessed a broker registration card identifying her as Dr.  
19 Chiu’s agent. This was not true, yet Ms. Chan alleges in her initial complaint that “Plaintiff Chan  
20 located a buyer registration card and Defendant Chiu filled in the buyer portion and Plaintiff  
21 Chan filled in the realtor portion.”<sup>20</sup> Ms. Chan never had such a card, yet she continued to claim  
22 that she did, to the point of including it in her original complaint and trying to take the  
23 commission by claiming she possessed the card. Not only did Ms. Chan misrepresent the  
24 existence of the buyer registration card, she also filed this lawsuit in contravention of her  
25 responsibility to seek arbitration through GLVAR. She filed this civil suit prior to seeking  
26  
27

28 <sup>19</sup> **Exhibit “6”.**

<sup>20</sup> See Ms. Chan’s *Complaint* at 3:24-25.



1 resolution through arbitration, and only agreed to stay the case when Defendants threatened her  
2 with sanctions. She also breached the *Agreement to Arbitrate*, in which she specifically agreed to  
3 abide by the arbitration award. Her conduct during the litigation has been inappropriate and has  
4 only served as evidence of her desire to run-up costs and punish the Defendants. She has  
5 propagated this litigation, at the expense of tens of thousands of dollars, yet she can only recover,  
6 at most, the \$13,000.00 commission held by GLVAR. This court has even entered a partial  
7 award of attorney's fees against Ms. Chan.  
8

9 Ms. Chan cannot provide any specific facts to show that she has not abused the legal  
10 system while litigating that matter. Her intentions have been clear from the beginning: vengeance  
11 on those who dared cross her. She has used the assistance of five different law firms to  
12 accomplish this task. The matter has been before the GLVAR Arbitration panel, this Court, the  
13 Supreme Court of Nevada, and has now been remanded back to this Court. Ms. Chan is the  
14 posterchild of one who abuses the legal system to accomplish her own ulterior motive.  
15

16 Ms. Chan filed an inappropriate appeal to try to delay execution of the order this court  
17 issued granting payment of attorney's fees. She has used the legal process in an attempt to bully  
18 defendants into giving up their rightful share of the commission. Defendant has incurred tens of  
19 thousands in legal fees caused by Ms. Chan's pride.  
20

21 **B. THIS COURT SHOULD AWARD THE REMAINING FEES PLAINTIFFS HAVE**  
22 **INCURRED DUE TO MS. CHAN'S LITIGIOUS BEHAVIOR AND BREACH OF**  
23 **CONTRACT**

24 Defendants request that the Court award its attorneys' fees related to this litigation.  
25 EDCR 7.60(b) allows the Court to "impose upon an attorney or a party any and all sanctions  
26 which may, under the facts of the case, be reasonable, including the imposition of fines, costs or  
27 attorney's fees when an attorney or a party without just cause" "[p]resents to the court a motion  
28



1 or an opposition to a motion which is obviously frivolous, unnecessary or unwarranted” or “[s]o  
2 multiplies the proceedings in a case as to increase costs unreasonably and vexatiously.”<sup>21</sup>

3 Moreover, in the Agreement to Arbitrate Chan explicitly agreed as follows: “In the event  
4 I do not comply with the award and it is necessary for any party to obtain judicial confirmation  
5 and enforcement of the award against me, **I agree to pay that party costs and reasonable**  
6 **attorney’s fees incurred obtaining such confirmation and enforcement.**”<sup>22</sup> Moreover, this  
7 Court has already entered a partial award of attorney’s fees against Ms. Chan in the September  
8 22, 2018 Order. More than one year has passed since that last order and Defendants have  
9 incurred more fees combating Ms. Chan’s filings in this Court and in the Supreme Court of  
10 Nevada. Since the fee award to Ms. Chan back in late 2018, Defendants have incurred another  
11 \$35,034.58 trying to combat Ms. Chan’s appeal. In total, Defendants have incurred \$110,625.85  
12 in fees trying to collect the funds held by the GLVAR,. This Court awarded \$21,435.00 in fees  
13 and \$920.83 in costs in the March 22, 2019 Order.<sup>23</sup> Therefore, Defendants have incurred  
14 \$88,270.02, which is the total amount less the \$22,355.83 previously awarded by this Court.  
15

16  
17  
18 “[I]n determining the amount of fees to award, the court is not limited to one specific  
19 approach; its analysis may begin with any method rationally designed to calculate a reasonable  
20 amount . . . .”<sup>24</sup> Nevada courts have long relied upon the factors in Brunzell v. Golden Gate Nat’l  
21 Bank to determine reasonability of fees, including:  
22

23 (1) the qualities of the advocate: his ability, his training, education, experience,  
24 professional standing and skill; (2) the character of the work to be done: its difficulty, its  
25 intricacy, its importance, time and skill required, the responsibility imposed and the  
26 prominence and character of the parties where they affect the importance of the litigation;

27 <sup>21</sup> EDCR 7.60(b)(1), (3).

28 <sup>22</sup> **Exhibit “4”**, P0001, ¶ 5 (emphasis added).

<sup>23</sup> See **Exhibit “3”**.

<sup>24</sup> Shuette v. Beazer Homes Holding Corp., 121 Nev. 837, 864, 124 P.3d 530 (2005).



(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. <sup>25</sup>

Any attorney fee award must be based on a Brunzell analysis.

**A. Brunzell Factor #1: “the qualities of the advocate: his ability, his training, education, experience, professional standing and skill”<sup>26</sup>**

Counsel for Petitioner, 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, and Mr. Olsen’s abilities have been honed through, among other experience, regular appearances in the Eighth Judicial District Court on contested matters.

Keith D. Routsong, Esq. is a graduate of the Brigham Young University and the University of Nebraska Lincoln College of Law. His practice focuses primarily in probate and trust litigation as well as general litigation, such as the present matter.

**B. Brunzell Factor #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 the litigation”<sup>27</sup>**

This matter has involved unnecessary briefing and research, motion practice before this Court before Chan made any attempt to arbitrate this matter, followed by refusal by Chan to comply with the Award. Chan completely disregarded the requirement of seeking procedural review of the Award before the GLVAR, and now seeks to prolong this matter further by continuing litigation before this Court without any legal basis to do so. Chan filed an unnecessary appeal and forced this matter to drag on for years.

<sup>25</sup> Brunzell v. Golden Gate Nat’l Bank, 85 Nev. 345, 349, 455 P.2d 31, 33 (1969).

<sup>26</sup> Brunzell, 85 Nev. at 349.

<sup>27</sup> Brunzell, 85 Nev. at 349.



1 Chan has demonstrated absolute resolve in making these proceedings as expensive and  
2 harmful to the Defendants as she possibly can. 28 Individuals with a right to a commission like  
3 Wu should not be forced to incur legal fees and costs that far exceed the commission to protect  
4 their right to the same. Nor should Chan be permitted to use the judiciary as an indiscriminate  
5 weapon against anyone who dare contradict her.  
6

7 **C. Brunzell Factor #3: “the work actually performed by the lawyer: the skill,**  
8 **time and attention given to the work”<sup>29</sup>**

9 Chan’s attempt to obtain funds to which she is not entitled and litigate against Defendants  
10 has required investment of a substantial amount of time and effort to prepare and provide a  
11 proper defense, including against motion practice unwarranted under the GLVAR ethical rules  
12 binding on Chan. Defendants have received representation through this district court case,  
13 through arbitration proceedings, through mediation and through an illegitimate appeal. Chan’s  
14 attorney’s have performed a substantial amount of work combating Ms. Chan’s inappropriate  
15 litigation.  
16

17 **D. Brunzell Factor #4: “the result: whether the attorney was successful and**  
18 **what benefits were derived”<sup>30</sup>**

19 Defendants have already been successful in demonstrating to the GLVAR that they were  
20 entitled to the majority of the funds at issue in this matter. Specifically, \$10,346.49 of  
21 \$13,795.32 was awarded to Wu. Defendants also prevailed previously in demonstrating that  
22 arbitration was required and that Chan had failed to proceed with arbitration instead of filing the  
23 complaint that initiated this action. Chan specifically acknowledged in the Agreement to  
24  
25

26  
27 <sup>28</sup> **Exhibit “6”** (“So happen **i do have few hundred thousand in hand that i can use**. If they are  
28 willing to go along with me to spend equal amount of money, **then I will be very happy to play**  
**their game.”**).

<sup>29</sup> Brunzell, 85 Nev. at 349.

<sup>30</sup> Brunzell, 85 Nev. at 349.



1 Arbitrate that fees and costs incurred to enforce the Award against her would be payable by her.  
2 Defendants' attorney's have successfully had the inappropriate appeal dismissed as well.

3 While "good judgment would dictate that each of these factors be given consideration by  
4 the trier of fact and that no one element should predominate or be given undue weight,"<sup>31</sup> each  
5 factor strongly supports an award of attorneys' fees and costs in favor of Defendants. Thus,  
6 Defendants request an award of attorney fees and costs pursuant to EDCR 7.60(b) and the  
7 Agreement to Arbitrate.  
8

9 **C. PLAINTIFF'S COMMISSIONS AWARDED BY THE GLVAR ARBITRATION**  
10 **PANEL SHOULD BE ASSIGNED TO BLACKROCK LEGAL, LLC**

11 The commissions earned by the procuring agent in the sale of the Subject Property were  
12 deposited with the GLVAR escrow account pending the outcome of Chan's endless litigation.  
13 Defendants request that the Court order, that in addition to the portion of the Commission  
14 already awarded to the Defendants, that the money to be distributed and the award to Chan of  
15 \$3,448.83 be assigned to Blackrock Legal in partial satisfaction of the fees incurred in this  
16 litigation. Additionally, Defendants request that the \$3,448.83 be deposited into Blackrock  
17 Legal, LLC's client trust account.  
18

19 NRS 21.320 allows a Court to "order any property of the judgment debtor not exempt  
20 from execution, in the hands of such debtor or any other person, or due to the judgment debtor,  
21 to be applied toward the satisfaction of the judgment." Furthermore, NRS 21.080 goes into more  
22 depth as to which Property is liable to execution. It states, in part, that "all goods, chattels,  
23 money and other property, real and personal, of the judgment debtor, or any interest therein of  
24 the judgment debtor not exempt by law, and all property and rights of property seized and held  
25 under attachment in the action, are liable to execution."  
26  
27  
28

<sup>31</sup> Brunzell, 85 Nev. at 349–50.



1 The Nevada Supreme Court held, in Sportsco Enters. v. Morris, that the “statutes  
2 permitting execution against specific kinds of property must be liberally construed for the benefit  
3 of the creditors.” The general rule, according to the Court in Sportsco, is that “if the interest is  
4 assignable or transferrable, it is subject to execution.” In other words, the Court has broad  
5 discretion to permit execution of nearly all property interests belonging to the judgment debtor to  
6 ensure the satisfaction of a judgment creditor’s interest.  
7

8 In the present case GLVAR holds \$3,448.83 of the Judgment debtor’s executable funds.  
9 According to Sportsco, the Court has wide latitude to allow execution of funds to satisfy the  
10 interests of a judgment creditor. The proceeds held by GLVAR, constituting Chan’s portion of  
11 the Commission awarded by the binding arbitration panel can be assigned or transferred and are  
12 thus subject to execution. Thus, the Court should issue an order allowing Defendants to execute  
13 on the commission held by GLVAR to partially satisfy the amount of attorney’s fees Defendants  
14 have incurred in this litigation.  
15

16 **D. THIS COURT SHOULD RELEASE THE SUPERSEDEAS BOND TO**  
17 **PLAINTIFFS**

18 This Court should release the supersedeas bond Ms. Chan posted to the Defendants.  
19 Supersedeas bonds are governed by NRCP 62(d)(1), which permits appellants to “obtain a stay  
20 by supersedeas bond.” The Supreme Court of Nevada has expanded upon the purpose of  
21 supersedeas bonds. In McCulloch v. Jeakins, the Supreme Court of Nevada stated that “[t]he  
22 purpose of a supersedeas bond is to protect the prevailing party from loss resulting from a stay of  
23 execution of the judgment.”<sup>32</sup> In other words, a supersedeas bond is posted to protect the party  
24 who has received a judgment against a party who appeals the judgment. This is the exact  
25 situation in this matter.  
26  
27  
28

<sup>32</sup> McCulloch v. Jeakins, 99 Nev. 122 (Nev. March 1, 1983).



1 The bond posted by Ms. Chan on May 7, 2019 for \$33,533.75 covered the amount of the  
2 award of attorney's fees of \$21,435.00 and costs of \$920.83 as well as pre and post judgment  
3 interest.<sup>33</sup> As the McCulloch case states, the purpose of such a bond is to protect the prevailing  
4 party from loss "resulting from a stay of execution of the judgment."<sup>34</sup> Ms. Chan posted the bond  
5 to prevent Defendants from executing on the award of attorney's fees they received on March 22,  
6 2019. Ms. Chan's appeal was dismissed for lack of jurisdiction on May 14, 2020. This Court  
7 should order that the bond posted by Ms. Chan should be released to Defendants in satisfaction  
8 of the fees granted in the March 22, 2019 Order. Collecting the amount awarded to Defendants in  
9 the March 22, 2019 will be difficult if the bond is not released to Defendants. Furthermore, Ms.  
10 Chan has demonstrated an unwillingness to put aside her pride and comply with Court orders.  
11 Releasing the bond to Defendants will ensure that Defendants collect the amount awarded by this  
12 Court in attorney's fees and costs.

### 13 **CONCLUSION**

14 This matter needs to be put to an end. Ms. Chan has propagated unnecessary and spiteful  
15 litigation against the Defendants since 2106. She has caused them to incur over \$100,000.00 in  
16 legal fees in a feeble attempt to mend her bruised ego. Summary judgment on the abuse of  
17 process claim is appropriate. Ms. Chan's own words show that she abused the legal system out of  
18 spite. Defendants' legal fees must be awarded and the Defendants should be permitted to execute  
19 on the funds held by the GLVAR that were originally awarded to Ms. Chan. The supersedeas  
20 bond that Ms. Chan posted should be released to Defendants and they should be permitted to  
21 seek additional recovery from Ms. Chan for her inappropriate actions.

22 **WHEREFORE, Plaintiff prays for an order as follows:**

23 <sup>33</sup> See **Exhibit "3"**.

24 <sup>34</sup> McCulloch v. Jeakins, 99 Nev. 122 (Nev. March 1, 1983).





