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Attorney for Plaintiffs  
ROBERT G. REYNOLDS and  
DIAMANTI FINE JEWELERS, LLC

## CLARK COUNTY, NEVADA

///

I.

**PARTIES AND JURISDICTION**

1. Plaintiff Robert G. Reynolds (hereinafter "Reynolds") is an individual residing in Clark County, Nevada. Plaintiff Reynolds is over the age of 60 years old. Plaintiff Reynolds is also the Organizer and Manager of Plaintiff Diamanti Fine Jewelers, LLC.

2. Plaintiff Diamanti Fine Jewelers, LLC (hereinafter "Diamanti"), is a Nevada LLC licensed and doing business in Las Vegas, Clark County, Nevada.

3. Defendant Raffi Tufenkjian (hereinafter "Tufenkjian") is an individual residing in Clark County, Nevada. Defendant Tufenkjian is the Manager of Defendant Luxury Holdings LV, LLC.

4. Defendant Luxury Holdings LV, LLC (hereinafter "Luxury Holdings") is a Nevada LLC formerly doing business in Clark County, Nevada as Diamanti Fine Jewelers.

5. Defendant Great Wash Park, LLC ("Tivoli Village") is a Nevada LLC doing business in Clark County, Nevada as Tivoli Village.

6. Defendant DOES 1-5 and ROE CORPORATIONS 1-5 are fictitious names referring to individuals and entities who managed, controlled, or directed Defendant Tufenkjian and/or Defendant Luxury Holdings at the time of the events set forth in this Complaint. Plaintiffs will request leave of this Court to amend the Complaint to substitute the true names of these unknown parties when their true names and identities become known.

7. Defendant DOES 6-10 and ROE CORPORATIONS 6-10 are fictitious names referring to individuals and entities who caused or contributed to the damages suffered and incurred by Plaintiffs at the time of the events set forth in this Complaint. Plaintiffs will request leave of this

1 Court to amend the Complaint to substitute the true names of these unknown parties when their  
2 true names and identities become known.

3  
4 8. This Court has jurisdiction to hear and rule on the dispute set forth in this Complaint.

5 9. This Court is the proper venue for the dispute set forth in this Complaint.

6  
7 II.

8 **COMMON FACTUAL ALLEGATIONS**

9 **A. Plaintiff Robert Reynolds' Contingent Offer to Purchase and His Due Diligence**

10 10. On or about November 19, 2014, Defendant Tufenkjian and Defendant Luxury  
11 Holdings prepared a Business Opportunity Summary describing the value of Diamanti Fine Jewelers  
12 (hereinafter "the business"), including but not limited to a list of assets, financial statements, and  
13 financial projections.  
14

15 11. From November 19, 2014, through January 12, 2015, Defendant Tufenkjian and  
16 Defendant Luxury Holdings marketed the business for sale, intending that prospective purchasers  
17 would review and rely on their representations concerning the value of the business.  
18

19 12. On or about January 12, 2015, Plaintiff Reynolds reviewed the representations made  
20 by Defendant Tufenkjian and Defendant Luxury Holdings concerning the value of the business.  
21

22 13. On or about January 13, 2015, Plaintiff Reynolds relied on the business value  
23 representations in deciding to make a contingent offer to purchase the business.

24 14. On or about February 22, 2015, Defendant Tufenkjian added approximately 10% to  
25 the cost of inventory listed in the business' computer system.  
26

27 ///

28 ///

1           15.     From January 13, 2015 through March 24, 2015, Plaintiff Reynolds conducted and  
2 performed further due diligence relating to the value of the business, including but not limited to  
3 the business' taxable revenue, non-taxable revenue, assets, inventory, and customers.  
4

5           16.     At all times during Plaintiff Reynolds' due diligence, Defendant Tufenkjian, as the  
6 Manager of Defendant Luxury Holdings, had actual knowledge of the business' true and accurate  
7 taxable revenue, non-taxable revenue, assets, inventory, and customers.  
8

9           17.     During Plaintiff Reynolds' due diligence, Defendant Tufenkjian provided Plaintiff  
10 Reynolds with compilation reports, Nevada Sales Tax Returns, and other documents supporting the  
11 valuation of the business represented by Defendant Tufenkjian and Defendant Luxury Holdings.  
12

13           18.     During Plaintiff Reynolds' due diligence, Defendant Tufenkjian withheld and refused  
14 to provide Plaintiff Reynolds with original financial statements from Defendant Luxury Holdings,  
15 but assured Plaintiff Reynolds that the representations concerning the value of the business were  
16 true and accurate.  
17

18           19.     During Plaintiff Reynolds' due diligence, Defendant Tufenkjian and Defendant Luxury  
19 Holdings represented that, in 2014, the business had taxable revenue of \$496,368.76 from jewelry  
20 sales and had non-taxable revenue of \$251,017.96 from jewelry repairs and non-taxable jewelry  
21 sales.  
22

23           20.     During Plaintiff Reynolds' due diligence, Defendant Tufenkjian and Defendant Luxury  
24 Holdings provided a list of 1122 people represented to be customers of the business.  
25

26           21.     During Plaintiff Reynolds' due diligence, Defendant Tufenkjian and Defendant Luxury  
27 Holdings withheld and refused to provide Defendant Luxury Holdings' lease, but represented that  
28

1 all fixtures, furniture and equipment (hereinafter "FF&E") were owned by Defendant Luxury  
2 Holdings.

3  
4 22. During Plaintiff Reynolds' due diligence, Defendant Tufenkjian and Defendant Luxury  
5 Holdings agreed to sell all inventory to Plaintiff Reynolds at cost and without mark-up.

6 **B. Contracts to Purchase Business and Inventory**

7  
8 23. On about March 20, 2015, Plaintiffs purchased the business from Defendants for  
9 \$395,000, excluding inventory.

10 24. On about March 23, 2015, Defendant Tufenkjian executed a Bill of Sale confirming  
11 that Plaintiffs had purchased all of the business' inventory for \$300,691.23 apportioned as follows:

12 A. \$ 28,352.00 to G. Panther, Inc.

13 B. \$ 88,085.79 to National Gold & Diamond Centre, Inc.

14 C. \$ 134,253.44 to Defendant Luxury Holdings, and

15 D. \$ 50,000.00 to Nazareth Tufenkjian (Defendant Tufenkjian's brother)

16  
17  
18 25. On or about March 24, 2015, Defendant Tufenkjian executed a Bill of Sale confirming  
19 that Plaintiffs had acquired title to the FF&E located in the business' leased premises.

20 **C. Assignment and Guaranty of the Lease**

21 26. Defendant Luxury Holdings leased the premises of the jewelry store from Defendant  
22 Tivoli Village.

23  
24 27. Defendant Tufenkjian personally guaranteed Defendant Luxury Holdings' lease with  
25 Defendant Tivoli Village.

26  
27 28. On or about March 25, 2015, Defendant Luxury Holdings assigned to Plaintiff  
28 Diamanti all of its rights and obligations under the Lease with Defendant Tivoli Village; and

1 Defendant Tivoli consented to Plaintiff Diamanti's assumption of the Lease on the condition that  
2 Plaintiff Reynolds personally guarantee Defendant Diamanti's obligations under the Lease.  
3

4 29. On or about March 25, 2015, Plaintiff Reynolds assumed Defendant Tufenkjian's  
5 Personal Guaranty of the Lease; and Defendant Tivoli Village consented to the Plaintiff Reynolds'  
6 assumption of Defendant's Tufenkjian's Personal Guaranty.  
7

8 **D. Discovery of Defendants' Misrepresentations**

9 30. The jewelry business is cyclical and so Plaintiffs did not have reason to suspect  
10 Defendants misrepresentations until late 2016 when the revenue figures from 2015 and 2016 were  
11 noticed to be materially different from those represented by Defendants for 2014 and were known  
12 not to be the cause of a cyclical aberration in consumer spending.  
13

14 **III.**

15 **FIRST CAUSE OF ACTION**  
16 **Fraud / Intentional Misrepresentation**

17 31. Plaintiffs repeat and incorporate paragraphs 1 through 30 of the Complaint herein.

18 32. Defendant Tufenkjian and Defendant Luxury Holdings both:  
19

- 20 A. knew the business' taxable revenue in 2014,
- 21 B. knew the business' non-taxable revenue in 2014,
- 22 C. knew the business' actual customer list,
- 23 D. knew the business did not hold title to the FF&E, and
- 24 E. knew the business' cost of inventory.  
25

26 ///

27 ///

33. Defendant Tufenkjian and Defendant Luxury Holdings both:

- A. intentionally misrepresented the business' taxable revenue in 2014 by overstating the revenue by approximately 2.7 times in the Business Opportunity Summary, compilation reports, Nevada Sales Tax Returns, and other documents,
- B. intentionally misrepresented the business' non-taxable revenue in 2014 by overstating the revenue by approximately 19 times in the Business Opportunity Summary, compilation reports, Nevada Sales Tax Returns, and other documents,
- C. intentionally misrepresented the number of customers by providing a List of Customers, most of whom had never been a customer of the business,
- D. intentionally misrepresented that the business owned the FF&E on the Bill of Sale and closing documents for the purchase and sale of the business, and
- E. intentionally misrepresented the cost of inventory by overstating the cost of inventory and excluding outstanding sales taxes owed on the consignment inventory on the Bill of Sale dated March 24, 2015.

34. Defendant Tufenkjian and Defendant Luxury Holdings misrepresented these material facts concerning the value of the business and the cost of the inventory to induce Plaintiff Reynolds and Plaintiff Diamanti to purchase the business and inventory, to pay substantially more than the true and actual value of the business, and to pay substantially more than the cost of the inventory.

