

**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**

**DOCKETING STATEMENT  
CIVIL APPEALS**

Electronically Filed  
Mar 21 2019 11:11 a.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

**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)

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### **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

Clark County, Nevada

State and county where signed

Bradley M. Marx

Name of counsel of record

Signature of counsel of record

## CERTIFICATE OF SERVICE

I certify that on the 20<sup>th</sup> <sup>21<sup>st</sup></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

Lansford W. Levitt  
4230 Christy Way  
Reno, NV 89519

Dated this 20<sup>th</sup> <sup>21<sup>st</sup></sup> day of March, 2019

Signature