1           1.       That this Court grant the motion for summary judgment on Defendants' abuse of  
2 process claims and award damages pursuant to such claim in the amount of \$88,270.02;

3           2.       Or in the alternative that this Court grant Defendants' request for an award of  
4 attorney's fees totaling \$88,270.02 for breach of contract and/or pursuant to EDCR 7.60(b);  
5

6           3.       That this Court order that the commissions held in the GLVAR escrow account  
7 totaling \$10,346.49 be immediately distributed to the Blackrock Legal Trust Account;

8           4.       That this Court order the clerk to issue a Writ of Execution assigning the  
9 commissions awarded to BETTY CHAN by the GLVAR Arbitration Panel on April 17, 2018 in  
10 the amount of \$3,448.83 to BLACKROCK LEGAL, LLC in partial satisfaction of fees and costs  
11 awarded to Defendants;  
12

13           5.       That the Court order the funds to be deposited into BLACKROCK LEGAL,  
14 LLC's client trust account;

15           6.       That the Clerk of the Court immediately release the supersedeas bond posted by  
16 BETTY CHAN in the amount of \$33,533.75 to Defendants and the check be deposited into the  
17 BLACKROCK LEGAL LLC client trust account; and,  
18

19           7.       For such other and further relief as is just and proper.

20                   DATED this 4<sup>th</sup> day of JUNE 2020.

21                                   BLACKROCK LEGAL

22                                   /s/Keith D. Routsong, Esq.

23                                   MICHAEL A. OLSEN, ESQ.

24                                   Nevada Bar No. 6076

25                                   THOMAS R. GROVER, ESQ.

26                                   Nevada Bar No. 12387

27                                   KEITH D. ROUTSONG, ESQ.

28                                   Nevada Bar No. 14944

**BLACKROCK LEGAL, LLC**

*Attorneys for Defendants/Counterclaimants*

*Wayne Wu, Judith Sullivan, Nevada*

*Real Estate Corp. and Jerrin Chiu*



**EXHIBIT “1”**





April 27, 2018

Nevada Real Estate Corp.  
Mr. Wayne Wu (Agent) and  
Judith Sullivan (Broker)  
3512 Wynn Road  
Las Vegas, NV 89103

VIA EMAIL and CERTIFIED MAIL

**RE: Arbitration Case #16201A**

Dear Mr. Wayne Wu,

Enclosed is a amended letter referencing the actual Award of Arbitrators decision for the above-referenced case. Please reference the "Award of Arbitrators" that actually states that \$3,448.83 to be paid by Respondent to Complainant, and the remaining \$10,346.49 be paid to Respondent from the title company.

**The award must be paid no later than 5:00 p.m. on May 7, 2018,** either directly to the Respondent or to the Greater Las Vegas Association of REALTORS®. The funds will be deposited in a GLVAR escrow account and are held by GLVAR pending the outcome of a procedural review and/or legal challenge. A request for procedural review must be filed within twenty (20) days of the award. Alternatively, a notice of legal challenge must be received within that same twenty (20) day period.

**The appeal period runs until 5:00 p.m. on May 17, 2018.** If no appeal is received by that date at the offices of the Greater Las Vegas Association of REALTORS®, 6360 S Rainbow Blvd., Las Vegas, NV 89118, a letter will be sent to all named parties and the file will be closed.

Please note our new location at 6360 S. Rainbow Boulevard, Las Vegas, NV 89118. If you should have any questions, please feel free to contact me.



**GREATER LAS VEGAS ASSOCIATION OF REALTORS®**

*The Voice for Real Estate in Southern Nevada*

~~1750 E. Sahara Avenue~~ • Las Vegas, Nevada • ~~89104~~ • (702)784-5000 • FAX: (702)784-5060



[www.LasVegasRealtor.com](http://www.LasVegasRealtor.com)

5 Appx 001052





Thank you for participating in the Arbitration process.

Sincerely,

A handwritten signature in cursive script, appearing to read "Ingrid Trillo", is written over the typed name.

Ingrid Trillo, Director  
GLVAR Professional Standards

Enclosures:

- A12 Award of Arbitrators
- A13 (Appeal) Request for Procedural Review (Arbitration)
- A7 Notice of Right to Challenge Tribunal Members  
Designation of Counsel

Cc: Todd Kennedy, Esq., Black & Lobello  
Michael Olsen, Esq., GoodsellOlsen  
Judith Sullivan, Esq., Nevada Real Estate Corp  
Betty Chan-Broker, Asian American Realty



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**Greater Las Vegas Association of REALTORS®**  
**1750 E Sahara Ave**  
**Las Vegas, NV 89109**  
**702-784-5000**

Case #16201A

**Award of Arbitrators**

The undersigned, duly appointed as the Hearing Panel to hear and determine an arbitrable dispute between

Betty Chan, Asian American Realty and Wayne Wu and Judith Sullivan, Nevada Real Estate Corp

Complainant

Respondent

certify that on April 17th, 2018, we heard the evidence of the parties and having heard all the evidence and arguments of the parties, a majority of the panel finds there is due and owing \$3,448.83 to be paid by Respondent to


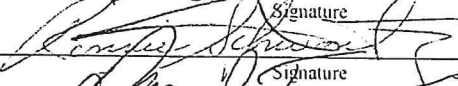
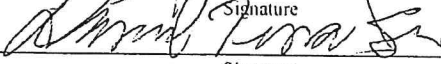
Complainant. The non-prevailing party must, within ten (10) days following transmittal of the award, either (1) pay the award to the party(ies) named in the award or (2) deposit the funds with the Professional Standards Administrator to be held in an escrow or trust account maintained for this purpose. Failure to satisfy the award or to deposit the funds in the escrow or trust account within this time period may be considered a violation of a membership duty and may subject the member to disciplinary action at the discretion of the Board of Directors.

The deposits of the parties shall be used to cover the costs of arbitration or shall go into the general operating funds of the Association of REALTORS®. In the event the award of the arbitrators is in an amount other than that requested by any of the parties, the disposition of the deposits shall be directed by the arbitrators.

Requests for procedural review of the arbitration hearing procedures must be filed in writing with the President within twenty (20) days after the award has been transmitted to the parties\* and must be accompanied by a deposit of \$ 250.00. \*\*The request for procedural review must cite the alleged procedural deficiencies or other irregularities the party believes constitute a deprivation of due process. If no procedural review is filed within twenty (20) days following transmittal of the award and the non-prevailing party does not notify the Professional Standards Administrator that a legal challenge to the validity of the award has been initiated during that time, the award will be paid from the escrow or trust account. If a procedural review request is timely filed and the award is confirmed by the directors following the procedural review, the award will be paid from the escrow or trust unless the non-prevailing party advises the association in writing within fifteen (15) days from the transmittal of the directors' confirmation that a suit challenging the validity of the award has been filed. If the directors invalidate the award, the funds shall be returned to the individual who made the deposit.

Dated: April 17th, 2018

Arbitrators:

<u>Keith Lynam (Chair)</u>		Chairperson
Type/Print	Signature	
<u>Ronnie Schwartz</u>		Panel Member
Type/Print	Signature	
<u>David Tina Sr.</u>		Panel Member
Type/Print	Signature	
Type/Print	Signature	Panel Member
Type/Print	Signature	Panel Member

Many arbitration hearings are convened to determine questions of procuring cause. For purposes of arbitration conducted by Boards and Associations of REALTORS®, procuring cause is considered to be the initiation of the unbroken chain of causal events that results in a successful transaction, defined as a sale that closes or a lease that is executed.

(Revised 05/15)

\*Award becomes final twenty (20) days from the date the award is transmitted absent a procedural review request being filed.

\*\*Appeal deposits Can Not exceed \$500.







**Greater Las Vegas Association of REALTORS®**  
**1750 E Sahara Ave**  
**Las Vegas, NV 89109**

CASE NO.:

**Notice of Right to Challenge Tribunal Members\***

Notice is given herewith to parties in the matter of \_\_\_\_\_ vs. \_\_\_\_\_, an ethics proceeding, that a party has a right to challenge the qualifications of any individual who may be appointed to serve on a Hearing Panel or the Board of Directors. A list of such individuals is provided below. If you wish to challenge the qualifications of any of the individuals listed who may be appointed to sit on the Tribunal, please indicate by checking the appropriate blank, and return this form or a copy of same with a letter (or enclosed Form #A-8, if preferred) to the (Professional Standards Committee Chairperson) (Professional Standards Administrator) explaining your reason ("cause") for challenge. If your reason is deemed sufficient to support your challenge, the individual challenged will not be appointed to the Tribunal. Pursuant to Section 27, Qualification for Tribunal, challenges must be filed with the Board within ten (10) days from the date the list of names is transmitted.

Brian Tod Barton	Tina Helleberg	Dale E Puhl	BOD Appeal Process	
Vandana Bhalla	Melissa Jones	Di Redman-Wolfgang	Christopher Bishop	Amber Diskin
Honey Borla	Jean Sharon Jones	Linda Rheinberger	Janet Carpenter	Tim Kelly Kiernan
Kathryn Bovard	Patty Kelley	Bradford Roberts	Krystal Sherry	Aldo M. Martinez
Teri Brenkus	Keith Kelley	Louise Rozich	Thomas Blanchard	Christopher McGarey
Rick Brenkus	Joan Kuptz	Ronnie Schwartz	David J. Tina	Mark Sivek
Damon Caldwell	Donald Lainer	Carol Severe	Jillian Batchelor	Chantel Tilley
Teresa Chapman	Patrick Leibovici	Susan Sippel	David Crete	Julie Youngblood
Elaine Christensen	Keith Lynam	Nora Slagle	Shawn Cunningham	Shyla Magee
Roz Cobb	Charles Martin	Linda Stegall		
Peggy Cook	Patrick Martino	Roger Stein		
Charles Doty	Ashley McCormick	Oana Sterlacci		
Candace Doyle	JC Melvin	David Tina		
Ross Fabrizio	Eric Mendoza	Tommy Uribe		
Mina Farah	Michele Mitemiller	Cheryl A Van Elsis		
Deirdre Felgar	Fafie Moore	Darryl Victorian		
Iddo Gavish	Eileen S. Pettengill	Susann Weisse		
Ernest Gonzales	Jacqueline Porter	Robyn Yates		

\_\_\_\_\_ Challenge: \_\_\_\_\_ Yes \_\_\_\_\_ No

\_\_\_\_\_ Challenge: \_\_\_\_\_ Yes \_\_\_\_\_ No

\_\_\_\_\_ Challenge: \_\_\_\_\_ Yes \_\_\_\_\_ No

\_\_\_\_\_ Challenge: \_\_\_\_\_ Yes \_\_\_\_\_ No

\_\_\_\_\_ Challenge: \_\_\_\_\_ Yes \_\_\_\_\_ No

\_\_\_\_\_  
 Party's Name (Type/Print)

\_\_\_\_\_  
 Party's Signature

\_\_\_\_\_  
 Date

\_\_\_\_\_  
 Party's Name (Type/Print)

\_\_\_\_\_  
 Party's Signature

\_\_\_\_\_  
 Date



Greater Las Vegas Association of REALTORS®  
6360 S Rainbow Boulevard, Las Vegas, NV 89118  
(702) 784-5052

DESIGNATION OF COUNSEL  
(Arbitration)

DATE: \_\_\_\_\_

CASE NUMBER: \_\_\_\_\_

COMPLAINANT(S):

RESPONDENT(S):

\_\_\_\_\_. v. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

☐ *I do not wish to designate counsel at this time*

OR

☐ I, \_\_\_\_\_, do hereby designate the following counsel for representation in all aspects of these proceedings (please check one):

☐ Legal Counsel

☐ REALTOR® Counsel

Counsel Name: \_\_\_\_\_

Firm/Company Name: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

Phone: (\_\_\_\_) \_\_\_\_\_

Email: \_\_\_\_\_

The Greater Las Vegas Association of REALTORS® is requested to send copies of any and all future notices and other documents pertaining to this case to the above and the undersigned does hereby designate said counsel as his/her agent and spokesman in these proceedings.

Date: \_\_\_\_\_ Signature: \_\_\_\_\_

Name (please print): \_\_\_\_\_

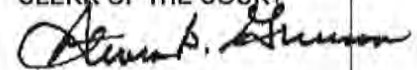
Date: \_\_\_\_\_ Signature: \_\_\_\_\_

Name (please print): \_\_\_\_\_



**EXHIBIT “2”**





1 **ORD**  
2 MICHAEL A. OLSEN, ESQ.  
3 Nevada Bar No. 6076  
4 ROMAN C. HARPER, ESQ.  
5 Nevada Bar No. 14374  
6 **Goodsell & Olsen, LLP**  
7 10155 W. Twain Ave., Suite 100  
8 Las Vegas, Nevada 89147  
9 Tel: (702) 869-6261  
10 Fax: (702) 869-8243  
11 [mike@goodsellolsen.com](mailto:mike@goodsellolsen.com)  
12 [roman@goodsellolsen.com](mailto:roman@goodsellolsen.com)  
13 *Attorneys for Defendants/Counterclaimants*  
14 *Wayne Wu, Judith Sullivan, Nevada Real Estate Corp.*  
15 *and Jerrin Chiu*

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

11 BETTY CHAN and ASIAN AMERICAN	)	Case No: A-16-744109-C
12 REALTY & PROPERTY MANAGEMENT,	)	
13 Plaintiffs/Counterdefendants,	)	Dept. No: XX
14 v.	)	<b>ORDER DENYING MOTION TO</b>
15 WAYNE WU, JUDITH SULLIVAN,	)	<b>VACATE OR MODIFY</b>
16 NEVADA REAL ESTATE CORP., JERRIN	)	<b>ARBITRATION AWARD</b>
17 CHIU, KB HOME SALES – NEVADA INC.,	)	
18 Defendants/Counterclaimants.	)	

16 **APPEARANCES**

17 Michael A. Olsen, Esq. of Goodsell & Olsen, LLP, on behalf of Wayne Wu, Judith  
18 Sullivan, Nevada Real Estate Corp., and Jerrin Chiu, Defendants/Counterclaimants.

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

21 This matter came on for hearing on August 22, 2018 before the Honorable Eric Johnson  
22 regarding Plaintiffs/Counterdefendants' *Motion to Vacate or Modify Arbitration Award*  
23 (hereafter "Motion to Vacate"), and Defendants/Counterclaimants' *Opposition to Motion to*  
24 *Vacate or Modify Arbitration Award and Countermotion to Recognize Wu as the Procuring*  
25 *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



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

///

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///

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

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



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

KM

Prepared and submitted by:



MICHAEL A. OLSEN, ESQ.

Nevada Bar No. 6076

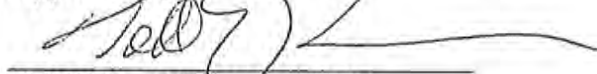
ROMAN C. HARPER, ESQ.

Nevada Bar No. 14374

**GOODSELL & OLSEN, LLP**

*Attorneys for Wayne Wu, Judith Sullivan,  
Nevada Real Estate Corp. and Jerrin Chiu*

Approved by:



TODD E. KENNEDY, ESQ.