35. Plaintiff Reynolds and Plaintiff Diamanti reasonably relied on the representations of Defendant Tufenkjian and Defendant Luxury Holdings in deciding to purchase the business.

36. As a direct and proximate cause of Defendant Tufenkjian and Defendant Luxury Holdings intentional misrepresentation of the value of the business, Plaintiff Reynolds and Plaintiff Diamanti have suffered and continue to suffer damages in an amount to be proved at trial.

///

///

37. As a direct and proximate cause of Defendant Tufenkjian and Defendant Luxury Holdings intentional misrepresentation of the value of the business, Plaintiff Reynolds and Plaintiff Diamanti are entitled to a judgment for damages in an amount to be proved at trial.

38. As a direct and proximate cause of Defendant Tufenkjian and Defendant Luxury Holdings intentional misrepresentation of the value of the business, Plaintiff Reynolds and Plaintiff Diamanti are entitled to equitable relief rescinding the purchase of the business.

39. As a direct and proximate cause of Defendant Tufenkjian and Defendant Luxury Holdings intentional misrepresentation of the value of the business, Plaintiff Diamanti is entitled to equitable relief rescinding the Lease with Defendant Tivoli Village, and Plaintiff Reynolds is entitled to equitable relief rescinding the Personal Guaranty with Defendant Tivoli Village.

40. As a direct and proximate cause of Defendant Tufenkjian and Defendant Luxury Holdings intentional misrepresentation of the value of the business, Plaintiff Reynolds and Plaintiff Diamanti are entitled to an award of attorneys' fees and costs incurred in this lawsuit.

#### IV.

**SECOND CAUSE OF ACTION**  
**Negligent Misrepresentation**

41. Plaintiffs repeat and incorporate paragraphs 1 through 40 of the Complaint herein.

42. Defendant Tufenkjian and Defendant Luxury Holdings both had a financial interest in selling the business to Plaintiff Reynolds and Plaintiff Diamanti.

43. Defendant Tufenkjian and Defendant Luxury Holdings failed to exercise reasonable care in communicating information to Plaintiff Reynolds and Plaintiff Diamanti regarding:

A. the business' taxable revenue in 2014.

B. the business' non-taxable revenue in 2014,



- C. the business' customer list,
- D. title to the FF&E, and
- E. the business' cost of inventory.

44. Plaintiff Reynolds and Plaintiff Diamanti justifiably relied on Defendant Tufenkjian and Defendant Luxury Holdings' representations regarding the value of the business and inventory.

45. Defendant Tufenkjian and Defendant Luxury Holdings induced Plaintiff Reynolds and Plaintiff Diamanti to purchase the business and inventory due to Defendant Tufenkjian and Defendant Luxury Holdings' representations concerning the value of the business and inventory.

46. As a direct and proximate cause of Defendant Tufenkjian and Defendant Luxury Holdings' negligent misrepresentations concerning the value of the business and inventory, Plaintiff Reynolds and Plaintiff Diamanti have suffered and continue to suffer damages in an amount to be proved at trial.

47. As a direct and proximate cause of Defendant Tufenkjian and Defendant Luxury Holdings' negligent misrepresentations, Plaintiff Reynolds and Plaintiff Diamanti are entitled to a judgment for damages in an amount to be proved at trial.

48. As a direct and proximate cause of Defendant Tufenkjian and Defendant Luxury Holdings' negligent misrepresentations, Plaintiff Reynolds and Plaintiff Diamanti are entitled to equitable relief rescinding the purchase and sale of the business.

49. As a direct and proximate cause of Defendant Tufenkjian and Defendant Luxury Holdings' negligent misrepresentation of the value of the business, Plaintiff Reynolds and Plaintiff Diamanti are entitled to an award of attorneys' fees and costs incurred in this lawsuit.

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V.

**THIRD CAUSE OF ACTION**  
**Breach of Contract**

50. Plaintiffs repeat and incorporate paragraphs 1 through 49 of the Complaint herein.

51. Plaintiff Diamanti and Defendant Luxury Holdings agreed upon terms and conditions for the purchase and sale of the business and the business' inventory.

52. Plaintiff Diamanti performed its obligations under the contracts by timely delivering the full purchase price for both the business and the business' inventory.

53. Defendant Luxury Holdings failed to perform its contractual obligations by failing to deliver the business with the revenue, customers, and FF&E as represented during negotiation and during Plaintiff Reynolds' due diligence.

54. Defendant Luxury Holdings failed to perform its contractual obligations by failing to deliver the inventory at the cost represented during negotiation and during Plaintiff Reynolds' due diligence.

55. As a direct and proximate cause of Defendant Luxury Holdings' breaches of contract, Plaintiff Diamanti has suffered and continues to suffer economic damages in an amount to be proved at trial.

VI.

**FOURTH CAUSE OF ACTION**  
**Exploitation**

56. Plaintiffs repeat and incorporate paragraphs 1 through 55 of the Complaint herein.

57. Plaintiff Reynolds is an older person as defined by NRS 41.1395(4)(d).

1           58.     During negotiation of the purchase and sale of the business, Defendant Tufenkjian  
2 and Defendant Luxury Holdings withheld and refused to provide the business' original financial  
3 statements to prevent Plaintiff Reynolds from learning the true and actual revenue of the business.  
4

5           59.     During negotiation of the purchase and sale of the business, Defendant Tufenkjian  
6 and Defendant Luxury Holdings withheld and refused to provide Defendant Luxury Holdings' lease  
7 to prevent Plaintiff Reynolds from learning that the FF&E was not owned by Defendant Luxury  
8 Holdings, but was owned by the landlord and leased as part of the premises.  
9

10          60.     During negotiation of the purchase and sale of the business, Defendant Tufenkjian  
11 represented to Plaintiff Reynolds that despite the absence of original financial records and the  
12 absence of the lease, Plaintiff Reynolds could trust and rely on Defendant Tufenkjian to provide  
13 accurate information about the value of the business.  
14

15          61.     Defendant Tufenkjian deceived and exploited Plaintiff Reynolds to prevent Plaintiff  
16 Reynolds from learning material facts relating to the business, including the actual revenue, actual  
17 customer list, and title to the FF&E.  
18

19          62.     Defendant Tufenkjian deceived and exploited Plaintiff Reynolds to induce Plaintiff  
20 Reynolds to assume Defendant Tufenkjian's personal guaranty on the lease for the business.  
21

22          63.     Defendant Tufenkjian deceived and exploited Plaintiff Reynolds to deprive Plaintiff  
23 Reynolds of his money.  
24

25          64.     As a direct and proximate cause of Defendant Tufenkjian's exploitation, Plaintiff  
26 Reynolds has suffered and continues to suffer a loss of money in an amount to be proved at trial.  
27

28          65.     As a direct and proximate cause of Defendant Tufenkjian's exploitation, Plaintiff  
Reynolds is entitled to a judgment for double damages in an amount to be proved at trial.

1           66.    As a direct and proximate cause of Defendant Tufenkjian's exploitation, Plaintiff  
2 Reynolds is entitled to an award of attorneys' fees and costs incurred in this lawsuit.  
3

4                               **VII.**

5                               **PRAYER FOR RELIEF**

6           Wherefore, Plaintiff Reynolds and Plaintiff Diamanti pray for relief and judgment as follows:  
7

- 8                   A.    An Order rescinding the purchase and sale agreement for the business,  
9                   B.    An Order rescinding the Lease and Personal Guaranty of the lease,  
10                  C.    An award of damages sufficient to compensate Plaintiffs for the losses  
11                        caused by Defendants' intentional misrepresentations,  
12                  D.    An award of damages sufficient to compensate Plaintiffs for the losses  
13                        caused by Defendants' negligent misrepresentations,  
14                  E.    An award of economic damages sufficient to compensate Plaintiff Diamanti  
15                        for the damages caused by Defendant Luxury Holdings' breaches of contract,  
16                  F.    An award of double damages to compensate Plaintiff Reynolds for his losses  
17                        caused by Defendant Tufenkjian's exploitation,  
18                  G.    An award of damages sufficient to punish and make an example of  
19                        Defendants' oppression, fraud, and malice,  
20                  H.    An award of attorneys' fees, costs, and interest pursuant to Nevada law, and  
21                  I.    Such other and further relief as this Court finds just and proper.

22           Dated this 1<sup>ST</sup> day of November, 2017.

23                               CHASEY LAW OFFICES

24                               

25                               PETER L. CHASEY, ESQ.

26                               Nevada Bar No. 007650

27                               3295 N. Fort Apache Road, Suite 110

28                               Las Vegas, Nevada 89129

Attorney for Plaintiffs

ROBERT G. REYNOLDS and

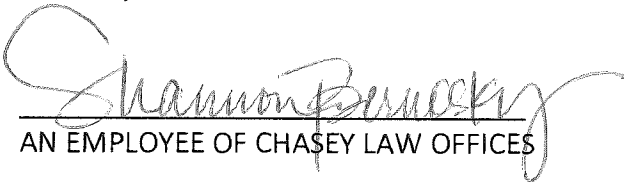
DIAMANTI FINE JEWELERS, LLC

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**CERTIFICATE OF SERVICE**

Pursuant to Rule 5(b) of the Nevada Rules of Civil Procedure, I hereby certify that on the  
1st day of November, 2017, I served a true and complete copy of **THIRD AMENDED COMPLAINT**  
upon those persons designated by the parties in the E-Service Master List for the above-referenced  
matter in the Eighth Judicial District Court eFiling System in accordance with the mandatory  
electronic service requirements of Administrative Order 14-2 and the Nevada Electronic Filing and  
Conversion Rules:

Terry A. Moore, Esq.  
Christian T. Balducci, Esq.  
MARQUIS AURBACH COFFING  
10001 Park Run Drive  
Las Vegas, NV 89145  
(702) 382-0711 Phone  
(702) 382-5816 Fax  
Attorneys for Defendants

  
AN EMPLOYEE OF CHASEY LAW OFFICES

1 DECN

DISTRICT COURT

2 CLARK COUNTY, NEVADA

3  
4 ROBERT G. REYNOLDS, an individual, )  
5 and DIAMANTI FINE JEWELERS, LLC, a )  
6 Nevada Limited Liability Company, ) CASE NO. A-17-753532-C  
7 ) DEPT. NO. XIII

8 Plaintiff(s), )

9 vs. )

10 RAFFI TUFENKJIAN, an individual, and ) Date: September 27, 2018  
11 LUXURY HOLDINGS LV, LLC, a Nevada ) Time: 9:00 a.m.  
12 Limited Liability Company, )

13 Defendant(s). )

14 **DECISION**

15 THIS MATTER having come before the Court on September 27,  
16 2018 for hearing on Defendants' Motion for Summary Judgment, with  
17 appearances as noted in the Minutes and to be reflected in the  
18 proposed order to be submitted as directed hereinbelow;

19 AND, the Court having heard the argument of counsel and  
20 having then taken such Motion under advisement for further  
21 consideration, and being now fully advised in the premises;

22 NOW, THEREFORE, the Court decides the submitted issues  
23 as follows:

24 Plaintiffs posit the following as being the genuine  
25 issues of material fact that preclude summary judgment:

26 . . .

