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Elizabeth A. Brown
Clerk of Supreme Court

DISTRICT COURT

CLARK COUNTY, NEVADA

<p>✓ GORODEZKI, an individual, Plaintiff,</p> <p>ART SACKLEY, an individual; GLAS DaSilva, an individual; SACKLEY FAMILY TRUST, STUART SACKLEY AS TRUSTEE, a trust; NATIONAL TITLE CO., a Nevada corporation and DOES 1 through 100, and DOES 1 through 100, inclusive, Defendants.</p>	<p>Case No.: A-12-663960-C Dept. No.: XXX</p>
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CASE APPEAL STATEMENT

Petitioner, SACKLEY FAMILY TRUST, STUART SACKLEY AS TRUSTEE, by and through its attorney Spencer M. Judd, Esq., hereby submit the following Case Appeal Statement:

1. Name of the judge who entered the order or judgment being appealed:

The Honorable Kenneth C. Cory, Eighth Judicial District Court, Department I.
2. The name of each Appellant and the name and address of counsel for each Appellant:

SACKLEY FAMILY TRUST
Spencer M. Judd, Esq.
325 So. 3rd St., #5
Las Vegas, NV 89101
Telephone: (702) 606-4357
3. The name of each Respondent and the name and address of appellate counsel, if known, for each Respondent, but if the name of a Respondent's appellate counsel is not known, then the name and address of Respondent's trial counsel:

ILAN GORODEZKI
Becky A. Pintar, Esq.
Pintar & Albiston
6053 S. Fort Apache Rd., Suite 120
Las Vegas, NV 89148

4. Whether any attorney identified in response to subparagraph (3) is not licensed to practice law in Nevada, and if so, whether the District Court granted that attorney permission to appear under SCR 42, including a copy of any District Court order granting permission:

No.

5. Whether Appellant was represented by appointed counsel in the District Court, and whether Appellant is represented by appointed counsel on appeal:

Retained counsel.

6. Whether the District Court granted the Appellant leave to proceed in forma pauperis, and if so, the date of the District Court's order granting that leave:

No.

7. The date that the proceeding commenced in the District Court:

June 21, 2012.

8. A brief description of the nature of the action and the result in District Court, including the type of judgment or order being appealed and the relief granted by the District Court.

Plaintiff, the Sackley Family Trust (hereinafter, the "Trust" or "Plaintiff") acquired the property commonly known as the Tod Motor Motel, located at 1508 Las Vegas Boulevard South (hereinafter, the "Subject Property") by purchasing Subject Property through from different owners of various fractional interests, and at different times. Prior to the events that gave rise to the instant Complaint and Counterclaim, the Subject Property had been owned by various parties and was subject to one or more Trust Deeds. Clayton Mortgage, a mortgage broker on behalf of a group of investors holding ownership interests in a Trust Deed foreclosed on the Subject Property and transferred ownership to those fractional interest owners. Some of the owners agreed to create a limited liability company ("LLC"), LV BLVD Casino FF 370, LLC (hereinafter "LV BLVD") to hold their ownership interests of the Subject Property. Other fractional owners declined to transfer their interests in the Real Property to LV BLVD and instead held their fractional interests in their own proper names as tenants in common.

On or about March 24, 2011, Plaintiff executed a Purchase and Sale Agreement with LV BLVD, a fractional owner of the Subject Property (hereinafter "Purchase Agreement"). The Purchase Agreement offered by Plaintiff, contained the following

1 language in paragraph 1.1 of Section 1: "The Agreement is not binding until final
2 execution by Buyer and Seller. The Date of the Agreement shall be that date the final
3 signer signs the Agreement." Plaintiff, during the bench trial, produced the Agreement
4 with the signature of the managing member of LV BLVD that purported to sell 100%
5 of the property to Plaintiff. It was not signed by the other tenants in common, who each
6 individually owned a fractional interest in the Subject Property.

7
8 Between March 24, 2011 and June 29, 2011 Plaintiff and LV BLVD executed the three
9 amendments to the Purchase and Sale Agreement. Each of the three Amendments were
10 executed by Plaintiff and LV BLVD. None of the three Amendments were not signed
11 by any of the tenants in common.

12
13 Three tenants in common, who were not a part of LV BLVD, realizing that the purchase
14 agreement would not be finalized, contacted Defendant to inquire as to his interest in
15 purchasing their tenant in common interests in the Subject Property. The Trust
16 purchased their three tenants in common interests on or about July 1, 2011.

17
18 Shortly after the Defendants acquired the tenant in common interest the Trust made an
19 offer to purchase the remaining ownership interests in the Subject Property from LV
20 BLVD. LV BLVD refused to consider the offer, but did state that it would consider
21 Defendants' offer as a backup offer.

22
23 On July 11, 2011, the Trust filed suit against LV BLVD in the Eighth Judicial District
24 Court, Case #A-11-644772-C. In its Complaint, the Trust alleged that LV BLVD had
25 refused to consider more viable offers to purchase the property and instead attempted to
26 coerce members of the LLC to approve Plaintiff's "offer" and petitioned the Court to
27 appoint a receiver. The Trust also recorded a lis pendens in that proceeding. Plaintiff
28 filed with the Court on August 15, 2011 a supplement to a Counterclaim and Motion it
had filed on August 8, 2011. It attached to that August 15, 2011 filing a Fourth
Amendment to Purchase and Sale Agreement which was signed on August 15, 2011
representing its effective date as July 7, 2011; however, it references the July 11 lawsuit
filed by the Trust, and the lis pendens recorded by the trust on July 13, 2011. Further, it
limits the amount to be purchased to ONLY that amount owned by LV BL VD, and did
not purport to be an offer for that tenant in common portion then owned by the Trust.