Nevada Bar No. 6014

MAXIMILIANO COUVILLIER, ESQ.

Nevada Bar No. 7661

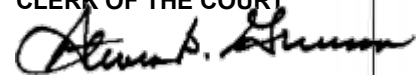
**KENNEDY & COUVILLIER, PLLC**

*Attorneys for Betty Chan and Asian  
American Realty & Property Management*



**EXHIBIT “3”**





**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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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  
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.

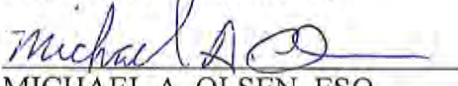
4 b. That the *Countermotion for Summary Judgment* is GRANTED

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



**EXHIBIT “4”**



Greater Las Vegas Association of REALTORS®  
1750 E. Sahara AV., Las Vegas, NV 89104  
(702) 784-5052

REQUEST AND AGREEMENT TO ARBITRATE (MEMBER)  
**PAGES 2, 3, 4 AND 5 MUST BE COMPLETED, SIGNED AND SUBMITTED  
WITH A SUMMARY AND SUPPORTING DOCUMENTS  
OR YOUR COMPLAINT WILL BE RETURNED TO YOU.**

DATE: 11/9/2016

CASE NUMBER: 16201A (assigned by GLVAR® staff)

1. The undersigned, by becoming and remaining a member of the Greater Las Vegas Association of REALTORS®, (or participate in its MLS), has previously consented to arbitration through the Association under its Rules and regulations.
2. Each person named below is a member in good standing of the Association or was a member at the time the dispute arose.
3. A dispute arising out of the real estate business as defined by Article 17 of the Code of Ethics exists between me (or my firm) and (list all persons and/or firms you wish to name as respondents to this arbitration):\*

**PLEASE NAME RESPONDENTS:**

Judith Sullivan, Principal Broker of Nevada Real Estate Corp. Company  
Wayne Wu, Agent of Nevada Real Estate Corp. Company

(Note: Arbitration is generally conducted between REALTORS® (principals) or between firms comprised of REALTOR® principals.)

4. There is due, unpaid, and owing to me (or I retain) from the above named person(s) the sum of \$ 13,795.32. My claim is predicated upon the statement attached, marked Exhibit "1", and supporting documents which are incorporated by reference into this application. **DO NOT STAPLE** your packet - turn in original complaint form and copies of supporting documents.  
disputed funds are held by First American Title: Escrow No. 112-24908656.

Parties are strongly encouraged to provide any and all documents and evidence they intend to introduce during the hearing to the other party(ies) and to the association prior to the day of the hearing. Providing documents and evidence in advance can expedite the hearing process and prevent costly, unnecessary continuances.

5. I request and consent to arbitration through the Association in accordance with the *Code of Ethics and Arbitration Manual* (alternatively, "in accordance with the professional standards procedures set forth in the bylaws of the Board"). I agree to abide by the arbitration award and, if I am the non-prevailing party, to, within ten (10) days following transmittal of the award, either (1) pay the award to the party(ies) named in the award or (2) deposit the funds with the Professional Standards Administrator to be held in an escrow or trust account maintained for this purpose. Failure to satisfy the award or to deposit the funds in the escrow or trust account within this time period may be considered a violation of a membership duty and may subject the member to disciplinary action at the discretion of the Board of Directors consistent with Section 53, The Award, *Code of Ethics and Arbitration Manual*.

In the event I do not comply with the award and it is necessary for any party to obtain judicial confirmation and enforcement of the award against me, I agree to pay that party costs and reasonable attorney's fees incurred in obtaining such confirmation and enforcement.

11/9/16  
JK



6. I have enclosed my check in the sum of \$500.00 for the arbitration filing deposit of commissions of \$501.00 and above. I have enclosed my check in the sum of \$100.00 for the arbitration filing deposit of commissions \$500.00 and below which I understand is refundable to the prevailing party or if arbitration does not take place.
7. I understand that I may be represented by counsel and that I must provide written notice no less than (15) fifteen days before the hearing of the name, address and phone number of my attorney to all parties and the Association. Failure to provide this notice may result in a continuance of the hearing, if the Hearing Panel determines that the rights of the other party (ies) require representation.

All parties appearing at a hearing may be called as a witness without advance notice.

Notice of witnesses and legal and/or REALTOR® Counsel must be submitted at least **15 days prior to the hearing date**. Each party shall arrange for his witnesses to be present at the time and place designates for the hearing. The following REALTOR® non-principal (or REALTOR-ASSOCIATE® nonprincipal) affiliated with my firm has a financial interest in the outcome of the proceeding and has the right to be present throughout the hearing:

8. I declare this application and the allegations contained herein are true and correct to the best of my knowledge and belief and this request for arbitration is filed within one hundred eighty (180) days after the closing of the transaction, if any, or within one hundred eighty (180) days after the facts constituting the arbitrable matter could have been in the exercise of reasonable diligence, whichever is later.
9. If either party to an arbitration request believes that the Grievance Committee has incorrectly classified the issue presented in the request (i.e., mandatory or voluntary), the party has twenty (20) days from the date of receipt of the Grievance Committee's decision to file a written appeal of the decision. Only those materials that the Grievance Committee had at the time of its determination may be considered with the appeal by the Board of Directors.
10. Are the circumstances giving rise to this arbitration request the subject of civil litigation? ☒ Yes ☐ No
11. Important note related to arbitration conducted pursuant to Standards of Practice 17-4 (1) or (2): Where arbitration is conducted between two (or more) cooperating brokers pursuant to Standards of Practice 17-4 (1) or (2), the amount in dispute and the amount of any potential resulting award is limited to the amount paid to the respondent by the listing broker, seller, or landlord and any amount credited or paid to a party to the transaction at the direction of the respondent.
12. Address of the property in the transaction given rise to this arbitration request  
477 Cabral Peak Street, Las Vegas, NV89138
13. The sale/lease closed on: May 27 2016

Agreements to arbitrate are irrevocable except as otherwise provided under state law.

By submission of this complaint and / or response, I consent to receive communications sent from the Greater Las Vegas Association of REALTORS® via U.S. Mail, e-mail telephone or facsimile at the numbers and locations noted by you on this form. This permission includes all future U.S. mailing address, e-mail, telephone, which I might supply to the Greater Las Vegas Association of REALTORS®. Permission continues until / unless specifically revoked, in writing, to the Greater Las Vegas Association of REALTORS®.

Signature (Broker): Betty Chan  
Broker's Name (print): Betty Chan  
Company: Asian American Realty & Property Management  
Address: 4651 Spring Mountain Road, Las Vegas, NV 89102

Signature (Agent): Betty Chan  
Agent's Name (print): Betty Chan  
Company: Asian American Realty & Property Management  
Address: 4651 Spring Mountain Road, Las Vegas, NV 89102



Telephone: ( 702 ) 222-0078

Telephone: ( 702 ) 222-0078

NOTE: This Association offers voluntary mediation, binding only if parties reach a written, signed settlement.

Rev 2/5/16 JK



**EXHIBIT “5”**





PECCOLE PROFESSIONAL PARK  
10080 WEST ALTA DRIVE, SUITE 200  
LAS VEGAS, NEVADA 89145  
702.385.2500  
FAX 702.385.2086  
HUTCHLEGAL.COM

JEFFREY R. HALL  
PARTNER  
JHALL@HUTCHLEGAL.COM

FILE NO. 6495-001

March 24, 2016

First American Title  
Karen Patton  
8311 W. Sunset Road, #150  
Las Vegas, NV 89113  
[kapatton@firstam.com](mailto:kapatton@firstam.com)

**Re: ESCROW NO. 112-249-8656**

This firm represents Betty Chan with respect to the payment of a commission from the sale of the property located at 477 Cabral Peak Street, Las Vegas, Nevada 89138. Ms. Chan was the procuring cause of the sale of the home to Jerrin Chiu. She showed the property to Mr. Chiu on December 31, 2015. Mr. Chiu signed a broker registration identifying Ms. Chan as his agent on the same day. Subsequently, Mr. Chiu used a different broker, Wayne Wu, to close the transaction despite Ms. Chan showing Mr. Chiu the property. Ms. Chan disputes any commission payment to Mr. Wu since she was the procuring cause of the sale on the buyer's side of the transaction.

As you are aware, the broker who is the procuring cause of the sale is entitled to the commission for the sale. *See Schneider v. Biglieri*, 94 Nev. 426, 427, 581 P.2d 8, 9 (1978); *Bartsas Realty, Inc. v. Leverton*, 82 Nev. 6, 409 P.2d 627 (1966). The broker's presence at the sale is not required for that broker to earn his or her commission. *See Horton v. Colbron*, 60 Wyo. 263, 150 P.2d 315, 319 (1944). Ms. Chan became the procuring cause of the sale when she showed the property to Mr. Chiu as Mr. Chiu's broker.

By this correspondence, you have been made aware of Ms. Chan's claim to the buyer's commission from the sale of at 477 Cabral Peak Street, Las Vegas, Nevada 89138 to Mr. Chiu. In the event that buyer's commission's paid to anyone other than Ms. Chan as a result of this transaction, we will pursue the recovery of that commission from the payee. Ms. Chan reserves all rights against any party that pays or receives a buyer's commission for this transaction to anyone other than her.

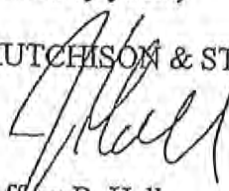


First American Title  
Karen Patton  
Page 2

Please contact me if you have any questions regarding this matter.

Sincerely yours,

HUTCHISON & STEFFEN



Jeffrey R. Hall  
For the Firm

cc: Wayne Wu  
Anthony C. Gordon  
Jerrin Chiu  
Betty Chan



**EXHIBIT “6”**



6/29/2016

Gmail - (no subject)



Betty Chan <aaroffer@gmail.com>

---

(no subject)

---

7025951268@mms.att.net <7025951268@mms.att.net>

Fri, Feb 5, 2016 at 6:01 PM

To: aaroffer@gmail.com

Honestly from day one i met you my focus is not on the commission, i felt insulted and humiliated, another agent dared challenge me and he really do not know who i am. I have been really sad more than i am angry. Last night i read many court cases. Even though my card was disappeared, it wont hurt me winning. I liked to teach them a lesson. Life is not about money. So happen i do have few hundred thousand in hand that i can use. If they are willing to go along with me to spend equal amount of money, then i will be very happy to play their game. I got my direction last nite, so i felt peaceful now. All i need KB to understand I dont hate KB for this, and i need them to work with me on my plan. Jana, i dont blame you either and take care of yourself.

9-8  
1-9  
1/1



**EXHIBIT “7”**



IN THE SUPREME COURT OF THE STATE OF NEVADA

BETTY CHAN; AND ASIAN  
AMERICAN REALTY & PROPERTY  
MANAGEMENT,

Appellants,

vs.

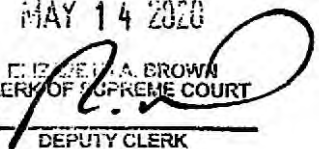
WAYNE WU; JUDITH SULLIVAN;  
NEVADA REAL ESTATE CORP.;  
JERRIN CHIU; AND KB HOME SALES-  
NEVADA INC.,

Respondents.

No. 78666

**FILED**

MAY 14 2020

C. J. BROWN  
CLERK OF SUPREME COURT  
BY   
DEPUTY CLERK

*ORDER DISMISSING APPEAL*

This court previously ordered appellants to show cause why this appeal should not be dismissed for lack of jurisdiction. Appellants have filed a response and respondents have filed a reply.<sup>1</sup>

First, it appeared that the March 22, 2019, order may not be appealable under NRS 38.247(1)(c) as an order confirming an arbitration award because that order does not actually confirm an arbitration award. The order merely states that it affirms the previous confirmation order, entered September 18, 2018. To the extent the March 22, 2019, order can be construed as an order confirming the arbitration award, it appeared superfluous and unappealable. *See Campos-Garcia v. Johnson*, 130 Nev. 610, 331 P.3d 890 (2014).

Appellants seem to assert that the March 22, 2019, order substantively amended the September 18, 2018, order and is thus appealable as an amended judgment. *See* NRAP 4(a)(5). But the March 22,

---

<sup>1</sup>Appellants' motion to strike the reply or for leave to file a sur-reply is denied.



2019, order does not amend the confirmation of the arbitration award. To the extent appellants challenge only the portion of the March 22, 2019, order declaring Wu to be the procuring cause, no statute or court rule allows an appeal from an order declaring someone to be a procuring cause.<sup>2</sup> See *Brown v. MHC Stagecoach, LLC*, 129 Nev. 343, 345, 301 P.3d 850, 851 (2013) (this court “may only consider appeals authorized by statute or court rule”). And the order is not appealable under NRS 38.247(1)(c) because it does not actually confirm an arbitration award.

Second, it appeared that the March 22, 2019, order may not be appealable pursuant to NRS 38.247(1)(f) as a final judgment entered under NRS 38.206-.248 because appellants’ claims against KB Home Sales-Nevada Inc. and respondents’ counterclaims remained pending in the district court. Appellants respond that the finality requirements of NRS 38.247(1)(f) are inapplicable because the appeal challenges the confirmation of an arbitration award and pending claims do not defeat jurisdiction. Accordingly, appellants appear to concede that the March 22, 2019, order is not appealable under NRS 38.247(1)(f).<sup>3</sup>

---

<sup>2</sup>It appears appellants may also contend that the March 22, 2019, order is appealable as a special order after final judgment. See NRAP 3A(b)(8). However, appellants do not dispute that no final judgment has been entered in this action. In the absence of a final judgment, there can be no special order after final judgment.

<sup>3</sup>This court also identified two other potential jurisdictional defects—it appeared the notice of appeal was improperly filed by appellant Betty Chan, a non-attorney, on behalf of appellant Asian American Realty & Property Management, and the notice of appeal may have been prematurely filed prior to the resolution of a pending tolling motion. Given the conclusion that the March 22, 2019, order is not appealable, these issues are not discussed further.



Appellants also seem to assert that the notice of appeal was timely filed from the September 18, 2018, order confirming arbitration award. That order was not identified in the notice of appeal and it does not appear reasonable to interpret the notice of appeal and the documents filed therewith as challenging that order. *See Abdullah v. State*, 129 Nev. 86, 90–91, 294 P.3d 419, 421 (2013) (stating the general rule that an order not included in the notice of appeal is not considered on appeal but recognizing that an appeal will not be dismissed if an intent to appeal from a judgment “can be reasonably inferred and the respondent is not misled”). However, even if the notice of appeal is construed as a challenge to the September 18, 2018, order, the notice of appeal was untimely filed on April 22, 2019, more than 30 days after service of notice of entry of that order on September 21, 2018. *See* NRAP 4(a)(1) (providing that a notice of appeal must be filed within 30 days after service of notice of entry of the order challenged on appeal); NRS 38.247(2) (providing that appeals from orders confirming an arbitration award are to be taken “as from an order or a judgment in a civil action”).