27 In the case before this Court, the following  
28

CLERK OF THE COURT

RECEIVED  
OCT 12 2018

MARK R. DENTON  
DISTRICT JUDGE

DEPARTMENT THIRTEEN  
LAS VEGAS, NV 89155

6

1 questions of fact remains (sic) unresolved:

2 • Did Reynolds reasonably rely on Raffi's  
3 misrepresentations of business revenue, title to the  
4 FF&E, Customers, and cost of inventory during due  
5 diligence?  
6

7 • Is Reynolds entitled to the protection of NRS  
8 41.1395, even though Reynolds' lost his money through  
9 a transaction consummated through Reynolds' 100%  
10 owned Limited Liability Company?  
11

12 . . . .

13 Opposition, p. 3, ll. 4-9.  
14

15 Defendants maintain that disclaimers made within the  
16 "business summary marketing brochure" are part of the parties'  
17 contract which, according to Defendants, is set forth in Exhibits  
18 C and D to the Motion.

19 It appears to the Court that the brochure does indeed make  
20 the disclaimers urged by Defendants with respect to formation of  
21 the parties' contract itself-i.e. that there were no actionable  
22 misrepresentations inducing Plaintiffs to enter into the contract  
23 in the first place. In addition, section 12 of the contract (Ex.  
24 C) states the following:  
25

26 . . . .  
27  
28

1 12. INSPECTION OF ASSETS: ...PURCHASER has relied  
2 solely upon their personal examination of the business  
3 in making this offer and not upon any statements or  
4 representations made by BROKER, or his agents, in  
5 deciding to purchase or value the business. (Emphasis  
6 supplied.)  
7

8 . . . .

9 Section 7 within the same item reads as follows:

10 . . . .

11 7. DUE DILIGENCE CONTINGENCY: Purchaser's offer **is**  
12 **contingent** upon Seller proving to Purchaser's  
13 satisfaction the financial condition of the business  
14 and/or after review of all the information requested with  
15 regards to the subject business..**Contingency shall be**  
16 **automatically removed 14 days** after execution of this  
17 agreement by both parties unless extended in writing.  
18 (Emphasis in original.)  
19

20 . . . .  
21

22  
23 Although there were disclaimers in entering into the  
24 contract and Plaintiffs undertook the obligation to conduct their  
25 own due diligence once the contract was formed, that is not to say  
26 that, in conducting their due diligence, Plaintiffs did not have  
27



1 a right to rely upon the accuracy of things that were presented when  
2 requested. However, as is shown in Exhibit I to Defendants' Motion  
3 ("Business/Bulk Sale Transfer Instructions"):  
4

5 . . . .

6 The parties hereto agree that no representations have  
7 been made by either party, or agent/broker if any, other  
8 than those specifically set forth in this agreement and  
9 the sale agreement(s). It is further understood and  
10 agreed that the Buyer has made his own independent  
11 investigation of the subject business and has satisfied  
12 himself with his ability to conduct the same, and is now  
13 purchasing the said business with the clear and distinct  
14 understanding that all profits are future, to be arrived  
15 at from his own resources and labors.  
16

17  
18 Thus, for Plaintiffs to now say that they relied upon  
19 various representations regarding revenue, customer base, costs,  
20 FF& E, etc. is contrary to their express agreement that they were  
21 not so relying, and no such items are "specifically set forth in  
22 this agreement . . ." If, as Plaintiffs maintain, they ". . . moved  
23 forward at closing still believing that the revenue as reflected  
24 in the records reviewed and as presented in the Business Summary  
25 were factual and accurate . . ." (Opposition, p. 12, ll. 6-7), one  
26  
27  
28

1 would expect that they would have been referenced, but they were  
2 not. To say that they are material representations and to then  
3 proceed without reference to them eliminates any genuine issue going  
4 to inducement by representations, particularly in a commercial  
5 transaction of this magnitude.<sup>1</sup>  
6

7 The Court is also persuaded by the other aspects of the  
8 Motion.

9 Accordingly, all things considered the Court determines  
10 that the Motion has merit in its entirety, and it is GRANTED.

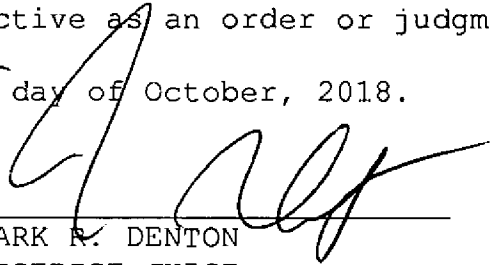
11 Counsel for Defendants is directed to submit a proposed  
12 order consistent with the foregoing and with briefing and argument  
13 supportive of the same. Such proposed order should be submitted  
14 to opposing counsel for review and signification of approval/  
15 disapproval. Instead of seeking to clarify or litigate meaning or  
16 any disapproval through correspondence directed to the Court or to  
17 counsel with copies to the Court, any such clarification or  
18 disapproval should be the subject of appropriate motion practice.  
19  
20  
21  
22

---

23 <sup>1</sup> Notably, the language contained in the "Business/Bulk Sale Transfer  
24 Instructions" immediately after the language quoted therefrom hereinabove states  
25 in bold upper case that any misunderstanding of the agreement should be followed  
26 up by seeking legal and/or financial advice. Also, the bold, upper case language  
27 preceding such quoted language makes it clear that only the items listed in (A),  
28 (B), and (C) are deemed not to have merged into the "Business/Bulk Sale Transfer  
Instructions," which are themselves characterized as "this agreement" in such  
language.

1 This Decision sets forth the Court's intended disposition  
2 on the subject, but it anticipates further order of the Court to  
3 make such disposition effective as an order or judgment.

4 DATED this 11<sup>th</sup> day of October, 2018.


5  
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7   
8 MARK R. DENTON  
9 DISTRICT JUDGE

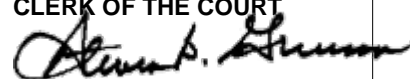
10 CERTIFICATE

11 I hereby certify that on or about the date filed, this  
12 document was e-served or a copy of this document was placed in the  
13 attorney's folder in the Clerk's Office or mailed to:

14 CHASEY LAW OFFICES  
15 Attn: Peter L. Chasey, Esq.

16 MARQUIS AURBACH COFFING  
17 Attn: Christian T. Balducci, Esq.

18   
19 LORRAINE TASHIRO  
20 Judicial Executive Assistant  
21 Dept. No. XIII



**Marquis Aurbach Coffing**  
Terry A. Moore, Esq.  
Nevada Bar No. 7831  
Christian T. Balducci, Esq.  
Nevada Bar No. 12688  
10001 Park Run Drive  
Las Vegas, Nevada 89145  
Telephone: (702) 382-0711  
Facsimile: (702) 382-5816  
tmoore@maclaw.com  
cbalducci@maclaw.com  
*Attorneys for Defendants*

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

ROBERT G. REYNOLDS, an individual,  
DIAMANTI FINE JEWELERS, LLC, a Nevada  
limited liability company,

Plaintiff,

vs.

RAFFI TUFENKJIAN, an individual, and  
LUXURY HOLDINGS LV, LLC, a Nevada  
Limited Liability Company, DOES 1-10, and  
ROE CORPORATIONS 1-10 inclusive,

Defendant.

Case No.: A-17-753532-B  
Dept. No.: XIII

**NOTICE OF ENTRY OF ORDER**

Please take notice that an Order Granting Summary Judgment was entered in the above-captioned matter on the 14th day of November, 2018, a copy of which is attached hereto.

Dated this 16th day of November, 2018.

MARQUIS AURBACH COFFING

By /s/ Christian T. Balducci

Terry A. Moore, Esq.  
Nevada Bar No. 7831  
Christian T. Balducci, Esq.  
Nevada Bar No. 12688  
10001 Park Run Drive  
Las Vegas, Nevada 89145  
*Attorney(s) for Defendants*

**CERTIFICATE OF SERVICE**

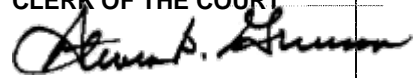
I hereby certify that the foregoing **NOTICE OF ENTRY OF ORDER** was submitted electronically for filing and/or service with the Eighth Judicial District Court on the 16th day of November, 2018. Electronic service of the foregoing document shall be made in accordance with the E-Service List as follows:<sup>1</sup>

Chasey Law Offices	
Contact	Email
Peter Chasey	<a href="mailto:peter@chaseylaw.com">peter@chaseylaw.com</a>
Shannon	<a href="mailto:shannon@chaseylaw.com">shannon@chaseylaw.com</a>

/s/ Cheryl Becnel

An employee of Marquis Aurbach Coffing

<sup>1</sup> Pursuant to EDCR 8.05(a), each party who submits an E-Filed document through the E-Filing System consents to electronic service in accordance with NRCP 5(b)(2)(D).



