

IN THE SUPREME COURT OF THE STATE OF NEVADA

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Elizabeth A. Brown
Clerk of Supreme Court

HOME WARRANTY
ADMINISTRATOR OF
NEVADA, INC. dba CHOICE
HOME WARRANTY, a Nevada
corporation,

Appellant(s),

v.

STATE OF NEVADA,
DEPARTMENT OF BUSINESS
AND INDUSTRY, DIVISION OF
INSURANCE, a Nevada
Administrative agency,

Respondent(s).

Case No. 80218

First Judicial District Court
No. 17 OC 00269 1B

**DIVISION'S REPLY TO HWAN'S OPPOSITION TO
DIVISION'S MOTION TO STRIKE HWAN'S REPLY IN
SUPPORT OF EMERGENCY MOTION UNDER NRAP
27(e)**

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State of Nevada, Department of Business and Industry, Division of Insurance (“Division”), through its counsel, Nevada Attorney General, AARON D. FORD; Senior Deputy Attorney General, JOANNA N. GRIGORIEV and Deputy Attorney General, RICHARD P. YIEN, hereby file this Reply to Appellant Home Warranty Administrator of Nevada Inc.’s (“HWAN”) Opposition to Division’s Motion to Strike HWAN’s Reply in Support of Emergency Motion Under NRAP 27(e).

MEMORANDUM OF POINTS AND AUTHORITIES

I. ARGUMENT

The Order on Emergency Motion issued by this Court on December 23, 2019 as a result of HWAN’s Emergency Motion Under NRAP 27 (e) provides in pertinent part:

The district court is in a better position to evaluate the merits of a request for stay . . . ; see also NRAP 8(a)(2)(A)(ii) (a motion for relief in this court should demonstrate that the district court has denied a stay and the reasons therefor). Accordingly, while expressing no opinion on the propriety of a stay pending appeal, *we temporarily stay enforcement of the district court’s order pending a decision on the district court stay motion and further order of this court.* Appellant shall have 5 days from the date that the district court rules on its stay motion *to provide a status report* to this court.

(See Order on Emergency Motion, 1-2) (emphasis added). Pursuant to said order, what had remained pending after December 23, 2019, was (1) the district court's ruling on HWAN's Motion for Stay, (2) the report thereof by HWAN to this Court, and (3) "further order of this court." After the issuance of the Order on Emergency Motion, there was no motion pending before the Court.

The district court has since issued its ruling denying HWAN's Motion for Stay pending appeal, and HWAN has filed a report thereof to this Court. Before the Court had an opportunity to issue a further order, as provided in the Order on Emergency Motion, however, HWAN filed a "Reply in Support of the Emergency Motion Under NRAP 27(e)," – a fugitive pleading, as there was no motion pending before the Court, and one in violation of NRAP 27 (a) (4), as set forth in the Division's Motion to Strike. Said pleading should be stricken, along with the irrelevant matters and misrepresentations that HWAN attempts to improperly bring before the Court.

The Division also respectfully requests that the Court remove the temporary stay to give effect to the district court's PJR Order affirming (as modified) the Administrative Decision. The district court's ruling on

the motion for stay is correct as a matter of law, and does not constitute abuse of discretion.

II. CONCLUSION

For the reasons set forth above, the Division respectfully requests that the Court grant its Motion to Strike and remove the temporary stay.

DATED: January 29, 2020.

AARON FORD
Attorney General

By: /s/ Joanna N. Grigoriev
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CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing with the Clerk of the Court for the Nevada Supreme Court by using the appellate CM/ECF system on January 29, 2020.

Participants in the case are registered CM/ECF users and will be served by the appellate CM/ECF system.

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/s/ Marilyn Millam
an employee of the Office of the Attorney
General