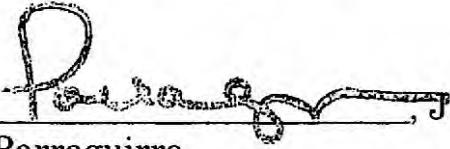
Appellants filed an amended notice of appeal on April 6, 2020, that purports to appeal from the March 22, 2019, order, a March 10, 2020, order, and “[a]ll prior court judgments, orders, rulings, and decisions” previously entered by the district court and that appellants are aggrieved by. To the extent this amended notice of appeal can be construed as an appeal from the September 18, 2018, order, the notice of appeal was untimely filed. The March 22, 2019, order is not independently appealable as discussed above. And the March 10, 2020, order, which grants in part a motion to resolve a pending motion, denies a motion for reconsideration,

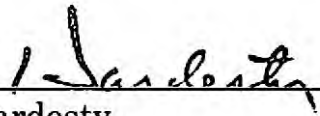


denies a motion for summary judgment, and denies a motion to certify a judgment as final under NRCP 54(b), is also not substantively appealable.

Accordingly, it appears that this court lacks jurisdiction and this court

ORDERS this appeal DIMISSED.<sup>4</sup>

  
Parraguirre

  
Hardesty

  
Cadish

cc: Hon. Eric Johnson, District Judge  
James A. Kohl, Settlement Judge  
Frizell Law Firm, PLLC  
Wood, Smith, Henning & Berman, LLP/Las Vegas  
Blackrock Legal, LLC  
Eighth District Court Clerk

---

<sup>4</sup>Respondents' request for attorney fees incurred on appeal is denied.



IN THE SUPREME COURT OF THE STATE OF NEVADA

BETTY CHAN; AND ASIAN AMERICAN  
REALTY & PROPERTY MANAGEMENT,  
Appellants,  
vs.

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

Supreme Court No. 78666  
District Court Case No. A744109

FILED

JUN - 9 2020

CLERK'S CERTIFICATE

*Elizabeth A. Brown*  
CLERK OF COURT

STATE OF NEVADA, ss.

I, Elizabeth A. Brown, the duly appointed and qualified Clerk of the Supreme Court of the State of Nevada, do hereby certify that the following is a full, true and correct copy of the Judgment in this matter.

JUDGMENT

The court being fully advised in the premises and the law, it is now ordered, adjudged and decreed, as follows:

"ORDERS this appeal DISMISSED."

Judgment, as quoted above, entered this 14 day of May, 2020.

IN WITNESS WHEREOF, I have subscribed  
my name and affixed the seal of the Supreme  
Court at my Office in Carson City, Nevada this  
June 08, 2020.

Elizabeth A. Brown, Supreme Court Clerk

By: Kaitlin Meetze  
Administrative Assistant

A-16-744109-C  
CCJD  
NV Supreme Court Clerks Certificate/Judge  
4916970





IN THE SUPREME COURT OF THE STATE OF NEVADA

BETTY CHAN; AND ASIAN  
AMERICAN REALTY & PROPERTY  
MANAGEMENT,

Appellants,

vs.

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

Respondents.

No. 78666

**FILED**

MAY 14 2020

E. BROWN  
CLERK OF SUPREME COURT  
BY  DEPUTY CLERK

**ORDER DISMISSING APPEAL**

This court previously ordered appellants to show cause why this appeal should not be dismissed for lack of jurisdiction. Appellants have filed a response and respondents have filed a reply.<sup>1</sup>

First, it appeared that the March 22, 2019, order may not be appealable under NRS 38.247(1)(c) as an order confirming an arbitration award because that order does not actually confirm an arbitration award. The order merely states that it affirms the previous confirmation order, entered September 18, 2018. To the extent the March 22, 2019, order can be construed as an order confirming the arbitration award, it appeared superfluous and unappealable. *See Campos-Garcia v. Johnson*, 130 Nev. 610, 331 P.3d 890 (2014).

Appellants seem to assert that the March 22, 2019, order substantively amended the September 18, 2018, order and is thus appealable as an amended judgment. *See* NRAP 4(a)(5). But the March 22,

---

<sup>1</sup>Appellants' motion to strike the reply or for leave to file a sur-reply is denied.



2019, order does not amend the confirmation of the arbitration award. To the extent appellants challenge only the portion of the March 22, 2019, order declaring Wu to be the procuring cause, no statute or court rule allows an appeal from an order declaring someone to be a procuring cause.<sup>2</sup> See *Brown v. MHC Stagecoach, LLC*, 129 Nev. 343, 345, 301 P.3d 850, 851 (2013) (this court “may only consider appeals authorized by statute or court rule”). And the order is not appealable under NRS 38.247(1)(c) because it does not actually confirm an arbitration award.

Second, it appeared that the March 22, 2019, order may not be appealable pursuant to NRS 38.247(1)(f) as a final judgment entered under NRS 38.206-.248 because appellants’ claims against KB Home Sales-Nevada Inc. and respondents’ counterclaims remained pending in the district court. Appellants respond that the finality requirements of NRS 38.247(1)(f) are inapplicable because the appeal challenges the confirmation of an arbitration award and pending claims do not defeat jurisdiction. Accordingly, appellants appear to concede that the March 22, 2019, order is not appealable under NRS 38.247(1)(f).<sup>3</sup>

---

<sup>2</sup>It appears appellants may also contend that the March 22, 2019, order is appealable as a special order after final judgment. See NRAP 3A(b)(8). However, appellants do not dispute that no final judgment has been entered in this action. In the absence of a final judgment, there can be no special order after final judgment.

<sup>3</sup>This court also identified two other potential jurisdictional defects—it appeared the notice of appeal was improperly filed by appellant Betty Chan, a non-attorney, on behalf of appellant Asian American Realty & Property Management, and the notice of appeal may have been prematurely filed prior to the resolution of a pending tolling motion. Given the conclusion that the March 22, 2019, order is not appealable, these issues are not discussed further.



Appellants also seem to assert that the notice of appeal was timely filed from the September 18, 2018, order confirming arbitration award. That order was not identified in the notice of appeal and it does not appear reasonable to interpret the notice of appeal and the documents filed therewith as challenging that order. *See Abdullah v. State*, 129 Nev. 86, 90–91, 294 P.3d 419, 421 (2013) (stating the general rule that an order not included in the notice of appeal is not considered on appeal but recognizing that an appeal will not be dismissed if an intent to appeal from a judgment “can be reasonably inferred and the respondent is not misled”). However, even if the notice of appeal is construed as a challenge to the September 18, 2018, order, the notice of appeal was untimely filed on April 22, 2019, more than 30 days after service of notice of entry of that order on September 21, 2018. *See* NRAP 4(a)(1) (providing that a notice of appeal must be filed within 30 days after service of notice of entry of the order challenged on appeal); NRS 38.247(2) (providing that appeals from orders confirming an arbitration award are to be taken “as from an order or a judgment in a civil action”).

Appellants filed an amended notice of appeal on April 6, 2020, that purports to appeal from the March 22, 2019, order, a March 10, 2020, order, and “[a]ll prior court judgments, orders, rulings, and decisions” previously entered by the district court and that appellants are aggrieved by. To the extent this amended notice of appeal can be construed as an appeal from the September 18, 2018, order, the notice of appeal was untimely filed. The March 22, 2019, order is not independently appealable as discussed above. And the March 10, 2020, order, which grants in part a motion to resolve a pending motion, denies a motion for reconsideration,





denies a motion for summary judgment, and denies a motion to certify a judgment as final under NRCP 54(b), is also not substantively appealable.

Accordingly, it appears that this court lacks jurisdiction and this court

ORDERS this appeal DIMISSED.<sup>4</sup>

  
Parraguirre

  
Hardesty

  
Cadish

cc: Hon. Eric Johnson, District Judge  
James A. Kohl, Settlement Judge  
Frizell Law Firm, PLLC  
Wood, Smith, Henning & Berman, LLP/Las Vegas  
Blackrock Legal, LLC  
Eighth District Court Clerk

---

<sup>4</sup>Respondents' request for attorney fees incurred on appeal is denied.



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

BETTY CHAN; AND ASIAN AMERICAN  
REALTY & PROPERTY MANAGEMENT,  
Appellants,  
vs.  
WAYNE WU; JUDITH SULLIVAN; NEVADA  
REAL ESTATE CORP.; JERRIN CHIU; AND  
KB HOME SALES-NEVADA INC.,  
Respondents.

**Supreme Court No. 78666**  
District Court Case No. A744109

**REMITTITUR**

TO: Steven D. Grierson, Eighth District Court Clerk

Pursuant to the rules of this court, enclosed are the following:

Certified copy of Judgment and Opinion/Order.  
Receipt for Remittitur.

DATE: June 08, 2020

Elizabeth A. Brown, Clerk of Court

By: Kaitlin Meetze  
Administrative Assistant

cc (without enclosures):

Hon. Eric Johnson, District Judge  
Wood, Smith, Henning & Berman, LLP/Las Vegas \ Janice M. Michaels  
Blackrock Legal, LLC  
Frizell Law Firm, PLLC \ Robert Duane Frizell

**RECEIPT FOR REMITTITUR**

Received of Elizabeth A. Brown, Clerk of the Supreme Court of the State of Nevada, the  
REMITTITUR issued in the above-entitled cause, on JUN - 9 2020.

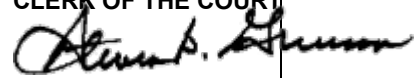
HEATHER UNGERMANN  
Deputy District Court Clerk

RECEIVED  
APPEALS

JUN - 9 2020

CLERK OF THE COURT





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

TUESDAY, JUNE 30, 2020

**TRANSCRIPT OF HEARING**

**PLAINTIFF'S MOTION TO STRIKE OR IN THE ALTERNATIVE TO  
EXTEND BRIEFING AND CONTINUE THE HEARING ON  
DEFENDANT'S MOTION FOR SUMMARY JUDGMENT**

APPEARANCES:

For the Plaintiff:

DUANE R. FRIZELL, ESQ.  
Appearing telephonically

For the Defendant:

MICHAEL A. OLSEN, ESQ.  
Appearing via BlueJeans

RECORDED BY: ANGIE CALVILLO, COURT RECORDER

TRANSCRIBED BY: MANGELSON TRANSCRIBING



1 Las Vegas, Nevada, Tuesday, June 30, 2020

2  
3 [Case called at 9:16 a.m.]

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

7 MR. FRIZELL: Your Honor, good morning. This is Duane  
8 Frizell here on behalf of the Plaintiffs.

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

12 THE COURT: All right. This is on for Plaintiff's Motion to  
13 Strike or in the Alternative to Extend Briefing and Continue the  
14 Hearing on Defendant's Motion for Summary Judgment on an  
15 Order Shortening Time.

16 We have right now the Motion for Summary Judgment or  
17 in the Alternative for Award of Attorney's fees, for Writ of Execution  
18 for -- on Plaintiff's Commissions Awarded, et cetera, set for next  
19 week on July 7th, which is why I went ahead and did the order  
20 shortening time.

21 I'll start off with I will deny the Motion to Strike. I agree  
22 with Defendant's position that in view of the Supreme Court's  
23 ruling, the Court did not ever at any time technically lose  
24 jurisdiction of the case and so the motion was not a rogue motion  
25 and so I'll deny that aspect of it.



1 I guess -- let me -- Mr. Frizell, you know, I don't see a lot  
2 of -- I know Covid's out there, I appreciate you're a solo practitioner,  
3 but if you were close to getting something done, you know, why  
4 not just go ahead and file it and ask to file it late because it seems  
5 now we've wasted a week or so trying to -- that we could have been  
6 moving this thing forward?

7 MR. FRIZELL: And I appreciate that, Your Honor. Let me  
8 just say this is that I was trying to get to it so that I could get it done  
9 based on their two-day extension that Opposing Counsel has given  
10 me; however, as it turned the appellate brief that I was working on  
11 ended up taking much, much longer than I was anticipating and I  
12 had some other events come up as well.

13 I would say, Your Honor, that there's plenty of security  
14 here going on. I mean, there's plenty of security for the  
15 Defendants. There's money in escrow, there's a supersedeas bond,  
16 and in terms of the appeal, you know, on the merits too, Your  
17 Honor -- I mean, the Supreme Court has already denied the  
18 Defendant's Motion for Attorney's fees, I don't -- you know, it  
19 wasn't a jurisdictional issue.

20 My client took the appeal at a time when she should  
21 because this is going to be reappealed at the end per the statute.  
22 It's going to reappealed once there's a final judgment. And I think  
23 we're looking at coming towards finality.

24 This case, the motion that is presently before the Court in  
25 terms of the Defendant's motion is seeking to -- not only to get



1 summary judgment on their main claim of abuse of process, but  
2 also to have funds released to them and also to get a Writ of  
3 Execution -- go forward with the execution, although with current  
4 planning, I don't think execution is going to be permissible per the  
5 administrative orders of the Court.

6           The point here is, Your Honor, that I understand that  
7 Counsel wanted to move forward, but I don't think there's any  
8 exigent or compelling reasons why that this case cannot be  
9 continued at least for a few -- for a week or for enough time for us  
10 to get it done. I just -- Your Honor, the motion was filed and my  
11 schedule was the way it was and usually when I ask Counsel for an  
12 extension or Counsel asks me, you know, it's routine practice -- it's  
13 professional courtesy. And, you know, I did what I could to try to  
14 get to it as soon as I can, but Your Honor, I just need more time.

15           THE COURT: All right. Turning to Defense. I tend to  
16 agree with you. I probably have sufficient basis as outlined in your  
17 response to deny the motion, but this case as you well know has  
18 had a long, long proceeding and if we are going to be looking at a  
19 summary judgment motion, I just don't want to have any  
20 outstanding issues out there.

21           I'm inclined to allow Mr. Frizell to have until next Tuesday  
22 to file an Opposition. And I give you until the following Monday to  
23 file any sort of Reply and then we'll set it on calendar on the 14th.

24           Let me ask you, Mr. Olsen, how upset would you be at  
25 that plan?



1 MR. OLSEN: Your Honor, I appreciate the Court's position  
2 and I'm fine with that. I wish I could say that I was surprised to hear  
3 that another appeal is coming given that both orders that were  
4 challenged were deemed unappealable but it doesn't surprise me  
5 given this case, I'll just say that. And I have to be honest in saying  
6 that this is one of the more frustrating cases I've ever dealt with in  
7 25 years of practice.