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

ROBERT G. REYNOLDS, an individual,  
DIAMANTI FINE JEWELERS, LLC, a Nevada  
limited liability company,

Case No.: A-17-753532-B  
Dept. No.: XIII

Plaintiffs,

vs.

RAFFI TUFENKJIAN, an individual, and  
LUXURY HOLDINGS LV, LLC, a Nevada  
Limited Liability Company, DOES 1-10, and  
ROE CORPORATIONS 1-10 inclusive,

Defendants.

**ORDER GRANTING SUMMARY JUDGMENT**

THIS MATTER having come before this Court on September 27, 2018, on Defendants' Motion for Summary Judgment; Christian T. Balducci, Esq. of the law firm of Marquis Aurbach Coffing appearing on behalf of Raffi Tufenkjian and Luxury Holdings LV, LLC ("Defendants") and Peter L. Chasey, Esq. of the Chasey Law Offices, appearing on behalf of Plaintiffs Robert G. Reynolds and Diamanti Fine Jewelers, LLC ("Plaintiffs").

This Court, having reviewed the papers and pleadings on file herein, the evidence and declarations on file herein, the papers and pleadings filed in this matter, oral argument of

Page 1 of 7

<input type="checkbox"/> Voluntary Dismissal	<input checked="" type="checkbox"/> Summary Judgment
<input type="checkbox"/> Involuntary Dismissal	<input type="checkbox"/> Stipulated Judgment
<input type="checkbox"/> Stipulated Dismissal	<input type="checkbox"/> Default Judgment
<input type="checkbox"/> Motion to Dismiss by Deft(s)	<input type="checkbox"/> Judgment of Arbitration

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counsel, after due deliberation and consideration, and good and sufficient cause appearing, GRANTS Defendant's motion based on the following findings of fact and conclusions law:

**FINDINGS OF FACT**

1. This case concerns the sale of a business between the parties, and the subsequent efforts by Plaintiffs to rescind the sale based on Defendants' alleged misrepresentations as to the profitability of the business. The material facts relevant to the granting of this motion are not in dispute.

2. Plaintiff Robert Reynolds is a sophisticated former construction manager who retired and began investing in various real estate, including a hotel, a theater, and a shopping mall, over the span of the last 20 years. Each of these multi-million dollar transactions included due diligence periods to determine the viability and profitability of each investment.

3. In 2014, Reynolds began researching businesses in Las Vegas, Nevada, with the intent of purchasing a business in this jurisdiction, specifically in Tivoli Village. One such business was the Diamanti Fine Jewelry store, owned by Defendant Luxury Holdings. Reynolds expressed his interest to Diamanti's business broker, Sunbelt Business Brokers, who provided a "business summary marketing brochure" ("the Brochure") which contained extensive information relevant to a potential buyer, on January 5, 2015.<sup>1</sup>

4. The Brochure specifically contained disclaimers concerning the accuracy and reliance upon its contents, and advising that any interested buyer must perform their own independent investigation into the business to determine if they want to purchase it.<sup>2</sup>

5. Specifically, the Brochure contained the following disclaimers:

- a. "It is the responsibility of the Buyer to verify all representations and to make a final purchase decision based on their own independent investigation."<sup>3</sup>

<sup>1</sup> See Ex. N to Defendants' Motion.

<sup>2</sup> See generally *id.*

<sup>3</sup> *Id.* at 4

1 b. "Readers of this report should understand that statements are not  
2 guarantees of value or results."<sup>4</sup>

3 c. "During the due diligence process, it is the responsibility of the Buyer,  
4 with the aid of an accountant and/or attorney, if necessary, to  
5 independently verify all representations which have been made by the  
6 Seller, particularly as they relate to the adjustments made to the profit and  
7 loss statements."<sup>5</sup>

8 6. On January 12, 2015 Reynolds made an offer to purchase Luxury Holdings, and  
9 in that Purchase Agreement Reynolds contractually agreed that he relied solely on his own  
10 examination of the business, and nothing else.<sup>6</sup>

11 7. The Offer further states that any offer to purchase the business by Plaintiffs "is  
12 **contingent** upon Seller proving to Purchaser's satisfaction the financial condition of the business  
13 and/or after review of all the information requested with regards to the subject business ...  
14 **Contingency shall be automatically removed 14 days** after execution of this agreement by  
15 both parties unless extended in writing."<sup>7</sup>

16 8. In response to the Offer, Defendant Luxury Holdings's manager, Defendant Raffi  
17 Tufenkjian, submitted a counter-offer, which Reynolds accepted on January 13, 2015.

18 9. Reynolds engaged in due diligence, and admitted at his deposition that he knew  
19 he had the ability to cancel the purchase during the due diligence period.

20 10. At the end of the due diligence period, Reynolds chose to proceed with closing  
21 the sale, however he first assigned the entire transaction to his entity, Plaintiff Diamanti.

22  
23 \_\_\_\_\_  
24 <sup>4</sup> *Id.*

25 <sup>5</sup> *Id.*

26 <sup>6</sup> Offer for Purchase and Sale of Business Assets (attached as Ex. C to Defendants' Motion) at §12  
27 ("PURCHASER has relied solely upon their personal examination of the business in making this Offer  
28 and not upon any statements or representations made by BROKER, or his agents, in deciding to purchase  
or value the business.").

<sup>7</sup> *Id.* at § 7 (emphasis in original)



11. At closing, Diamanti contractually agreed that (i) it performed its own investigation, (ii) that no representations were made, (iii) that the business' future performance would be based on its own resources and labors, and thus, (iv) it relied on nothing from the Seller.<sup>8</sup>

12. Reynolds further admitted in his deposition that he agreed to the price he paid for the business's inventory, and he takes no issue with that price.<sup>9</sup>

13. Finally, on March 24, 2015, the parties signed a Closing Agreement which similarly contains an express agreement that Plaintiffs did not rely on any representations made by the Defendants:

The parties hereto agree that no representations have been made by either party, or agent/broker if any, other than those specifically set forth in this agreement, and the sale agreement(s). "It is further understood and agreed that the Buyer has made his own independent investigation of the subject business and has satisfied himself with his ability to conduct the same, and is now purchasing the said business with the clear and distinct understanding that all profits are future, to be arrived at from his own resources and labors."<sup>10</sup>

14. Plaintiffs operated the business from March 24, 2015, through the present.

15. This case was filed on April 5, 2017. Plaintiffs asserted claims for intentional and negligent misrepresentation and breach of contract, alleging that Defendants misrepresented material facts including the revenue of the store, the cost of the inventory, and the list of previous customers. The breach of contract claim centers on identical allegations of fraud and/or misrepresentation, and does not identify any particular provision that was allegedly breached. The claims also include a claim for elder abuse.

<sup>8</sup> Closing Agreement (attached as Ex. I to Defendants' Motion).

<sup>9</sup> Deposition of Reynolds (attached as Ex. A to Defendants' Motion) at 158:2-23.

<sup>10</sup> Ex. I to Defendant's Motion.

1 16. Following several motions to dismiss, Plaintiffs filed a Third Amended Complaint  
2 on November 1, 2017.

3 17. On August 10, 2018, Defendants filed the motion for summary judgment that is  
4 currently before the Court.

5 18. In opposition to Defendants' motion, Plaintiffs argued that two material questions  
6 of fact remained unresolved: (1) whether Reynolds reasonably relied on Raffi's  
7 misrepresentations made during due diligence as to business revenue; title to the fixtures,  
8 furniture, and equipment ("FF&E"); customers; and cost of inventory; and (2) whether  
9 Reynolds is entitled to the protection of NRS 41.1395, even though the transaction was  
10 consummated through Reynolds's 100%-owned limited liability company.

### 11 CONCLUSIONS OF LAW

12 1. The Court is persuaded by Defendants' arguments, and finds summary judgment  
13 is appropriate in Defendants' favor.

14 2. Summary judgment is appropriate where no genuine issue of material fact  
15 remains and the moving party is entitled to judgment as a matter of law. *Wood v. Safeway*, 121  
16 Nev. 724, 729, 121 P.3d 1026, 1029 (2005). The ultimate purpose of summary judgment "is to  
17 avoid a needless trial..." *McDonald v. Alexander*, 121 Nev. 812, 815, 123 P.3d 748, 750 (2005)  
18 (internal citations and quotations omitted). To overcome this motion, Plaintiffs cannot rest on  
19 "the gossamer threads of whimsy, speculation, and conjecture[;]" and must instead set forth  
20 evidence by "affidavit or otherwise" that creates a genuine dispute as to the material facts of this  
21 matter. *Id.* at 732, 121 P.3d at 1031. The substantive law controls which factual disputes are  
22 material and will preclude summary judgment. *Wood*, 121 Nev. At 731, 121 P.3d at 1031 (citing  
23 *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986)).

24 3. Claims for intentional and negligent misrepresentation both require that the  
25 plaintiff plead and prove he or she justifiably relied on the misrepresentation in question. *Lubbe*  
26 *v. Barba*, 91 Nev. 596, 540 P.2d 115 (1975) (outlining elements of intentional  
27 misrepresentation); *Barmettler v. Reno Air, Inc.*, 114 Nev. 441, 449, 956 P.2d 1382, 1387  
28 (1998) (providing that one who, without exercising reasonable care or competence, "supplies

1 false information for the guidance of others in their business transactions” is liable for  
2 “pecuniary loss caused to them by their justifiable reliance upon the information” (emphasis  
3 added)). “Circumstances of mere suspicion will not warrant the court in coming to the  
4 conclusion that a fraud has been committed.” *Gruber v. Baker*, 20 Nev. 453, 23 P. 858, 865  
5 (1990).