The Fourth Amendment to Purchase and Sale Agreement was drafted **after** the date that
it was purportedly executed. On the bottom of page 4 of said amendment, it is identified
that the amendment was drafted on 8-15-11, but Paragraph I of Page 1 has the following
language - "entered into effective as of July 7, 2011."

LV BLVD entered into a Settlement Agreement with the Trust and agreed to sell the
LLC's interest in the Subject Property to the Trust as part of the settlement. The purchase
price agreed upon was \$1,400,000.00. Plaintiff did not join in the settlement. Rather, on
or about October 14, 2011, Plaintiff filed a separate lawsuit in the Eighth Judicial
District Court, Case #A-11-649986-C, wherein he sued for, among other things,
"Specific Performance." A lis pendens was recorded by Plaintiff in conjunction with
that case. The Court consolidated cases A644772 and A649986.

1 The Court eventually appointed a receiver to "conserve, preserve, protect, and
2 administer the real property." LV BLVD filed for Chapter 11 bankruptcy protection
3 (Nevada Bankruptcy Court case number 12-14838-bam) - due in part to the competing
4 claims of the Trust and Plaintiff. As a part of the bankruptcy, LV BLVD obtained an
5 Order granting authority to sell the Subject Property, including its interest and the
6 interest of Defendants. A "Stalking Horse Bid" by Plaintiff was approved by the
7 Bankruptcy Court to begin bidding at \$1,700,000.00. The Trust, which had a first right
8 of refusal due to its tenant in common ownership interest, and after a bidding war with
9 Plaintiff, made the high bid for \$2,100,000.00, some \$700,000.00 more than the price
10 the LLC had agreed to in its settlement with the Trust.

11 The Honorable Judge Jerry A. Wiese II, Eighth Judicial District Court Judge, presided
12 over this case initially. He considered a Motion for Summary Judgment brought by
13 Defendants and made a finding, on August 11, 2014, that no binding contract existed
14 between all of the parties as a result of the "Purchase Agreement" and that the original
15 Purchase Agreement was not valid. The Court, at that time, found that the only possible
16 contract giving Plaintiff an interest in the Subject Property was the Fourth Amendment
17 to Purchase and Sale Agreement. "

18 The case was subsequently transferred to Department 1, and the trial in this matter was
19 presided over by the Honorable Kenneth Cory. The Court found that the Fourth
20 Amendment, which was the only "Contract" at issue at trial, was not valid or enforceable
21 because it could not stand alone as an independent contract and was never effective as
22 such.

23 The Court further found that NRS 6458.340 could not have been used to force other
24 tenants in common to sell their interest in the Subject Property, as not all owners were
25 natural people, as required by the 2009 version of the statute. Additionally, the operative
26 2009 version of NRS 6458.340 required that any action taken under the statute be in
27 writing; the evidence is devoid of any writing that purports to invoke the powers of the
28 statute.

The Court found that there was no evidence in the record that any party ever
contemplated using NRS 645B.340 prior to the instant lawsuit.

The Court also held that, as tenants in common, the Defendants were legally justified in
attempting to protect their position from being sold to Plaintiff.

9. Whether the case has previously been the subject of an appeal to or original writ

proceedings in the Supreme Court and, if so, the caption and Supreme Court docket number of the prior proceeding:

Yes.

STUART SACKLEY, AN INDIVIDUAL; AND
SACKLEY FAMILY TRUST, STUART
SACKLEY AS TRUSTEE, A TRUST,
Appellants,

Supreme Court No. 72777
District Court Case No. A663960

vs.

ILAN GORODEZKI, AN INDIVIDUAL,
Respondent.

10. Whether the appeal involves child custody or visitation:

No.

11. Whether the appeal involves the possibility of settlement:

Unknown.

DATED this 25th day of January, 2022.

/s/ Spencer M. Judd

SPENCER M. JUDD, ESQ.

Nevada Bar No. 10095

325 South 3rd Street, #5

Las Vegas, Nevada 89101

Telephone: (702) 606-4357

Attorneys for Defendants/Counterclaimants

1
2 **CERTIFICATE OF SERVICE**
3

4 I HEREBY CERTIFY that I on the 25th day of January, 2022, I served a true and correct copy of the
5 NOTICE OF APPEAL by:

6 [X] Electronic Filing and Service pursuant to NEFR 9; and
7

8 [X] mailing by depositing with the U.S. Mail in Las Vegas, Nevada, enclosed in a sealed envelope
9 with first class postage prepaid, addressed as follows:

10 Becky A. Pintar, Esq.
11 Pintar & Albiston
12 6053 S. Fort Apache Rd., Suite 120
13 Las Vegas, NV 89148

14 /s/ Spencer M. Judd
15 SPENCER M. JUDD, ESQ.
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