8 But having said that, I think that we do want to avoid any  
9 additional, possible appealable issues and so let's go ahead and  
10 move forward with that schedule. I'll have my Reply filed -- let's  
11 see that will be Monday. So the Opposition will be due the 7th, is  
12 that correct?

13 THE COURT: That -- yes.

14 THE CLERK: Yes.

15 MR. OLSEN: And then my Reply will be due the following  
16 Monday, which is what date?

17 THE CLERK: 13th. July 13th.

18 MR. OLSEN: Good enough. We'll have it in.

19 THE COURT: And I can set it --

20 THE CLERK: Now this is the motion that was set for next  
21 week?

22 THE COURT: Yeah, this is the motion --

23 THE CLERK: So we'll have to continue that.

24 THE COURT: Continue that I guess until the 21st.

25 THE CLERK: Uh-huh.



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THE COURT: All right. Mr. Frizell, is that okay?

MR. FRIZELL: Yes, Your Honor. Thank you very much.

THE COURT: All right. Let's see if we can get this thing done one way or another. Or if we need to do some -- you know, do some more hearings or trials or whatever, let's just get it done.

All right. That will be the Order of the Court. Do you -- have you announced that?

THE CLERK: No. Mr. Frizell to file by July 7th, Mr. Olsen to file by July 13th, and we'll have hearing on July 21st and 8:30.

MR. OLSEN: Okay. I'm sorry, the hearing was the 21st then. Okay.

THE CLERK: Yes.

MR. OLSEN: Thank you.

THE COURT: All right. Thank you, guys.

MR. FRIZELL: Thank you, Your Honor.

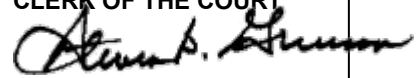
[Proceeding concluded at 9:24 a.m.]

\* \* \* \* \*

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.

  
\_\_\_\_\_  
Brittany Mangelson  
Independent Transcriber





**OPPC**  
**R. DUANE FRIZELL, ESQ.**

Nevada Bar No. 9807

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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.

§ CASE NO: A-16-744109-C

§ DEPT NO: 20

§ **Hearing Date: 7/21/2020**

§ **Hearing Time: 8:30 a.m.**

And All Related Claims

**PLAINTIFFS' OPPOSITION TO DEFENDANTS' 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**

Plaintiffs/Counter-Defendants BETTY CHAN ("Ms. Chan") and ASIAN AMERICAN  
REALTY & PROPERTY MANAGEMENT ("Asian American") (collectively "Plaintiffs" or  
"Counter-Defendants") hereby file this, Plaintiffs' Opposition To Defendants' 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. Plaintiffs' Opposition and Countermotion are based upon the



Memorandum of Points and Authorities below, the pleadings and papers on file in this action, and the arguments of counsel made at a hearing on these matters, if any. In this connection, Plaintiffs would respectfully show the Court as follows:

**MEMORANDUM OF POINTS AND AUTHORITIES**

**I. PLAINTIFFS' OPPOSITION TO DEFENDANTS' MOTION.**

**A. Introduction and Summary of the Argument.**

The present opposition is made to Defendants' 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 (filed Jun. 4, 2020) [hereinafter "Second MSJ" or "2nd MSJ"]. This Court has already denied Plaintiffs MSJ for abuse of process one time before. (Opposition to Plaintiffs' Motion to Formally Resolve Motion for Reconsideration and to Certify Judgment as Final—and—Countermotion for Summary Judgment on Abuse of Process Claim (filed Jan. 16, 2020) [hereinafter "First MSJ" or "1st MSJ"]; 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 (entered Mar. 10, 2020). Now, pouring old wine into new bottles, they bring the same motion for a second time. The Court should deny it once again.

Assassination of character. Argumentum ad hominem. Insults and disparagement. With respect to their abuse of process claim, that is all Defendants got. For example, they raise to totally immaterial and irrelevant of Plaintiffs' prior counsel. Specifically, they state: "Ms. Chan ... has had five different law firms represent her in this matter ...." (2nd MSJ at p.3). To what end? Obviously, Defendants are trying to impugn the integrity of Ms. Chan and, by implication, the validity of her case. That is patently improper.



1           What is more, her present counsel has represented her for well over year. Her present  
2 counsel is bilingual in English and Mandarin-Chinese. He also has a master's degree in Asian  
3 studies. He currently has a substantial Chinese clientele. Thus, he has a way of relating with  
4 Chinese natives that other non-Chinese may not have. Ms. Chan was born in Hong Kong and is  
5 not a native English speaker, although she is highly proficient in the language. More  
6 importantly, at times, Ms. Chan may have cultural expectations that differ from what an  
7 American-born attorney may have. These matters likely explain the previous changes in  
8 attorneys. It is grossly inappropriate for Defendants to try to insult Ms. Chan at all, especially on  
9 this ground.  
10

11           Defendants continually cast Ms. Chan as a “vexatious” litigant because she will simply  
12 not sit down, shut up, and accept a GLVAR award. This is also grossly inappropriate. Ms. Chan  
13 has only exercised her constitutionally protected right to appeal an arbitration award to the  
14 Courts. The process was even allowed by GLVAR itself. She has also had to defend herself  
15 against Defendants’ baseless counterclaim for abuse of process – and their litany of motions,  
16 countermotions, and other pleadings made in connection therewith. Defendants even opposed  
17 Ms. Chan’s motion to take the matter to arbitration before GLVAR in the first place. That is  
18 inexplicable. Ms. Chan has done nothing wrong.  
19

20           On the merits, Defendants MSJ on their abuse of process counterclaim and their motions  
21 for attorney fees, execution, and release of bond should be denied. Their MSJ is baseless  
22 because they have provided insufficient evidence of an “ulterior motive” on the part of Plaintiffs.  
23 At worst, they show “bad intent,” but that is insufficient for an abuse-of-process claim.  
24 Defendants also have absolutely no evidence—none—of Plaintiffs improperly bringing the  
25 present action. For this reason, their MSJ fails, and the Court should actually grant Plaintiffs’  
26 countermotion for summary judgment on this matter.  
27  
28



1 With respect to Defendants' motion for attorney fees, this Court has already been  
2 awarded them to Defendants. They cannot double dip. In addition, the Supreme Court has flat-  
3 out denied Defendants' motion for the attorney fees they incurred on appeal. They cannot  
4 resurrect the issue now. As to any other fees, Defendants provide no ground or explanation as to  
5 why they are entitled to them, much less have they included in supporting evidence (no invoices  
6 or anything else). Thus, their motion for attorney fees fails.

7  
8 In terms of Defendants' motion for execution, they are trying to execute upon a judgment  
9 that is not final, which is improper. Moreover, this Court has already stayed execution and  
10 required a substantial bond for the stay, which Plaintiffs have posted. Currently, Defendants  
11 have a security of about 170% of their award. Under the rules, this is more than sufficient for  
12 this Court to keep the stay intact.

13 As for the Defendants' motion to release the supersedeas bond, because of the stay of  
14 execution, such a release would be inappropriate at this time. Under the rules, it is proper for  
15 this Court to keep the bond intact pending a final judgment in this action and the resolution of a  
16 subsequent appeal.  
17

18 **B. Factual Background—Defendants Have Failed to Provide Evidence**  
19 **Supporting Most of Their Allegations, and Even If They Had Such**  
20 **Evidence, Genuine Issues of Material Fact Are Legion.**

21 In their MSJ, Defendants set forth what they style “Undisputed Facts.” (2nd MSJ at pp.3-  
22 6), For most of their assertions of “fact,” Defendants provide no supporting affidavit,  
23 declaration, or other evidence. Moreover, even if Defendants had provided such evidence, the  
24 facts are anything but undisputed. In her declaration used in opposition to Defendants' First MSJ,  
25 which included a nearly identical “Statement of Undisputed Facts,”<sup>1</sup> Plaintiff Betty Chan (“Ms.  
26 Chan”) explained:

---

27  
28 <sup>1</sup> See 1st MSJ at pp.9-12.



1 In the Lawsuit, the Defendants have recently filed a [Motion] for Summary  
2 Judgment on Abuse of Process Claim. In that [Motion], Defendants present ...  
3 so-called ['Undisputed Facts']. Most everything in that [section] is either false or  
4 disputed. The pleadings and papers already on file with the Court clearly show  
5 that. Nevertheless, below, I make specific responses to the items in [Defendants'  
6 'Undisputed Facts'] (the numbered items below correspond to and are taken  
7 verbatim from ... Defendants' ['Undisputed Facts']).

8 *"1. On November 2, 2015, Dr. Jerrin Chiu emailed Ms. Chan expressing  
9 an interest in searching for a home to purchase while his parents were in  
10 town visiting in late December 2015."* [2nd MSJ p.3].

11 MY RESPONSE: Actually, on or about October 5, 2015, Dr. Kwang Chiu  
12 contacted me to make an appointment for him and his son, Defendant Chiu, to see  
13 homes in December 2015.<sup>2</sup> (See also my Declaration dated Feb. 14, 2017 at p.2, ¶  
14 7).<sup>3</sup>

15 *"2. [Despite previously agreeing to be available on the specified dates in  
16 late December 2015,]<sup>4</sup> Ms. Chan failed to respond to Defendants' requests  
17 to see houses on [those dates]. Ms. Chan was aware that Dr. Chiu and his  
18 parents had a tight window in which to purchase a home, so when she  
19 failed to return their calls, they assumed that she had abandoned them."*<sup>5</sup>  
20 [See 2nd MSJ at p.4].

21 MY RESPONSE: Actually, on or about December 30, 2015, I picked up the Chiu  
22 family and showed them various homes, including the KB home, the subject in  
23 dispute. On or about December 31, 2015, without telling me they already made a  
24 reservation that morning at KB Homes for 10:00 a.m., Dr. Kwang Chiu called me  
25 and asked if I could "kick back 1% of the commission" like the other agent offered  
26 him. I said I can offer a reduction of ¼%, and Dr. Kwang Chiu said he would call  
27 me back and tell me which property Defendant wanted to buy. On or about  
28 January 5, 2016, I followed up with Defendant Chiu about the properties.

---

20 <sup>2</sup> Specifically, they scheduled this for December 30-31, 2015.

21 <sup>3</sup> See Declaration of Betty Chan in Support of Reply to Opposition to Motion to Stay Pending  
22 Arbitration and Opposition to Countermotion to Dismiss with Prejudice or in the Alternative for  
23 Summary Judgment (dated Feb. 14, 2017) [hereinafter "Chan 1st Decl." and attached hereto as  
24 ***Exhibit 13***].

25 Unless otherwise indicated, all of the exhibits, sub-exhibits, and other attachments to this  
26 Opposition are fully incorporated herein by reference.

27 <sup>4</sup> Brackets in the italicized text placed in quotation marks show changes Defendants made in  
28 their Second MSJ to the language they originally used in their First MSJ.

<sup>5</sup> Defendants' First MSJ stated the first sentence a little differently, as follows: "Ms. Chan failed  
to respond to Defendants' requests to see houses on December 31, 2015." Now, Defendants are  
changing their story to allege that Ms. Chan agreed to be available on a range of "specified  
dates." Defendants have provided no evidence that would support their changed version of the  
"facts."



1 Defendant Chiu did not respond. Contrary to Defendant Chiu's statements, he did  
2 not try to contact me several times. On or about January 15, 2016, Defendant Chiu  
3 admitted that he was using another agent.<sup>6</sup> (See also my Declaration dated Feb.  
4 14, 2017 at pp.2-3, ¶¶ 17, 25-30; and my Declaration dated Aug. 15, 2018 at p.1,  
5 ¶¶ 2-3).<sup>7</sup>

6 "3. Though Ms. Chan showed Dr. Chiu and his parents several homes,  
7 she did not show them the home they ended up purchasing."<sup>8</sup> [2nd MSJ at  
8 p.4].

9 MY RESPONSE: This is a flagrant misrepresentation of fact. Even Defendant  
10 Chiu has not disputed that I was the first one to show the property to him. (See  
11 also my Declaration dated Aug. 15, 2018 at p.3, ¶ 6). I did, in fact, show  
12 Defendant Chiu the property he purchased—the home had yet to be constructed at  
13 that time, as this was a new development. I took him to see the lots and model  
14 homes for sale.<sup>9</sup> (See also my Declaration dated Feb. 14, 2017 at pp.3-4, ¶¶ 31-33;  
15 and my Declaration dated Aug. 15, 2018 at pp.1-3, ¶¶ 4-5).

16 "4. While waiting for Chan to return their call, Dr. Chiu and his parents,  
17 without the assistance of any broker, met with a KB Home representative  
18 and were informed that if they did not make a deposit towards a lot before  
19 the end of the day, they would be subject to the development-wide price  
20 increase of \$3,000.00."<sup>10</sup> [2nd MSJ at p.4].

21 MY RESPONSE: Actually, after the "kick-back" phone call on about December  
22 31, 2015, I was waiting for Defendant Chiu to contact me, as he promised he  
23 would. Instead, he decided to go with another agent and left me holding the bag. I  
24 was fully ready, willing, and able to work with him as his buyer's agent; however,  
25 he obviously thought he was getting a better "deal" in the form of an improper  
26 kickback from his new agent.

27 While touring the KB Homes' model on December 30, 2015, I had already  
28 explained the purchasing process to Defendant Chiu, including the standards,  
locations, elevations, prices, deposits, and so forth (See also my Declaration dated  
Feb. 14, 2017 at pp.2-3, ¶¶ 17, 21, 25-30; and my Declaration dated Aug. 15, 2018  
at p.1, ¶¶ 2-3).

---

<sup>6</sup> Not only did Ms. Chan not abandon the buyers, but she also fulfilled their goal of finding them  
a KB home, on which they immediately put a deposit and subsequently purchased.

<sup>7</sup> See Supplemental Declaration of Betty Chan (dated Aug. 15, 2018) [hereinafter "Chan 2nd  
Decl." and attached hereto as **Exhibit 14**].

<sup>8</sup> Defendants have provided no evidence supporting this assertion.

<sup>9</sup> Defendant Jerrin Chiu admitted as much in his answer. (Plaintiff's Complaint ¶ 25 (filed Sep.  
27, 2016); Defendants' Answer and Counterclaim ¶ 25 (filed Dec. 6, 2016)).

<sup>10</sup> Defendants have provided no evidence supporting this assertion.



1                   “5. Dr. Chiu and his parents ended up purchasing a home with the  
2                   assistance of Wayne Wu.” [See 2nd MSJ at p.4].