6 4. Here, while Plaintiffs may have had a right to rely upon the accuracy of facts  
7 presented by other parties during Plaintiffs’ due diligence period, Plaintiffs’ argument that they  
8 relied upon representations regarding revenue, customer base, costs, etc. is contrary to the  
9 parties’ express written agreement which included numerous disclaimers, quoted *supra*, that the  
10 Plaintiffs acknowledged they were not relying on the representations of any other party, and  
11 instead were responsible for investigating the business themselves.

12 5. While Plaintiffs asserted that there are material misrepresentations that formed the  
13 foundation of Plaintiffs’ claims, Plaintiffs failed to reference any particular records which  
14 evidence such misrepresentations. Plaintiffs therefore did not show any genuine issue as to  
15 inducement by representations, particularly in a commercial transaction of this magnitude.

16 6. The lack of any actionable misrepresentations inducing Plaintiffs to enter the  
17 contract is fatal to each of Plaintiffs’ claims, because a misrepresentation is a foundational  
18 element of each of Plaintiffs’ claims. Thus, the second claimed material question of fact, which  
19 relates only to whether Plaintiffs’ claim under NRS 41.1395 might be barred for another reason,  
20 is not material.

21 7. In addition to the lack of any actionable misrepresentation, the Court concludes  
22 that Plaintiffs are unable to establish the element of justifiable reliance on any statement made by  
23 Defendants, because the contractual disclaimers in the parties’ written agreements bar such an  
24 argument as a matter of law.

25 8. In light of the above, the Court concludes that no genuine issues of material fact  
26 remain. Further, Defendants have established that they are entitled to judgment as a matter of  
27 law on all of Plaintiffs’ claims. Defendants’ motion for summary judgment is thus GRANTED  
28 in its entirety.

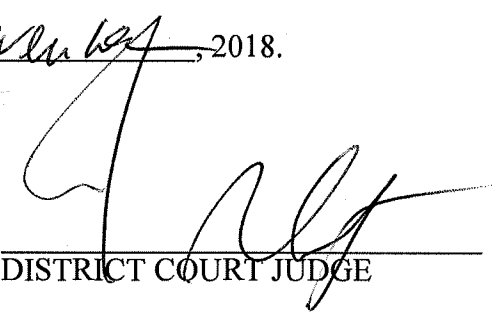
**ORDER**

IT IS HEREBY ORDERED, ADJUDGED AND DECREED

1. Defendants Raffi Tufenkjian and Luxury Holdings LV, LLC's Motion for Summary Judgment is hereby GRANTED;

2. As such, summary judgment is hereby ENTERED in favor of the Defendants and against Plaintiffs' claims alleged against the Defendants.

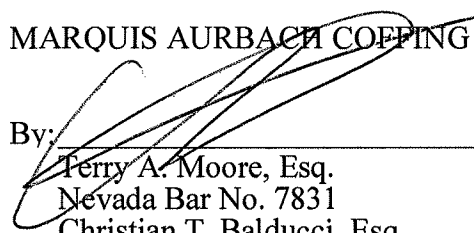
IT IS SO ORDERED this 13<sup>th</sup> day of November, 2018.

  
DISTRICT COURT JUDGE

Respectfully Submitted By:

MARQUIS AURBACH COFFING

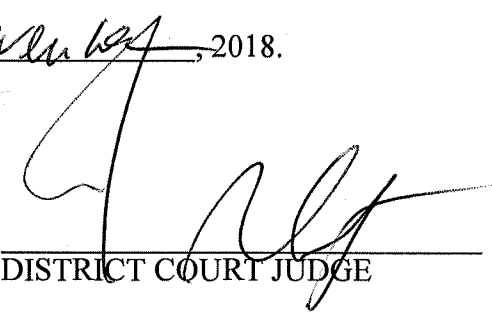
By:

  
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Attorneys for Defendants

Approved as to form, only.

CHASEY LAW OFFICES

By: *Refused*

  
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Attorneys for Plaintiffs

Attorney for Plaintiffs  
ROBERT G. REYNOLDS and  
DIAMANTI FINE JEWELERS, LLC

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**NOTICE OF HEARING**

YOU AND EACH OF YOU WILL PLEASE TAKE NOTICE that the undersigned will bring  
**MOTION TO AMEND JUDGMENT** on for hearing before the above-entitled Court on the 7 day  
of Jan., 2019, at the hour of 9:00am a.m./p.m. in  
Department XIII or as soon thereafter as counsel may be heard.

Dated this 27<sup>th</sup> day of November 2018.

CHASEY LAW OFFICES

  
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Las Vegas, Nevada 89129

(702) 233-0393

Attorney for Plaintiffs

**MEMORANDUM OF POINTS AND AUTHORITIES**

I.

**INTRODUCTION AND BACKGROUND**

Plaintiff ROBERT G. REYNOLDS, through Plaintiff DIAMANTI FINE JEWELERS, LLC (collectively  
"Plaintiffs") purchased a jewelry business from Defendant LUXURY HOLDINGS LV, LLC which was  
owned and operated by Defendant RAFFI TUFENKJIAN (collectively "Defendants").

Defendants moved for summary judgment under NRCP 56, arguing that the disclaimers in  
the agreement and closing documents failed to permit Plaintiffs to rely on anything but their own  
investigation; Defendants also argued for summary judgment based on the lack of merit to  
Plaintiffs' allegations of material misrepresentations.

1 On October 12, 2018, this Court issued its Decision explaining that Defendants were entitled  
2 to summary judgment because the contract documents in which Plaintiff disclaimed reliance on  
3 any of Defendants' representations eliminated Plaintiffs' ability to raise the alleged  
4 misrepresentations in this lawsuit. See Decision, p.4, line 18 to p. 5, line 6, October 10, 2018  
5 (Exhibit 1).  
6

7 After Defendants' counsel's provided the draft Order to Plaintiffs' counsel, the undersigned  
8 noted that in addition to summary judgment being granted based on the effect of the contractual  
9 disclaimers, Defendants' draft Order granted Summary Judgment based on Plaintiffs' supposed  
10 failure to reference evidence of actual misrepresentations by Defendants. Counsel for the parties  
11 were unable to resolve the dispute and so, the Order Granting Summary Judgment was submitted  
12 to the Court without the undersigned's approval. On November 16, 2018, Notice of Entry of Order  
13 was given of the Order Granting Summary Judgment based on the contractual disclaimers and  
14 Plaintiffs' supposed failure to present evidence of Defendants' misrepresentations. See NEO Order  
15 Granting Summary Judgment, p.6, ¶ 5, November 16, 2018 (Exhibit 2).  
16  
17  
18

19 Pursuant to NRCP 59(a), Plaintiffs request that this Court amend the Order Granting  
20 Summary Judgment to remove reference to the supposed lack of evidence concerning Defendants'  
21 misrepresentations.  
22

## 23 II.

### 24 STANDARDS FOR AMENDMENT OF JUDGMENT

25 Pursuant to NRCP 59(a), judgments may be opened and amended for any of seven (7)  
26 different grounds. See NRCP 59(a). Here, the judgment should be opened and amended to correct  
27 the irregularity in the proceedings or "any order of the court... by which either party was prevented  
28

1 from having a fair trial", namely the inclusion of a finding that Plaintiffs failed to present evidence  
2 of misrepresentations that this Court did not find. See NRCP 59(a)(1). Amendment is also called  
3 for here due to the surprise under NRCP 59(a)(3), defined as "some fact, circumstance, or situation  
4 in which a party is placed unexpectedly, to his injury, without any default or negligence of his own,  
5 and which ordinary prudence could not have guarded against." See *Havas v. Haupt*, 94 Nev. 591,  
6 593, 583 P.2d 1094, 1095 (1978). Here, the basis for the Court's ruling as explained in the decision  
7 and the multiple bases set forth in the language of the Order Granting Summary Judgment are in  
8 conflict; corrective amendment is warranted and proper. See NRCP 59(a).

11 Motions to Amend a Judgment must be filed and served within ten (10) days of service of  
12 notice of entry of the judgment. See NRCP 59(b). Here, Defendants electronically served Notice of  
13 Entry of the Order Granting Summary Judgment on Friday, November 16, 2018. See NEO Order  
14 Granting Summary Judgment (Exhibit 2). Pursuant to NRCP 6(a) and because the time allowed by  
15 NRCP 59 is less than eleven (11) days, intermediate weekends and holidays are not included in the  
16 computation of time. Accordingly, with the three (3) additional days allowed due to non-personal  
17 service, the ten (10) day period to move to amend the judgment expires on Friday, December 7,  
18 2018. This motion is filed well within the time allowed by NRCP 59.

21 Motions to Amend must state with particularity the grounds for amendment and the relief  
22 sought. See *United Pac. Ins. Co. v. St. Denis*, 81 Nev. 103, 399 P.2d 135 (1965) (citing NRCP 59 and  
23 NRCP 7(b)). Plaintiffs submit that the divergence between the Court's Decision and the Order  
24 Granting Summary Judgment is readily apparent and is explained in a sufficiently particular manner  
25 herein. Furthermore, the corrective amendment requested simply consists of removing the factual  
26 findings never made when this Court decided the matter.  
27  
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III.

**THE IRREGULARITY PRESENTED BY DEFENDANTS' VERSION OF THE ORDER**

This Court's Decision rested on the effect of the three (3) disclaimers in the agreements and documents signed by Plaintiffs, which collectively, recited that in choosing to buy the business Plaintiffs were not relying on any representations by Defendants' broker, had an obligation to conduct their own due diligence, and that no representations had been made by Defendants other than those specified in the documents (of which there were none). See Decision, p.2, line 24 to p.5, line 6 (Exhibit 1).