3                   MY RESPONSE: Defendant Wayne Wu essentially did nothing. I did the  
4                   research and identified the KB Homes development as a potential fit for Defendant  
5                   Chiu in the first place. Defendant Wu did not do that. I was the first to  
6                   recommend the KB Homes development to Defendant Chiu. Defendant Wu did  
7                   not do that either. I was the first to show the development and the property to  
8                   Defendant Chiu. Defendant Wu did not do that. The only thing Defendant Wu  
9                   did, if anything, was to work on paperwork relating to the purchase of property the  
10                  that I had worked so hard to find, show, and recommend to Defendant Chiu.<sup>11</sup>  
11                  (See my Declaration dated Aug. 15, 2018 at pp.1-3, ¶¶ 4-5).

12                   “6. There was never any written or verbal agreement setting forth the  
13                   terms of any agreement between the Ms. Chan and Defendants.”<sup>12</sup> [2nd  
14                   MSJ at p.4]

15                  MY RESPONSE: That is untrue. I was to be paid according to KB Homes’ policy  
16                  of only paying a cooperating commission to the first agent to bring the client to the  
17                  development (and it had to be the client’s first visit).<sup>13</sup> (See my Declaration dated  
18                  Aug. 15, 2018 at pp.1-3, ¶¶ 4-5). Plus, the Chiu family actually contacted me via  
19                  email and asked that I be their agent for this deal, as I had previously done in a  
20                  different transaction. I responded, “thank you for using my service again.” Given  
21                  our previous course of dealing, this was a black-and-white contract.

22                   “7. Wu is the only realtor listed on the closing documents and is listed as  
23                   the realtor of record and was the agent who did all of the work in  
24                   procuring and closing the sale of the home.”<sup>14</sup> [2nd MSJ at p.4]

25                  MY RESPONSE: As I explain it response to No. 5 above, Defendant Wu  
26                  essentially did nothing. (See my Declaration dated Aug. 15, 2018 at pp.1-3, ¶¶ 4-  
27                  5). He was, however, able to get his name on the contract as the buyer’s agent  
28                  because he signed a fraudulent agreement in which he stated that he was the first  
agent to show the property and thus the first to qualify for the commission.

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23                  <sup>11</sup> Actually, the only thing Defendant Wu did, if anything, was to appear for the signing of the  
24                  purchase contract on December 31, 2015, less than 24 hours after Ms. Chan’s showing the  
25                  property to Mr. Chiu. The other thing Defendant Wu did was to conspire with Buyer Jerrin Chiu  
26                  to sign a fraudulent document lying to KB homes that Defendant Wu was the first agent that  
27                  show Chiu the KB Homes. (See **Exhibit 21**; see also 2nd MSJ ex.1).

28                  <sup>12</sup> Defendants have provided no affidavit, declaration, or other evidence to support this assertion.

<sup>13</sup> See **Exhibit 21**.

<sup>14</sup> Defendants have provided no affidavit, declaration or other evidence supporting their  
assertion that Wayne Wu did all the work.



1                   “8. Ms. Chan is a member of the GLVAR which requires that any and all  
2                   legitimate disputes regarding commissions be handled by way of  
3                   arbitration before the GLVAR.” [2nd MSJ at p.4].

4                   MY RESPONSE: I did just that. Before filing suit on or about September 27,  
5                   2016, I tried to take the matter to GLVAR, but they would not open up an  
6                   arbitration case because no commission had been distributed.<sup>15</sup> As the situation  
7                   could have remained that way indefinitely, I had no choice but to file suit. On or  
8                   about November 11, 2016, immediately after GLVAR indicated that they would be  
9                   willing to accept the arbitration case, I submitted a claim for arbitration with  
10                  GLVAR. Not long thereafter (after the holidays on or about January 13, 2017), I  
11                  sought to put the Lawsuit on hold and to that end, I filed a Motion for Stay  
12                  Pending Arbitration. As a matter of fact, Defendants actually opposed my Motion  
13                  to Stay. Thus, it was they—not me—who sought to impede arbitration.<sup>16</sup>

14                   “9. Chan fraudulently represented to Dr. Chiu and to First American Title  
15                   Company that she possessed a broker registration card identifying her as  
16                   Dr. Chiu’s agent without being able to produce any such document upon  
17                   challenge.”<sup>17</sup> [2nd MSJ at p.5].

18                   MY RESPONSE: I did not make any fraudulent statement to anyone.  
19                   Immediately after I showed prospective properties at the KB Homes development  
20                   to Defendant Chiu, I located a buyer registration card; Defendant Chiu filled out  
21                   the buyer’s portion, and I filled out the realtor’s portion. No KB Homes  
22                   representative was to be found; so, I left the registration card on the table in the KB  
23                   Homes front office to hurry to get the Chiu family to the next appointment. (See  
24                   also my Declaration dated Feb. 14, 2017 at pp.3, ¶¶ 22-23). I cannot produce the  
25                   registration card because KB Homes has lost or mishandled it. (See also my dated  
26                   Aug. 15, 2018 at p.3, ¶ 6). For the record: I am a broker and was for all of 2015-  
27                   2016. The Nevada Real Estate Division has issued me a broker’s license (No.  
28                   B.0025444.CORP) in 1993. That license has been active, continuously, up to the  
                    present date.

                    “10. On September 27, 2016, Ms. Chan, filed a Complaint in the Eighth  
Judicial District Court, prior to submitting the matter to GLVAR for  
mediation and possible arbitration as required by rule. She sued Wu,  
Nevada Real Estate Corp. (the real estate company where Wu.” works),  
Judith Sullivan (designated Realtor® and officer of Nevada Real Estate  
Corp.), Dr. Chiu (the buyer), and KB Homes (the property  
developer/seller).” [2nd MSJ at p.5].

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<sup>15</sup> On June 11, 2016, months before she filed this action, Ms. Chan tried to proceed with arbitration before GLVAR. See **Exhibit 20**.

<sup>16</sup> See Defendants’ Opposition to Motion to Stay Pending Arbitration and Countermotion to Dismiss with Prejudice or in the Alternative for Summary Judgment (filed Feb. 2, 2017).

<sup>17</sup> Defendants have provided no evidence supporting their assertion that Ms. Chan did anything “fraudulently.” Defendant Wayne Wu has never produced his registration card either.



1 MY RESPONSE: As explained in my response to No. 8 above, since GLVAR  
2 would not accept arbitration at the time, I had no choice but to file suit.<sup>18</sup> Upon  
3 GLVAR indicating that it would accept the case, I immediately submitted a claim  
4 with them and requested the Court to stay the Lawsuit pending that arbitration. In  
5 the Lawsuit, Defendants actually opposed my Motion to Stay. Therefore, it was  
6 they—not me—who tried to impede arbitration.<sup>19</sup>

7 “11. [November 9, 2016] Ms. Chan signed an Agreement to Arbitrate ....  
8 In the Agreement to Arbitrate, Ms. Chan agreed to abide by the  
9 arbitration award as well as paying attorney’s fees incurred in seeking  
10 district court confirmation of the award should she challenge it.” [See  
11 2nd MSJ at p.5].

12 MY RESPONSE: This mischaracterizes the content of the Request and  
13 Agreement to Arbitrate. The Agreement speaks for itself. That said, the  
14 Agreement, the Arbitrator’s Award, and the law all allowed me to challenge the  
15 award.<sup>20</sup>

16 “12. The parties attended arbitration on April 17, 2018, wherein the  
17 GLVAR Arbitration Panel found Wu to be the procuring agent of the sale  
18 and entitled to the commissions. However, the panel also allowed Chan to  
19 retain one quarter of the disputed commissions, a total of \$3,448.83.”<sup>21</sup>  
20 [2nd MSJ at p.5].

21 MY RESPONSE: The GLVAR arbitration panel did not find that Defendant Wu  
22 was the procuring agent. In fact, its award was completely silent on the matter.  
23 The panel simply split the commission between him and me.<sup>22</sup> Other than that, the  
24 Award of Arbitrators speaks for itself.

25 “13. On July 2, 2018, Ms. Chan filed her Motion to Vacate or Modify  
26 Arbitration Award, which was followed by Defendants’ Opposition to  
27

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28 <sup>18</sup> Ms. Chan had to do this to stay the distribution of commissions.

<sup>19</sup> See Defendants’ Opposition to Motion to Stay Pending Arbitration and Countermotion to Dismiss with Prejudice or in the Alternative for Summary Judgment (filed Feb. 2, 2017).

<sup>20</sup> See 2nd MSJ ex.1. Ms. Chan had until 5:00 p.m. on May 17, 2018 to notify GLVAR of her intention to appeal the arbitration award. See *id.* Ms. Chan gave her notice on that date at 3:17 p.m. See **Exhibit 19**.

<sup>21</sup> Defendants have provided no evidence supporting their allegation that the panel found Wu to be the procuring cause.

<sup>22</sup> Obviously, the panel recognized Ms. Chan’s efforts by awarding her a portion of the commission despite her name not being on the sales contract. Ms. Chan has always taken the position that, under Nevada law, because she was the agent who first showed Defendant Jerrin Chiu the property, she should be considered the procuring cause entitled to the commissions. (See Reply in Support of Motion to Vacate or Modify Arbitration Award and Opposition/Motion to Strike Improper Countermotion at pp.3-9 (filed Aug. 15, 2018)). For this reason, Ms. Chan sought to challenge the arbitration award.



1                   *Motion to Vacate or Modify Award and Countermotion to Recognize Wu*  
2                   *as the Procuring Case, for Summary Judgment, and for Attorney's Fees*  
                    *on August 8, 2018.*" [2nd MSJ at pp.5-6].

3 MY RESPONSE: The dates are wrong. I filed the Motion to Vacate on July 18,  
4 2018, and Defendants filed their Opposition and Countermotion on August 6,  
5 2018.

6                   *"14. This Court entered an order on September 18, 2018 denying Ms.*  
7                   *Chan's Motion to Vacate or Modify Arbitration Award and subsequently*  
8                   *entered an order granting Defendants' Countermotion for Summary*  
9                   *Judgment and Attorney's Fees and Costs on March 22, 2019."* [2nd MSJ  
10                  at p.6].

11 MY RESPONSE: At first blush, this statement may not seem to be incorrect, but it  
12 mischaracterizes what happened and leaves out several pertinent facts. For  
13 starters, it omits the fact that Defendants should have presented a draft order on  
14 their countermotion to me so that it could have been filed at about the same time  
15 the order on my motion to vacate was filed. In fact, Defendants waited over six (6)  
16 months to present the proposed order to the Judge, without giving me a chance to  
17 dispute it or respond to it. Moreover, they finally presented the order when my  
18 previous attorney withdrew from the case. It appeared that Defendants were trying  
19 to leverage my lack of counsel to have an order entered that was overly favorable  
20 to them. I then timely filed a motion for reconsideration of Defendants'  
21 countermotion. I also filed a notice of appeal. My motion for reconsideration is  
22 still pending.

23                   *"15. Ms. Chan, unwilling to abide by a binding decision issued by the*  
24                   *GLVAR, to which she agreed, and the District Court's ruling confirming*  
25                   *the arbitration award, filed her Notice of Appeal on April 22, 2019."* [2nd  
26 MSJ at p.6].

27 MY RESPONSE: I have not violated or refused to abide by the arbitrators'  
28 decision or the Court's rulings. Rather, in accordance with law, I have appealed  
the matters through proper channels. I have been well within my rights to do this.  
As I understand it, this is the way the American legal system works.<sup>23</sup>

1                   *"16. During this entire process, Ms. Chan has been represented by five*  
2                   *different law firms and has refused offers at settlement made privately and*  
3                   *through the settlement conference required by the Supreme Court of*  
4                   *Nevada."* [2nd MSJ at p.6].

5 MY RESPONSE: The number of attorneys or law firms I have retained (or the  
6 number of settlement offers made) is wholly irrelevant to the legal question at  
7 issue: Whether, for purposes of a real estate sale, there can be more than one  
8 procuring agent. I believe the law is on my side and that we will ultimately prevail  
9 on this point. I would also point out that Defendants not only refused my

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<sup>23</sup> She did so in accordance with the GLVAR arbitration appeal guidelines. See 2nd MSJ ex.1.



1 settlement offers at the settlement conference, but also my previous offer made  
2 within the first six (6) months of filing suit as well. It was Defendants—not I—  
3 who acted unreasonably there.<sup>24</sup>

4 “17. Ms. Chan has stated that her only desire was to punish Defendants  
5 for what she perceives as misconduct. In an email, Ms. Chan stated the  
6 following:

7 “Honestly from day one i met you my focus is not the commission, i felt  
8 insulted and humiliated, another agent dared challenge me and he really  
9 do not know who I am. I have been really sad more than i am angry. Last  
10 night i read many court cases. Even though my card has disappeared, it  
11 wont hurt me winning. I liked to teach them a lesson. Life is not about  
12 money. So happen i do have few hundred thousand in hand that i can use.  
13 If they are willing to go along with me to spend equal amount of money,  
14 then I will be very happy to play their game. I got my direction last nite, so  
15 i felt peaceful now. All i need KB to understand I don’t hate kb for this,  
16 and i need them to work with me on my plan. Jana, i dont blame you either  
17 and take care of yourself.” [2nd MSJ at p.6.]

18 MY RESPONSE: This language is taken out of context and is falsely presented  
19 here as an email from me to Defendants. It is not. In fact, it is not even an email;  
20 neither is it a communication between Defendants and me. To the contrary, it was  
21 part of a series of text messages between me and Jana, an agent at KB Homes.<sup>25</sup>  
22 Taking it all out of context and falsely presenting it here, Defendants are trying to  
23 twist this language into a threat coming from me to them. However, it was nothing  
24 more than my venting to a fellow agent. Interestingly, Jana responded in a text:  
25 “Yes ...thank you Betty. I know it’s frustrating. I’ve lost more than a few  
26 commissions that were due to me. So I understand.” Jana knew what I was saying  
27 and was completely sympathetic.

28 Moreover, it is just wrong to say that my desire was to punish Defendants. If they  
eventually lose, they will suffer financial and other repercussions, but that goes  
with every lawsuit. I am and have been well within my rights to seek the  
commission to which I believe I am rightly entitled.<sup>26</sup> Even the language quoted  
by Defendants above only shows that, in tandem with seeking to enforce my rights,  
I am hoping to put an end to people’s taking advantage of other agents, as they did  
to me in this case (and Jana in others). It is a fact that I was cheated, and I am  
genuinely seeking redress for a wrong against me. In that connection, the law of  
Nevada can and should be clarified that there cannot be more than one procuring  
agent for any real estate sale. My fighting for my rights only works for the public  
good.

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<sup>24</sup> Actually, Defendants have reneged settlements actually reached.

<sup>25</sup> See Text messages between Chan and Jana, an agent at KB Homes [attached hereto as **Exhibit 16**].

<sup>26</sup> It is clear that because of Ms. Chan first showing to property to Defendant Jerrin Chiu, he purchased it.