While this Court did note that the Court was persuaded by the other aspects of the Defendants' Motion for Summary Judgment, *see id.*, p.6, lines 7-8, three (3) reasons suggest that this catch-all could not have referred to a fundamental failure to present evidence of Defendants' misrepresentations.

**A. Plaintiffs Did Present Evidence of Defendants' Misrepresentations**

In opposition to Defendants' Motion for Summary Judgment, Plaintiffs presented evidence of four (4) separate and material misrepresentations made by Defendants during Plaintiffs' due diligence.

**1. Evidence Presented Showing Defendants' Misrepresentation of Revenue**

First, Defendants misrepresented business revenue. While Plaintiffs were charged with conducting their own independent due diligence, requests for information consisted entirely of references back to the Business Brochure, so when the brochure represented that projected revenues for 2014 were \$800,000, after the fiscal year ended and Plaintiffs requested updated revenue numbers, Defendants pointed Plaintiffs to the brochure with the indication that the

1 revenue projection was then actual and no longer a projection. See Opposition to Motion for  
2 Summary Judgment<sup>1</sup>, pp.7-8, § E (1) (Exhibit 3) (hereinafter the "Opposition"); see also Select Pages  
3 from the Deposition of Robert Reynolds (originally attached as Exhibit A to Defendants' Motion for  
4 Summary Judgment) (attached here as Exhibit 4). Plaintiffs presented evidence that Defendants'  
5 represented that in 2014 the business revenue was \$800,000. See *id.*

6  
7 Plaintiffs further presented evidence that Defendants' business did not generate revenue  
8 even close to \$800,000 in 2014. See Opposition, pp.11-14, § G (4) (Exhibit 3). The evidence  
9 presented by Plaintiffs demonstrated that the various conflicting sources of information reflected  
10 actual business revenue of \$659,438 or as much as \$748,801 in revenue for 2014. See *id.*

11  
12 Plaintiffs presented evidence of Defendants' misrepresentation of business revenue.

13  
14 **2. Evidence Presented Showing Defendants' Misrepresentation of Customers**

15 During motion practice, Plaintiffs also presented evidence demonstrating that, during  
16 Plaintiffs' due diligence, Defendants provided Plaintiffs with a "Customer List" identifying 1466  
17 unique customers of the business. See Opposition, p.6, § E (2) (Exhibit 3).

18  
19 Not only did Plaintiffs call the people on list and testify that the people on the list denied  
20 ever having been a customer, Plaintiffs presented Defendant Raffi Tufenkjian's own sworn  
21 deposition testimony that fully 50% of the people on the "Customer List" were not and had never  
22 been customers of the business. See Opposition, pp.9-10, § G (1).

23  
24 Plaintiffs presented evidence of Defendants' misrepresentation of business customers.

25  
26 ///

27 <sup>1</sup> Plaintiffs' Opposition with exhibits was 407 pages. For ease of reference, the attachment of the  
28 Opposition to this Motion to Amend will omit exhibits and pages in voluminous exhibits not directly  
raised by this Motion to Amend.

1                   **3. Evidence Presented Showed Defendants' Misrepresented Inventory Costs**

2           The third category of misrepresentations at issue in this case were the costs of inventory  
3 sold separate and apart from the business itself. Defendants agreed to sell the inventory at cost  
4 and Defendants provided Plaintiffs with an Inventory Report depicting what Defendants indicated  
5 were the actual costs of the inventory. *See* Opposition, pp.8-9, § E (3) (Exhibit 3).  
6

7           After Plaintiffs were operating the business, Plaintiffs discovered that on February 22, 2015,  
8 Defendants had methodically gone through the computer system inventory and added 10% to the  
9 cost of the inventory. *See* Opposition, pp.10-11, § G (2). Defendants did not dispute this but  
10 argued that Plaintiffs verbally agreed to pay more than cost to cover the commission Defendants  
11 owed to their business broker. *See id.*, p.10, lines 16-17.  
12

13           Plaintiffs did present evidence that Defendants misrepresented inventory costs.  
14

15                   **4. Evidence Presented Showing Defendants Misrepresented the FF&E**

16           Defendants sold the Furniture Fixtures and Equipment (hereinafter "FF&E") by Bill of Sale in  
17 which Defendants represented owning the FF&E as a necessary corollary to selling the FF&E to  
18 Plaintiffs. *See* Opposition, p.11, lines 5-9 (Exhibit 3).  
19

20           Despite representing that Defendants owned the FF&E, the lease presented by Plaintiffs  
21 during motion practice plainly demonstrates that Defendants leased – and did not own – the first  
22 nine (9) items of the FF&E, specifically the built-in cabinets and counters which comprised 75% of  
23 the value. *See* Opposition, p.11, lines 10-14.  
24

25           Plaintiffs did present evidence of Defendants' misrepresentation of the FF&E ownership, as  
26 well the Defendants' misrepresentations of revenue, customer base, and cost of inventory.  
27

28   ///

1           **B.       Finding of Fact Concerning Misrepresentations Not Needed or Made for Summary**  
2           **Judgment Based on the Disclaimers**

3           The Court decided that the contractual disclaimers signed by Plaintiffs indicating that the  
4 choice to buy the business was due to Plaintiffs' independent investigation and not reliance on  
5 Defendants representations concerning the business (whether true or false). See Decision, p.4, line  
6 18 to p.5, line 6. In deciding that the contractual disclaimers were effective despite the unique  
7 qualities of this particular transaction, this Court eliminated the need to decide whether or not  
8 Defendants actually misrepresented material facts. In other words, the Court's legal decision to  
9 apply the contractual disclaimers prevents Plaintiffs from prevailing in this action regardless of  
10 whether the evidence demonstrates that Defendants misrepresented revenue, customers, costs,  
11 and ownership of the FF&E.  
12

13           "[A]n order granting summary judgment shall set forth the undisputed material facts and  
14 legal determinations on which the court granted summary judgment." See NRCP 52(a). In this  
15 case, the Court's Decision made no findings of fact relating to the Defendants' misrepresentations,  
16 but rather the Court's decision rested on the effectiveness of the contractual disclaimers. See  
17 Decision (Exhibit 1). Of course, had the Court actually ruled on the parties' evidence to determine  
18 that Plaintiffs failed to present evidence to demonstrate Defendants' misrepresentations, the Court  
19 would have significantly overstepped the Court's discretion. See *Woods v. Safeway, Inc.*, 121 Nev.  
20 724, 731, 121 P.3d 1026, 1031 (2005) (where there are unresolved question of material fact such  
21 that a rational trier of fact could return a verdict for the non-moving party, the case must proceed  
22 to trial).  
23

24  
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The Court's Decision Granting Summary Judgment to Defendants rested on the effectiveness of the contractual disclaimers and not as Defendants' draft order indicates the absence of evidence to demonstrate Defendants' misrepresentations.

**C. Other Aspects Reasonably Meant Arguments Relating to Claim for Elder Abuse**

This Court's Decision did also include a reference to "other matters" in Defendants' Motion for Summary Judgment that the Court found persuasive. See Decision, p.5, lines 7-8 (Exhibit 1).

This reference is believed to be an indication of support for the decision against Plaintiff Robert G. Reynolds on his claim for Elder Abuse under NRS 41.1395 since the Court's Decision did not otherwise address Plaintiff Reynolds' Elder Abuse claim. This sentence in the Court's Decision cannot be a replacement for the specific findings of fact that Defendants' counsel incorporated into the Order since much more specificity would be expected and indeed required had that been the Court's intention. See NRCP 52(a).

IV.

## CONCLUSION

Plaintiffs sued Defendants asserting claims for breach of contract, intentional misrepresentation, negligent misrepresentation, and elder abuse all arising from a series of misrepresentations made by Defendant Raffi Tufenkjian to Plaintiff Robert Reynolds during due diligence for the business purchase at issue. This Court decided this case based on contractual disclaimers. This Court did not weigh the evidence and decide that Plaintiffs failed to present sufficient evidence to prove Defendants' misrepresentations. Such a decision by this Court would have been contrary to Nevada law and would have made no sense.

///

1 Based on the foregoing and pursuant to NRCP 59(a), Plaintiffs request that this Court amend  
2 the Order Granting Summary Judgment by striking Paragraph 5, Paragraph 6, and the first nine (9)  
3 words in Paragraph 7 on page 6 of the Order Granting Summary Judgment.  
4

5 Dated this 27<sup>th</sup> day of November 2018.

6 CHASEY LAW OFFICES

7 

8 PETER L. CHASEY, ESQ.

9 Nevada Bar No. 007650

10 3295 N. Fort Apache Road, Suite 110

11 Las Vegas, Nevada 89129

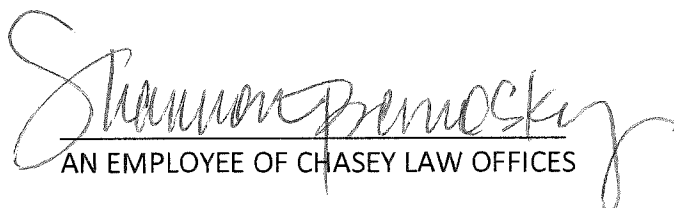
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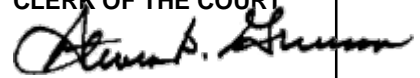
13 Attorney for Plaintiffs  
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**CERTIFICATE OF SERVICE**

Pursuant to Rule 5(b) of the Nevada Rules of Civil Procedure, I hereby certify that on the 27<sup>th</sup> day of November, 2018, I served a true and complete copy of **PLAINTIFFS' MOTION TO AMEND JUDGMENT** upon those persons designated by the parties in the E-Service Master List for the above-referenced matter in the Eighth Judicial District Court eFiling System in accordance with the mandatory electronic service requirements of Administrative Order 14-2 and the Nevada Electronic Filing and Conversion Rules:

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Christian T. Balducci, Esq.  
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(702) 382-0711 Phone  
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Attorneys for Defendants

  
AN EMPLOYEE OF CHASEY LAW OFFICES



**NOTC**

PETER L. CHASEY, ESQ.

Nevada Bar No. 007650

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Las Vegas, Nevada 89129

Tel: (702) 233-0393 Fax: (702) 233-2107

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Attorney for Plaintiffs

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

ROBERT G. REYNOLDS, an individual, and  
DIAMANTI FINE JEWELERS, LLC, a Nevada  
Limited Liability Company,

Plaintiff,

vs.

RAFFI TUFENKJIAN, an individual, and LUXURY  
HOLDINGS LV, LLC, a Nevada Limited Liability  
Company, DOES 1-10, and ROE CORPORATIONS  
1-10 inclusive,

Defendants.

) CASE NO.: A-17-753532-C

) DEPT NO.: XIII

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**NOTICE OF ENTRY OF ORDER**

PLEASE TAKE NOTICE that on the 28<sup>th</sup> day of January, 2019, the attached Order Granting in Part,  
Denying in Part, Plaintiffs' Motion to Amend Judgment was entered in the above-captioned case.

Dated this 29<sup>th</sup> day of January, 2019.

CHASEY LAW OFFICES

  
PETER L. CHASEY, ESQ.

Nevada Bar No. 007650

3295 N. Fort Apache Road, Suite 110

Las Vegas, NV 89129

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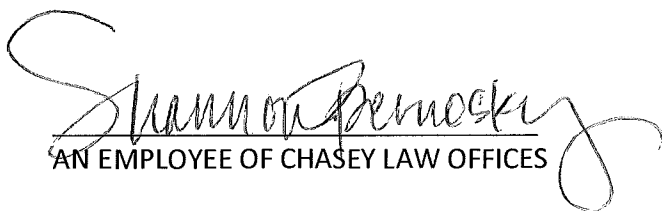


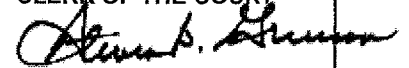
**CERTIFICATE OF SERVICE**

Pursuant to Rule 5(b) of the Nevada Rules of Civil Procedure, I hereby certify that on the 29<sup>th</sup> day of January, 2019, I served a true and complete copy of **NOTICE OF ENTRY OF ORDER** upon those persons designated by the parties in the E-Service Master List for the above-referenced matter in the Eighth Judicial District Court eFiling System in accordance with the mandatory electronic service requirements of Administrative Order 14-2 and the Nevada Electronic Filing and Conversion Rules:

Terry A. Moore, Esq.  
Christian T. Balducci, Esq.  
MARQUIS AURBACH COFFING  
10001 Park Run Drive  
Las Vegas, NV 89145  
(702) 382-0711 Phone  
(702) 382-5816 Fax  
Attorneys for Defendants

Robert G. Reynolds  
Diamanti Fine Jewelers  
410 S. Rampart Blvd., Suite 140  
Las Vegas, NV 89145

  
AN EMPLOYEE OF CHASEY LAW OFFICES



**ORDR**

PETER L. CHASEY, ESQ.  
Nevada Bar No. 007650

**CHASEY LAW OFFICES**

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email: peter@chaseylaw.com

Attorney for Plaintiffs

ROBERT G. REYNOLDS and  
DIAMANTI FINE JEWELERS, LLC

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

ROBERT G. REYNOLDS, an individual, and  
DIAMANTI FINE JEWELERS, LLC

Plaintiff,

vs.

RAFFI TUFENKJIAN, an individual, and LUXURY  
HOLDINGS LV, LLC, a Nevada Limited Liability  
Company, DOES 1-10, and ROE CORPORATIONS  
1-10 inclusive,

Defendants.

CASE NO.: A-17-753532-C

DEPT NO.: XIII

**ORDER GRANTING IN PART, DENYING IN  
PART, PLAINTIFFS' MOTION TO AMEND  
JUDGMENT**

THIS MATTER having come before this Court on January 7, 2019, on Plaintiff's Motion to Amend Judgment; Peter L. Chasey, Esq. of the Chasey Law Offices, appearing on behalf of Plaintiffs Robert G. Reynolds and Diamanti Fine Jewelers, LLC ("Plaintiffs") and Christian T. Balducci, Esq. of the law firm of Marquis Aurbach Coffing appearing on behalf of Raffi Tufenkjian and Luxury Holdings LV, LLC ("Defendants").

This Court, having reviewed the papers and pleadings on file herein, the papers and pleadings filed in this matter, oral argument of counsel, good cause appearing,

1 IT IS HEREBY ORDERED that Plaintiffs' Motion to Amend Judgment is GRANTED IN PART,  
2  
3 IT IS FURTHER ORDERED that the Order Granting Summary Judgment dated November 14,  
4 2018 be amended by removing the first sentence of Paragraph 5 on page 6, and by removing the  
5 word "therefore" from the second sentence of Paragraph 5 on page 6,

6 IT IS HEREBY FURTHER ORDERED that the Plaintiffs' Motion to Amend Judgment is DENIED  
7 as to the remainder.

8  
9 IT IS SO ORDERED this 24<sup>th</sup> day of January, 2019.

10  
11  
12   
DISTRICT COURT JUDGE  
13 

14  
15 Respectfully Submitted By:

16  
17 CHASEY LAW OFFICES

18  
19 By: 

20 Peter L. Chasey, Esq.  
21 Nevada Bar No. 7650  
22 3295 N. Fort Apache Road, Ste. 110  
23 Las Vegas, Nevada 89129  
24 Attorneys for Plaintiffs

25 Approved as to form, only.

26 MARQUIS AURBACH COFFING

27 By: 

28 Terry A. Moore, Esq.  
Nevada Bar No. 7831  
Christian T. Balducci, Esq.  
Nevada Bar No. 12688  
10001 Park Run Drive  
Las Vegas, Nevada 89145  
Attorneys for Defendants

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

**INDICATE FULL CAPTION:**

**ROBERT G. REYNOLDS, AN INDIVIDUAL;  
AND DIAMANTI FINE JEWELERS, LLC, A  
NEVADA LIMITED LIABILITY COMPANY,  
Appellants,  
vs.  
RAFFI TUFENKJIAN, AN INDIVIDUAL;  
AND LUXURY HOLDINGS LV, LLC, A  
NEVADA LIMITED LIABILITY COMPANY,  
Respondents**

No. **78187**

Electronically Filed  
Mar 20 2019 03:52 p.m.  
Elizabeth A. Brown  
Clerk of Supreme Court  
**DOCKETING STATEMENT  
CIVIL APPEALS**

**GENERAL INFORMATION**

Appellants must complete this docketing statement in compliance with NRAP 14(a). The purpose of the docketing statement is to assist the Supreme Court in screening jurisdiction, identifying issues on appeal, assessing presumptive assignment to the Court of Appeals under NRAP 17, scheduling cases for oral argument and settlement conferences, classifying cases for expedited treatment and assignment to the Court of Appeals, and compiling statistical information.

**WARNING**

This statement must be completed fully, accurately and on time. NRAP 14(c). The Supreme Court may impose sanctions on counsel or appellant if it appears that the information provided is incomplete or inaccurate. *Id.* Failure to fill out the statement completely or to file it in a timely manner constitutes grounds for the imposition of sanctions, including a fine and/or dismissal of the appeal.

A complete list of the documents that must be attached appears as Question 27 on this docketing statement. Failure to attach all required documents will result in the delay of your appeal and may result in the imposition of sanctions.

This court has noted that when attorneys do not take seriously their obligations under NRAP 14 to complete the docketing statement properly and conscientiously, they waste the valuable judicial resources of this court, making the imposition of sanctions appropriate. See KDI Sylvan Pools v. Workman, 107 Nev. 340, 344, 810 P.2d 1217, 1220 (1991). Please use tab dividers to separate any attached documents.

Revised December 2015

1. Judicial District Eighth Department 13  
County Clark Judge Honorable Mark R. Denton  
District Ct. Case No. A-17-753532-C

**2. Attorney filing this docketing statement:**

Attorney Bradley M. Marx Telephone 702-900-2541  
Firm Marx Law Firm PLLC  
Address  
900 S. Rancho Dr. Suite B14  
Las Vegas, NV 89106

Client(s) Robert G. Reynolds and Diamanti Fine Jewelers, LLC

If this is a joint statement by multiple appellants, add the names and addresses of other counsel and the names of their clients on an additional sheet accompanied by a certification that they concur in the filing of this statement.