1           “18. Ms. Chan has caused Defendants to incur [tens of] thousands [of  
2 dollars] in attorney’s fees [and costs, chasing a relatively small  
3 commission,] due to her unwillingness to settle this matter or  
4 [acknowledge and accept] the GLVAR arbitration award.”<sup>27</sup> [2nd MSJ at  
p.6.]

5 MY RESPONSE: As stated in my response to No. 17 above, it is my sincere  
6 desire to obtain justice for myself and other real estate agents that have been  
7 abused by the system. To the extent that my lawfully seeking to enforce my rights  
8 has caused those whom I believe to be wrong to incur attorney fees, that is just  
how the system operates. I too have incurred thousand in attorney fees and costs.  
It has caused me grief and humiliation beyond description to learn, so painfully,  
that the legal system requires one to suffer so much to obtain justice.

9 (Declaration of Betty Chan ¶ D, at pp.1-6 (dated Jan. 21, 2020) [hereinafter “Chan 3rd Decl.”  
10 and attached hereto as *Exhibit 15*]).

11 Defendants add: “On May 19, 2020, the Supreme Court of Nevada dismissed Ms.  
12 Chan’s appeal for lack of jurisdiction.” (2nd MSJ at p.6). The reason for the jurisdictional  
13 defect was this: not having counsel at the time, Ms. Chan filed the notice of appeal prematurely.  
14 (See Order Dismissing Appeal (entered May 14, 2020), *Chan, et al. v. Wu, et al.*, Case No.  
15 78666, Nevada Supreme Court [attached hereto as *Exhibit 17*]). The Supreme Court did not  
16 address the merits of the appeal, which it may do once this case proceeds to final judgment. (See  
17 *id.*).  
18

19 **C. Opposition To Defendants’ Motion For Summary Judgment.**

20 Defendants’ MSJ on their abuse-of-process claim fails. Contrary to Defendants’  
21 assertions, genuine issues of material fact are legion. Moreover, the summary judgment  
22 evidence shows that Plaintiffs have not abused process because they have had no ulterior purpose  
23 and have not engaged in any improper, willful act in the their use of the legal process. With  
24 respect to any alleged ulterior purpose, Defendants only proffer evidence that, at worst, shows a  
25  
26

27  
28 <sup>27</sup> Again, Defendants change their story. In their First MSJ, they state that they incurred only  
“thousands” in attorney fees; now they claim “tens of thousands.”



1 “bad intent,” which is insufficient for their claim. In fact, Plaintiffs have only fought to enforce  
2 their rights, and as a consequence, they have worked for the public good, especially for that of  
3 real estate agents. In terms of any supposed improper, willful acts, Plaintiffs have simply  
4 appealed the arbitration award through proper channels. Defendants have produced no evidence  
5 of any improper, willful act on Plaintiffs’ part. For the reasons discussed in Part II below, the  
6 Court should actually grant Plaintiffs summary judgment on Defendants’ counterclaim.

7  
8 (I) **Summary Judgment Standards**—*Defendants have failed to*  
9 *carry their burden of showing that there is no genuine dispute as*  
10 *to any material fact or that they are entitled to judgment as a*  
11 *matter of law*

12 Summary judgment standards are well established. “A party may move for summary  
13 judgment, identifying each claim or defense — or the part of each claim or defense — on which  
14 summary judgment is sought. The court shall grant summary judgment if the movant shows that  
15 there is no genuine dispute as to any material fact and the movant is entitled to judgment as a  
16 matter of law.” NRCP 56(a). “[A]dopt[ing] the standard employed [by the U.S. Supreme Court]  
17 in *Liberty Lobby, Celotex, and Matsushita*,” the Nevada Supreme Court held:

18 Summary judgment is appropriate under NRCP 56 when the pleadings,  
19 depositions, answers to interrogatories, admissions, and affidavits, if any, that are  
20 properly before the court demonstrate that no genuine issue of material fact exists,  
21 and the moving party is entitled to judgment as a matter of law. The substantive  
22 law controls which factual disputes are material and will preclude summary  
23 judgment; other factual disputes are irrelevant. A factual dispute is genuine when  
24 the evidence is such that a rational trier of fact could return a verdict for the  
25 nonmoving party.

26 *Wood v. Safeway, Inc.*, 121 Nev. 724, 731-732, 121 P.3d 1026, 1031 (2005) (footnotes omitted).  
27 “[T]he pleadings and other proof must be construed in a light most favorable to the nonmoving  
28 party.” *Id.*

Here, Defendants have failed to carry their burden of showing that there is no genuine  
dispute as to any material fact or that they are entitled to judgment as a matter of law. Thus, their  
countermotion fails.



1 (2) **No Abuse of Process**—*The Summary Judgment Evidence Shows*  
2 *that Plaintiffs Have Had No Ulterior Purpose and Have Not*  
3 *Engaged in Any Improper, Willful Act in the Their Use of the*  
4 *Legal Process.*

5 “[T]he elements of an abuse of process claim are: ‘(1) an ulterior purpose by the  
6 defendants other than resolving a legal dispute, and (2) a willful act in the use of the legal  
7 process not proper in the regular conduct of the proceeding.” *LaMantia v. Redisi*, 118 Nev. 27,  
8 30, 38 P.3d 877, 879 (2002). Defendants have failed to show that either of these elements are  
9 satisfied here.

10 (a) **No Ulterior Purpose**—*At worst, Defendants’ evidence*  
11 *shows a “bad intent,” which is insufficient for their claim.*  
12 *In fact, Plaintiffs have only fought to enforce their rights,*  
13 *and as a consequence, they have worked for the public*  
14 *good, especially for that of real estate agents.*

15 “[T]here is ‘no liability where the defendant has done nothing more than carry out the  
16 process to its authorized conclusion, even though with bad intentions.’” *Raphaelson v.*  
17 *Ashtonwood Stud Assocs., L.P.*, 2009 U.S. Dist. LEXIS 66517, \*8 (D. Nev. 2009) (quoting  
18 PROSSER ON TORTS, ABUSE OF PROCESS § 115, p. 877 (3rd ed.1964)). That is all Defendants  
19 allege here: bad intentions.

20 With respect to any alleged “ulterior purpose,” Defendants allege: “In her own words,  
21 [Chan] has admitted that she filed the lawsuit, not because of a valid legal dispute, but because  
22 she wanted to avenge her pride and teach the Defendants a lesson.” (2nd MSJ at p.9). This is  
23 utter nonsense. At worst, it evidences a “bad intention,” but as a matter of law, such an intention  
24 is not actionable. Moreover, Defendants take Chan’s words out of context, mispresent them as  
25 an email communication and threat to Defendants, and twist and contort them beyond reason in  
26 an attempt to get some traction with their abuse-of-process counterclaim. Chan explains:

27 This language [quoted by Defendants] is taken out of context and is falsely  
28 presented here as an email from me to Defendants. It is not. In fact, it is not even  
an email; neither is it a communication between Defendants and me. To the  
contrary, it was part of a series of text messages between me and Jana, an agent at



1 KB Homes.<sup>28</sup> Taking it all out of context and falsely presenting it here,  
2 Defendants are trying to twist this language into a threat coming from me to them.  
3 However, it was nothing more than my venting to a fellow agent. Interestingly,  
4 Jana responded in a text: “Yes ...thank you Betty. I know it’s frustrating. I’ve lost  
5 more than a few commissions that were due to me. So I understand.” Jana knew  
6 what I was saying and was completely sympathetic.

7 Moreover, it is just wrong to say that my desire was to punish Defendants. If they  
8 eventually lose, they will suffer financial and other repercussions, but that goes  
9 with every lawsuit. I am and have been well within my rights to seek the  
10 commission to which I believe I am rightly entitled. Even the language quoted by  
11 Defendants above only shows that, in tandem with seeking to enforce my rights, I  
12 am hoping to put an end to people’s taking advantage of other agents, as they did  
13 to me in this case (and Jana in others). It is a fact that I was cheated, and I am  
14 genuinely seeking redress for a wrong against me. In that connection, the law of  
15 Nevada can and should be clarified that there cannot be more than one procuring  
16 agent for any real estate sale. My fighting for my rights only works for the public  
17 good.

18 (Chan 3rd Decl. ¶ D, at pp.1-6).

19 In Nevada, “[c]ourts have found ulterior motives where a party brought a malpractice  
20 claim without any basis, in order to coerce the settlement of nuisance claim, and when a party  
21 attached a property in great excess of the debt in order to coerce payment.” *Georgiou Studio,*  
22 *Inc. v. Blvd. Invest, LLC*, 663 F. Supp. 2d 973, 982 D. Nev. 2009) (citing *Bull v. McCuskey*, 96  
23 Nev. 706, 709, 615 P.2d 957, 960 (1980), *overruled in part on other grounds by Ace Truck v.*  
24 *Kahn*, 103 Nev. 503, 746 P.2d 132 (1987); *Nevada Credit Rating Bur. v. Williams*, 88 Nev. 601,  
25 606, 503 P.2d 9, 12 (1972)). This is no such case. Ms. Chan has a basis for filing this suit: her  
26 claim to the real estate commissions and an appeal of the GLVAR arbitration award. Ms. Chan  
27 has not brought this action in attempt to coerce a settlement of an unrelated claim. Chan has not  
28 attached any property; even though the commissions are tied up in escrow, the sum of those  
commissions is that which to which the prevailing party would be entitled. Indeed, the GLVAR  
arbitration panel actually granted Ms. Chan a portion of the proceeds. Thus, there is no  
actionable “ulterior motive” here.

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<sup>28</sup> See Exhibit 16.



1 When Thurgood Marshall pressed forward with *Brown v. Board of Education*, the  
2 underlying disputes had actually resolved and the case could have been construed as moot.  
3 Nevertheless, Marshall pressed on because he wanted social justice. Was that an ulterior purpose  
4 giving rise to a claim for abuse of process? Under Defendants’ logic, it would be. The absurdity  
5 of this conclusion is obvious. No reasonable person would conclude that an actionable “ulterior  
6 purpose” results when one attempts to achieve social justice by enforcing their legal rights.

7  
8 Protecting fair real estate commissions may not be as socially seismic as eradicating *de*  
9 *jure* and *de facto* racial injustice. However, in the world of real estate, such commissions  
10 matter—and they impact upon agents’ very livelihood. That is no small consequence. In this  
11 regard, by seeking to enforce her rights, Chan is also working for the “public good.” (Chan 3rd  
12 Decl. ¶ D, at pp.1-6). That is not actionable abuse of process by any stretch of the imagination.

13 (b) No Improper, Willful Act—*In accordance with law,*  
14 *Plaintiffs have simply appealed the arbitration award*  
15 *through proper channels; Defendants have produced no*  
16 *evidence of any improper, willful act on Plaintiffs’ part in*  
*their use of the legal process.*

17 “[F]iling a complaint does not constitute abuse of process.” *Land Baron Invs., Inc. v.*  
18 *Bonnie Springs Family Ltd. P’ship*, 131 Nev. 686, 698, 356 P.3d 511, 520 (2015). That is all  
19 Ms. Chan has done here. Defendants may not like that, but it is safe to assume that no defendant  
20 in any lawsuit likes the fact that they have been sued. Defendants have presented no evidence of  
21 any “willful act in the use of the legal process not proper in the regular conduct of the  
22 proceeding”—*None*. Yes, Plaintiffs have challenged the arbitration award, but that has not been  
23 improper. As Chan explains, “the Agreement, the Arbitrator’s Award, and the law all allowed  
24 [Plaintiffs] to challenge the award.”<sup>29</sup> (Chan 3rd Decl. ¶ D, at p.4). Defendants have not cited  
25 any authority or produced any evidence to the contrary. Moreover, Chan has “not violated or  
26  
27

28  

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<sup>29</sup> See also 2nd MSJ ex.1.



1 refused to abide by the arbitrators’ decision or the Court’s rulings.” (Chan 3rd Decl. ¶ D, at p.5).  
2 “Rather, in accordance with law, [she] ha[s] appealed the matters through proper channels. [She]  
3 ha[s] been well within [her] rights to do this.... [T]his is the way the American legal system  
4 works.” (*Id.*).

5 In addition, for an abuse-of-process claim to stand, “[t]he utilized process must be  
6 judicial, as the tort protects the integrity of the court.” *Land Baron*, 131 Nev. at 698, 356 P.3d at  
7 519. Thus, to the extent Defendants are raising anything that happened in the GLVAR  
8 proceeding—or seek any damages related thereto (such as attorney fees)—their claim must fail.  
9

10  
11 In short, Plaintiffs have never had any ulterior purpose; their motives have been pure.  
12 Defendants arguments to the contrary are false manipulations of communications taken out of  
13 context. Moreover, Plaintiffs have not committed any willful act not proper in the regular course  
14 of any proceeding. Defendants have produced no evidence to the contrary. It thus follows that  
15 Defendants’ abuse-of-process counterclaim must fail, and that the Court should deny their  
16 summary judgment on that claim.  
17

18 **D. Opposition To Defendants’ Motion For Award Of Attorney’s Fees.**

19 Although they title their motion as one for “contractual award of attorney’s fees,”  
20 Defendants argue that they should be awarded attorney fees under EDCR 7.60(b) because, in  
21 Defendants’ view, by exercising their constitutional right to petition the courts for review of the  
22 arbitration award, Plaintiffs acted ““without just cause,”” presented ““frivolous”” motions or  
23 oppositions, and ““unreasonably and vexatiously”” increased costs by multiplying the  
24 proceedings. (2nd MSJ at p.10). Nevertheless, they do not present a single example of how this  
25 was so.  
26

27 Defendants also seek attorney fees based upon the Agreement to Arbitrate. (2nd MSJ at  
28 p.11). To this end, they argue: “Defendants have incurred \$110,625.85 in fees trying to collect



1 the funds held by the GLVAR,” (2nd MSJ at p.11). However, in the same breath, Defendants  
2 concede that in connection with that Agreement, “[t]his Court [already] awarded \$21,435.00 in  
3 fees and \$920.83 in costs in [its] March 22, 2019 Order.” (2nd MSJ at p.11). Thus, by their own  
4 admission, they have already been compensated for any fees and costs due under the Agreement.  
5 Apart from raising the additional fees and costs they claim for the appeal (\$35,034.58),  
6 Defendants offer no explanation whatsoever as to how they could even conceivably be entitled to  
7 an additional \$88,270.02 in fees. (See 2nd MSJ at p.11). Per the Agreement, they may not  
8 recover for any attorney fees they incurred in the arbitration proceeding. Defendants attach  
9 nothing to their Motion to support such an exorbitant sum – no invoices, timesheets, receipts, or  
10 anything at all. Thus, they are entitled to no such award.