**3. Attorney(s) representing respondents(s):**

Attorney Christian T. Balducci Telephone 702-382-0711  
Firm Marquis Aurbach Coffing  
Address  
10001 Park Run Drive  
Las Vegas, NV 89145

Client(s) Raffi Tufenkjian and Luxury Holdings LV, LLC

Attorney \_\_\_\_\_ Telephone \_\_\_\_\_  
Firm \_\_\_\_\_  
Address \_\_\_\_\_

Client(s) \_\_\_\_\_

(List additional counsel on separate sheet if necessary)

**4. Nature of disposition below (check all that apply):**

- |   |   |
|---|---|
| <input type="checkbox"/> Judgment after bench trial         | <input type="checkbox"/> Dismissal:                                     |
| <input type="checkbox"/> Judgment after jury verdict        | <input type="checkbox"/> Lack of jurisdiction                           |
| <input checked="" type="checkbox"/> Summary judgment        | <input type="checkbox"/> Failure to state a claim                       |
| <input type="checkbox"/> Default judgment                   | <input type="checkbox"/> Failure to prosecute                           |
| <input type="checkbox"/> Grant/Denial of NRCP 60(b) relief  | <input type="checkbox"/> Other (specify): _____                         |
| <input type="checkbox"/> Grant/Denial of injunction         | <input type="checkbox"/> Divorce Decree:                                |
| <input type="checkbox"/> Grant/Denial of declaratory relief | <input type="checkbox"/> Original <input type="checkbox"/> Modification |
| <input type="checkbox"/> Review of agency determination     | <input type="checkbox"/> Other disposition (specify): _____             |

**5. Does this appeal raise issues concerning any of the following?**

- ☐ Child Custody
- ☐ Venue
- ☐ Termination of parental rights

**6. Pending and prior proceedings in this court.** List the case name and docket number of all appeals or original proceedings presently or previously pending before this court which are related to this appeal:

None.

**7. Pending and prior proceedings in other courts.** List the case name, number and court of all pending and prior proceedings in other courts which are related to this appeal (e.g., bankruptcy, consolidated or bifurcated proceedings) and their dates of disposition:

None.

**8. Nature of the action.** Briefly describe the nature of the action and the result below:

In this action, Appellants allege that Respondents made certain fraudulent misrepresentations in a contract to purchase a jewelry store. Respondents filed a Motion for Summary Judgment to be entered against each of Appellants' claims based on contractual disclaimers. Appellants alleged that the contractual disclaimers were not dispositive when combined with reasonable reliance on material misrepresentations. The district court granted Respondents' motion for summary judgment over Appellant's opposition. Appellants now appeal the order granting Respondent Summary Judgment

**9. Issues on appeal.** State concisely the principal issue(s) in this appeal (attach separate sheets as necessary):

Whether Appellants reasonably relied on Respondents' misrepresentations during due diligence.

Whether Respondents' misrepresentations are excused by contractual disclaimers.

Whether Appellant Reynolds is entitled to the protection of NRS 41.1395 even though Appellant Reynolds lost money through a transaction consummated through Reynolds' 100% owned limited liability company.

**10. Pending proceedings in this court raising the same or similar issues.** If you are aware of any proceedings presently pending before this court which raises the same or similar issues raised in this appeal, list the case name and docket numbers and identify the same or similar issue raised:

None.

**11. Constitutional issues.** If this appeal challenges the constitutionality of a statute, and the state, any state agency, or any officer or employee thereof is not a party to this appeal, have you notified the clerk of this court and the attorney general in accordance with NRAP 44 and NRS 30.130?

☐ N/A

☐ Yes

☒ No

If not, explain:

**12. Other issues.** Does this appeal involve any of the following issues?

☐ Reversal of well-settled Nevada precedent (identify the case(s))

☐ An issue arising under the United States and/or Nevada Constitutions

☒ A substantial issue of first impression

☐ An issue of public policy

☐ An issue where en banc consideration is necessary to maintain uniformity of this court's decisions

☐ A ballot question

If so, explain:

Appellants argue that the Court has not determined whether non-reliance provisions in a purchase agreement excuse the seller's material misrepresentations and concealment of information peculiarly within his or her knowledge. As other states have concluded, Nevada may set aside the contractual protections when due diligence is frustrated.



**13. Assignment to the Court of Appeals or retention in the Supreme Court.** Briefly set forth whether the matter is presumptively retained by the Supreme Court or assigned to the Court of Appeals under NRAP 17, and cite the subparagraph(s) of the Rule under which the matter falls. If appellant believes that the Supreme Court should retain the case despite its presumptive assignment to the Court of Appeals, identify the specific issue(s) or circumstance(s) that warrant retaining the case, and include an explanation of their importance or significance:

This matter is presumptively retained by the Supreme Court as the principal issue is a question of first impression. NRAP 17(a)(11). It is also retained by the Supreme Court because it originated in business court. NRAP 17(a)(9).

**14. Trial.** If this action proceeded to trial, how many days did the trial last? \_\_\_\_\_

Was it a bench or jury trial? \_\_\_\_\_

**15. Judicial Disqualification.** Do you intend to file a motion to disqualify or have a justice recuse him/herself from participation in this appeal? If so, which Justice?

No.

## TIMELINESS OF NOTICE OF APPEAL

**16. Date of entry of written judgment or order appealed from** October 11, 2018

If no written judgment or order was filed in the district court, explain the basis for seeking appellate review:

**17. Date written notice of entry of judgment or order was served** November 16, 2018

Was service by:

☐ Delivery

☒ Mail/electronic/fax

**18. If the time for filing the notice of appeal was tolled by a post-judgment motion (NRCP 50(b), 52(b), or 59)**

(a) Specify the type of motion, the date and method of service of the motion, and the date of filing.

☐ NRCP 50(b)      Date of filing November 27, 2018

☐ NRCP 52(b)      Date of filing \_\_\_\_\_

☒ NRCP 59      Date of filing \_\_\_\_\_

**NOTE: Motions made pursuant to NRCP 60 or motions for rehearing or reconsideration may toll the time for filing a notice of appeal. See AA Primo Builders v. Washington, 126 Nev. \_\_\_, 245 P.3d 1190 (2010).**

(b) Date of entry of written order resolving tolling motion January 24, 2019

(c) Date written notice of entry of order resolving tolling motion was served January 29, 2019

Was service by:

☒ Delivery

☐ Mail

**19. Date notice of appeal filed** February 19, 2019

If more than one party has appealed from the judgment or order, list the date each notice of appeal was filed and identify by name the party filing the notice of appeal:

Robert G. Reynolds and Diamanti Fine Jewelers, LLC filed a joint notice of appeal on February 19, 2019

**20. Specify statute or rule governing the time limit for filing the notice of appeal, e.g., NRAP 4(a) or other**

NRAP 4(a)(1)

---

### **SUBSTANTIVE APPEALABILITY**

**21. Specify the statute or other authority granting this court jurisdiction to review the judgment or order appealed from:**

(a)

- |   |                                       |
|---|---------------------------------------|
| <input checked="" type="checkbox"/> NRAP 3A(b)(1) | <input type="checkbox"/> NRS 38.205   |
| <input type="checkbox"/> NRAP 3A(b)(2)            | <input type="checkbox"/> NRS 233B.150 |
| <input type="checkbox"/> NRAP 3A(b)(3)            | <input type="checkbox"/> NRS 703.376  |
| <input type="checkbox"/> Other (specify)          |                                       |

(b) Explain how each authority provides a basis for appeal from the judgment or order:

NRAP 3A(b)(1) allows for an appeal from a final judgment. An order granting summary judgment is a final judgment. This appeal arises from the District Court's Order granting summary judgment in favor of Respondents.

**22. List all parties involved in the action or consolidated actions in the district court:**

**(a) Parties:**

ROBERT G. REYNOLDS, DIAMANTI FINE JEWELERS, LLC,  
RAFFI TUFENKJIAN AND LUXURY HOLDINGS LV, LLC

**(b) If all parties in the district court are not parties to this appeal, explain in detail why those parties are not involved in this appeal, e.g., formally dismissed, not served, or other:**

**23. Give a brief description (3 to 5 words) of each party's separate claims, counterclaims, cross-claims, or third-party claims and the date of formal disposition of each claim.**

Robert G. Reynolds and Diamanti Fine Jewelers, LLC filed claims for fraud/misrepresentation, negligent misrepresentation, breach of contract, and exploitation. Each claim was disposed of on January 24, 2019.

**24. Did the judgment or order appealed from adjudicate ALL the claims alleged below and the rights and liabilities of ALL the parties to the action or consolidated actions below?**

☒ Yes

☐ No

**25. If you answered "No" to question 24, complete the following:**

**(a) Specify the claims remaining pending below:**

(b) Specify the parties remaining below:

(c) Did the district court certify the judgment or order appealed from as a final judgment pursuant to NRCP 54(b)?

☐ Yes

☐ No

(d) Did the district court make an express determination, pursuant to NRCP 54(b), that there is no just reason for delay and an express direction for the entry of judgment?

☐ Yes

☐ No

**26. If you answered "No" to any part of question 25, explain the basis for seeking appellate review (*e.g.*, order is independently appealable under NRAP 3A(b)):**

**27. Attach file-stamped copies of the following documents:**

- The latest-filed complaint, counterclaims, cross-claims, and third-party claims
- Any tolling motion(s) and order(s) resolving tolling motion(s)
- Orders of NRCP 41(a) dismissals formally resolving each claim, counterclaims, cross-claims and/or third-party claims asserted in the action or consolidated action below, even if not at issue on appeal
- Any other order challenged on appeal
- Notices of entry for each attached order

## VERIFICATION

I declare under penalty of perjury that I have read this docketing statement, that the information provided in this docketing statement is true and complete to the best of my knowledge, information and belief, and that I have attached all required documents to this docketing statement.

Robert G. Reynolds and  
Diamanti Fine Jewelers, LLC

Name of appellant

March 19, 2019

Date

Bradley M. Marx

Name of counsel of record

Signature of counsel of record

Clark County, Nevada

State and county where signed

## CERTIFICATE OF SERVICE

I certify that on the 20<sup>th</sup> day of March, 2019, I served a copy of this completed docketing statement upon all counsel of record:

- ☐ By personally serving it upon him/her; or
- ☒ By mailing it by first class mail with sufficient postage prepaid to the following address(es): (NOTE: If all names and addresses cannot fit below, please list names below and attach a separate sheet with the addresses.)

Christian T. Balducci  
Marquis Aurbach Coffing  
10001 Park Run Drive  
Las Vegas, NV 89145

Dated this 20<sup>th</sup> day of March, 2019

Signature