12 In addition, Defendant have no right under the Agreement under EDCR 7.60(b) for an  
13 award of attorney fees relative to their abuse of process claim, which Defendants’ present motion  
14 and earlier permutations have brought before this Court. Defendants also fail to show exactly  
15 how what amount, if any, would be their damages for abuse of process.

17 With respect to the \$35,034.58 they claim to have incurred “trying to combat Ms. Chan’s  
18 appeal,” they also offer no supporting evidence. More importantly, the Supreme Court has  
19 already denied Defendants an award of fees on appeal. Specifically, in the Supreme Court,  
20 Defendants filed an identical motion for an identical sum of fees. (S. Ct. Reply at p.14). *The*  
21 *Supreme Court made short shrift of that motion, holding that Defendants “request for attorney*  
22 *fees incurred on appeal is denied.”* (See Exhibit 17 at p.4 n.4 (emphasis added)). That decision  
23 is dispositive and is the law of the case. See *Tien Fu Hsu v. County of Clark*, 123 Nev. 625, 629,  
24 173 P.3d 724, 728 (Nev. 2007) (“The doctrine of the law of the case provides that the law or  
25 *ruling of a first appeal must be followed* in all subsequent proceedings, both in the lower court  
26 and on any later appeal.”). Defendants may not now try to resurrect the issue in this Court.  
27  
28



1                                   **E.      Opposition To Defendants’ Motion For Writ Of Execution On**  
2                                   **Plaintiff’s Commissions Awarded By GLVAR Arbitration Panel.**

3                   This Court has already stayed execution. (Order On Plaintiffs Motion To Stay Execution  
4 Pending Appeal (entered May 1, 2019)). Moreover, the Supreme Court long ago explained:  
5 “Execution will not ordinarily issue except to enforce a final judgment.” *Kapp v. Seventh*  
6 *Judicial Dist. Court*, 32 Nev. 264, 267-268, 107 P. 95, 95-96 (1910). This is still good law. *See,*  
7 *e.g., Redding & Co. v. Russwine Constr. Corp.*, 417 F.2d 721, 727 (D.C. Cir. 1969) (“An  
8 execution ordinarily may issue only upon a final judgment.” (citing *Kapp*); *United States v.*  
9 *Hansel*, 182 F.R.D. 7, 9 (N.D.N.Y. 1998) (“The Government cannot take any enforcement action  
10 until a final judgment has been entered.”).

11                   In the Supreme Court, Defendants argued that “the March 22, 2019 Order is not a final  
12 order and cannot be appealed.” (Reply to Plaintiffs-Appellants Response to Order to Show  
13 Cause Entered March 9, 2020 at p.9 (filed Apr. 29, 2020) [attached hereto as ***Exhibit 18***]). The  
14 Supreme Court agreed. (*See Exhibit 17* at p.2). That is the law of the case, and Defendants may  
15 not change their position now. *See Hsu*, 123 Nev. at 629, 173 P.3d at 728. Because there is no  
16 final order or judgment, Defendants may not execute.

17                   Even if the March 22, 2019 Order were final, Plaintiffs have already a posted a  
18 \$33,533.75 supersedeas bond. (Plaintiffs Notice Of Posting Supersedeas Bond (filed May 7,  
19 2020)). That sum is far in excess of the sums awarded by the Court: attorney fees of \$21,435.00  
20 and costs of \$920.83. (Order Granting Defendants Countermotion for Summary Judgment and  
21 Attorneys Fees and Costs (filed Mar. 22, 2019)). Moreover, in escrow, there are still \$3,448.83  
22 in commissions owed to Ms. Chan, which have yet to be distributed. Altogether, Defendants  
23 have security just shy of \$37,000.00, or around 170% of their actual award.

24                   Defendants admit that “[t]he purpose of a supersedeas bond is to protect the prevailing  
25 party from loss resulting from a stay of execution of the judgment.” (2nd MSJ at p.15 (quoting  
26  
27  
28



1 *McCulloch v. Jenkins*, 99 Nev. 122 (1983)). Security of around 170% of the judgment more than  
2 adequately protects Defendants. They offer no evidence to the contrary. Thus, execution should  
3 not issue.

4 **F. Opposition To Defendants’ Motion For Release Of Supersedeas Bond.**

5 “A court may stay the enforcement of a final judgment entered under Rule 54(b) [relating  
6 to judgment on multiple claims] until it enters a later judgment or judgments, and may prescribe  
7 terms necessary to secure the benefit of the stayed judgment for the party in whose favor it was  
8 entered.” NRCP 62(h). Here, the Court has ruled upon Defendants’ counterclaim for attorney  
9 fees and costs. Their only remaining counterclaim is the one for alleged abuse of process. Thus,  
10 under NRCP 62(h), the Court may continue to stay the execution of the March 22, 2019 Order.

12 As mentioned, for their protection, Defendants already have security of around 170% of  
13 their award. Thus, under NRCP, 62(h), the Court has already prescribed, and Plaintiffs have  
14 already met, terms that “secure the benefit” of Defendants’ award. Furthermore, the Court is  
15 aware that once all of the claims in this matter are adjudicated, Plaintiffs may appeal this case  
16 pursuant to NRS 38.247(1)(f) (providing that, upon a final judgment, an appeal may be taken of  
17 a decision to affirm an arbitration award) and NRAP 4(a)(5) (allowing generally for appeals of  
18 final judgments). Because this action will be properly appealed then, the supersedeas bond  
19 should not be released to Defendants at this time. *See* NRCP 62(d)(1) (“If an appeal is taken, the  
20 appellant may obtain a stay by supersedeas bond ....”).

22 **II. PLAINTIFFS’ COUNTERMOTION FOR SUMMARY JUDGMENT.**

23 As discussed in Part I.C above, as a matter of law, Defendants have insufficient evidence  
24 of an “ulterior motive” and no evidence whatsoever that Ms. Chan improperly used the legal  
25 system. She has only exercised her constitutional rights; there is nothing wrong with that.  
26 Accordingly, Defendants’ counterclaim for abuse of process fails, and the Court should grant  
27 Plaintiffs summary judgment on that claim.  
28



1                   **III.     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 deny Defendants’ Motion For Summary Judgment, Or In The Alternative, For  
6                               Contractual Award Of Attorney’s Fees, For Writ Of Execution On Plaintiff’s  
7                               Commissions Awarded By GLVAR Arbitration Panel And Release Of Bond  
8                               Deposited On Appeal;  
9  
10                  2.       to grant Plaintiffs’ Countermotion For Summary Judgment On Defendants’  
11                               Abuse-Of-Process Counterclaim; and  
12                  3.       to grant Plaintiffs all such other and further relief to which they justly deserve at  
13                               law or in equity.

14                  DATED: July 7, 2020.

15  
16                               **FRIZELL LAW FIRM**  
17                               400 N. Stephanie St., Ste. 265  
18                               Henderson, Nevada 89014  
19                               Telephone (702) 657-6000  
20                               Facsimile (702) 657-0065

21                               By: /s/ R. Duane Frizell  
22                               **R. DUANE FRIZELL, ESQ.**  
23                               Nevada Bar. No 9807  
24                               [dfrizell@frizelllaw.com](mailto:dfrizell@frizelllaw.com)  
25                               Attorney for Plaintiffs/  
26                               Counter-Defendants  
27  
28



**CERTIFICATE OF SERVICE**

I certify that on July 7, 2020, I caused the foregoing ***PLAINTIFFS' OPPOSITION TO DEFENDANTS' 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***, 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.**

*Attorney for Plaintiffs/*

*Counter-Defendant*



## EXHIBITS

- |    |   |
|----|---|
| 1  |   |
| 2  | Exhibit 1      Order Granting Defendants Countermotion for Summary Judgment and Attorney      |
| 3  | Fees and Costs (filed Mar. 22, 2019)  |
| 4  | ["MSJ Order"]   |
| 5  |   |
| 6  | Exhibit 2      Motion to Vacate Entry of Order or Motion for Extension of Time to File        |
| 7  | Reconsideration to the Entry of Order Granting Defendants Counter Motion for                  |
| 8  | Summary Judgment and Attorney Fees and Costs (filed Apr. 1, 2019)                             |
| 9  | ["Motion for Reconsideration"]  |
| 10 |   |
| 11 | Exhibit 3      Register of Actions (dated Jan. 7, 2020)                                       |
| 12 |   |
| 13 | Exhibit 4      Minute Order (dated Apr. 1, 2019)  |
| 14 |   |
| 15 | Exhibit 5      Notice of Appeal (dated Apr. 22, 2019)   |
| 16 |   |
| 17 | Exhibit 6      Order on Plaintiff's Motion to Stay Execution Pending Appeal (filed May 1,     |
| 18 | 2019)   |
| 19 |   |
| 20 | Exhibit 7      Plaintiffs' Notice of Posting Supersedeas Bond (filed May 7, 2019)             |
| 21 |   |
| 22 | Exhibit 8      Supreme Court's Order to Show Cause (filed Nov. 14, 2019)                      |
| 23 | ["OSC"]   |
| 24 |   |
| 25 | Exhibit 9      Plaintiffs-Appellants' Response to Order to Show Cause (filed in Supreme Court |
| 26 | Dec. 16, 2019) (text only without exhibits)   |
| 27 |   |
| 28 | Exhibit 10      Emails between counsel (Nov. 20, 2019 to Dec. 16, 2019)                       |
|    |   |
|    | 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]                               |
|    |   |
|    | Exhibit 12      Transcript (Oct. 31, 2018) [excerpts]   |
|    |   |
|    | Exhibit 13      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 (dated Feb. 14, 2017)                              |
|    | ["Chan 1st Decl."]  |
|    |   |
|    | Exhibit 14      Supplemental Declaration of Betty Chan (dated Aug. 15, 2018)                  |
|    | ["Chan 2nd Decl."]  |
|    |   |
|    | Exhibit 15      Declaration of Betty Chan (dated Jan. 21, 2020)                               |
|    | ["Chan 3rd Decl."]  |
|    |   |
|    | Exhibit 16      Text messages between Chan and Jana, an agent at KB Homes                     |



1	Exhibit 17	Order Dismissing Appeal (entered May 14, 2020), <i>Chan, et al. v. Wu, et al.</i> , Case No. 78666, Nevada Supreme Court.
2		
3	Exhibit 18	Defendants' Reply to Plaintiffs-Appellants Response to Order to Show Cause Entered March 9, 2020 at p.9 (filed Apr. 20, 2020) (exhibits omitted).
4		
5	Exhibit 19	Email from Betty Chan to GLVAR giving notice of intent to appeal arbitration award (dated May 17, 2018).
6		
7	Exhibit 20	Email from Betty Chan to GLVAR requesting arbitration (dated June 11, 2016).
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# **EXHIBIT 1**

# **EXHIBIT 1**



*Steven D. Grierson*

**ORDR**

MICHAEL A. OLSEN, ESQ.

Nevada Bar No: 6076

THOMAS R. GROVER, ESQ.

Nevada Bar No. 12387

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*Attorneys for Defendants/Counterclaimants*

*Wayne Wu, Judith Sullivan, Nevada*

*Real Estate Corp. and Jerrin Chiu*

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

BETTY CHAN and ASIAN AMERICAN  
REALTY & PROPERTY MANAGEMENT,

Plaintiffs/Counterdefendants,  
v.

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

Defendants/Counterclaimants.

) Case No: A-16-744109-C

) 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 Counter-motion  
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.  
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**IT IS HEREBY ORDERED, AJUDICATED, AND DECREED:**

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

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

  
DISTRICT COURT JUDGE SS  
ERIC JOHNSON

Prepared and submitted by:

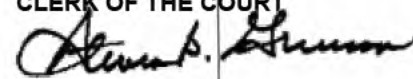
  
MICHAEL A. OLSEN, ESQ.  
Nevada Bar No. 6076  
THOMAS R. GROVER, ESQ.  
Nevada Bar No. 12387  
**GOODSELL & OLSEN, LLP**  
*Attorneys for Wayne Wu, Judith Sullivan,  
Nevada Real Estate Corp. and Jerrin Chiu*



# **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 Defendant's Counsel as  
illustrated in the Order there is no reason he would not know that Plaintiff should be informed.

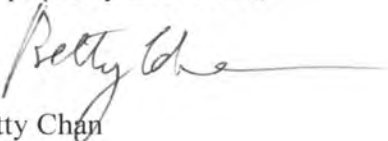
If that was not an intentional misconduct, then what else?



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,  
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Betty Chan  
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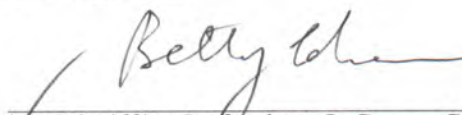


**CERTIFICATE OF MAILING**

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 \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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**



# R. .... 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**

### 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> <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)



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.

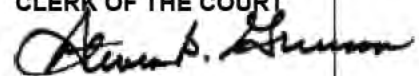
RECEIVED  
APR 22 2019  
CLERK OF THE COURT



# **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



# **EXHIBIT 7**

# **EXHIBIT 7**



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



# **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 90006437

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

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\*\*\*

Authorized Signature

058 20 3559

5 Appx 001154



# 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**



# **EXHIBIT 8**

# **EXHIBIT 8**



IN THE SUPREME COURT OF THE STATE OF NEVADA

BETTY CHAN; AND ASIAN  
AMERICAN REALTY & PROPERTY  
MANAGEMENT,

Appellants,

vs.

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

Respondents.

No. 78666

**FILED**

NOV 14 2019

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY S. Young  
DEPUTY CLERK

*ORDER TO SHOW CAUSE*

This is an appeal from a district court order granting a motion for summary judgment and awarding attorney fees and costs. Initial review of the docketing statement and documents before this court reveals a potential jurisdictional defect. It appears that the notice of appeal may have been prematurely filed after the filing of a timely tolling motion for reconsideration on April 1, 2019, but before that motion was formally resolved by the district court. *See* NRAP 4(a)(4), 4(a)(6); *AA Primo Builders, LLC, v. Washington*, 126 Nev. 578, 585, 245 P.3d 1190, 1195 (2010) (explaining when a post-judgment motion carries tolling effect).

Accordingly, appellants shall have 30 days from the date of this order to show cause why this appeal should not be dismissed for lack of jurisdiction. This court notes that any jurisdictional defect may be cured by providing this court with a copy of a written, file-stamped order resolving the April 1, 2019, motion. Respondents may file any reply within 14 days of service of appellants' response. Failure to demonstrate that this court has jurisdiction may result in the dismissal of this appeal.



The deadlines to file documents in this appeal are suspended pending further order of this court.

It is so ORDERED.

 C.J.

cc: Frizell Law Firm, PLLC  
Wood, Smith, Henning & Berman, LLP/Las Vegas  
Blackrock Legal, LLC