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Elizabeth A. Brown
Clerk of Supreme Court

IN THE SUPREME COURT OF THE STATE OF NEVADA

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.

Case No.: 78187

**MOTION TO SUBSTITUTE AS
REAL PARTIES IN INTEREST
FOR THIS APPEAL AND DISMISS**

Appeal from the Eighth Judicial District
Court, The Honorable Mark Denton
Presiding.

Respondents, by and through their attorneys of record, the law firm of Marquis Aurbach Coffing, hereby file their Motion to Substitute as Real Parties in Interest for this Appeal and Dismiss.

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

On March 28, 2019, Respondents Raffi Tufenkjian (“**Raffi**”) and Luxury Holdings LV, LLC (“**Luxury Holdings**”) executed against personal property owned by Appellants Robert Reynolds (“**Reynolds**”) and Diamanti Fine Jewelers, LLC (“**Diamanti**”) in satisfaction of a portion of their Judgment. Raffi and Luxury Holdings’ execution included purchasing Reynolds and Diamanti’s claims (otherwise referred to as choses in action) in this appeal. Having successfully won at the chose in action auction, Raffi and Luxury Holdings are now the real parties in interest for the Appellants in this forum and now move to dismiss this appeal. As Nevada law does not limit a judgment creditor’s right to execute on personal property while an appeal is pending, the substitution of Raffi and Luxury Holdings in this appeal and its dismissal is appropriate.

II. STATEMENT OF FACTS

A. PROCEDURAL BACKGROUND

This case involved a dispute concerning Luxury Holdings sales of the Diamanti fine jewelry business located in Tivoli Village, Las Vegas, Nevada, to Reynolds and his wholly owned entity, Diamanti. On November 14, 2018, the District Court entered its findings of fact and conclusion of law, entering summary

judgment in favor of Raffi and Luxury Holdings against all claims of Reynolds and Diamanti. *See* FFCL, **Exhibit 1**. Because there were no counterclaims, this order essentially ended the case. The District Court later entered an order amending its initial findings of fact in a very minor fashion. *See* Order Granting Motion to Alter/Amend in Part, **Exhibit 2**. On February 14, 2019, the District Court entered judgment and awarded Luxury Holdings all of its attorney fees and costs incurred based upon the underlying contract (\$57,941.92) and awarded Raffi his costs (which are joint with Luxury Holdings) in the total amount of \$7,941.92. *See* Order Granting Motion for Attorney Fees and Costs and Judgment, **Exhibit 3**. Reynolds and Diamanti appealed. In their case appeal statement, Reynolds and Diamanti do not identify the award of attorney fees and costs as being in error. Rather, they attempt to attack the underlying summary judgment order.

B. ATTEMPTS TO SATISFY THE JUDGMENT

Shortly after the automatic stay period ended, Luxury Holdings and Raffi began executing on their judgment. Part of the execution process included executing upon the jewelry at the Diamanti jewelry store. Most of that jewelry was on consignment, and thus, few items of value remained after consignment inventory was returned to the consignors.

....

Another part of the execution process included executing upon the causes and action and claims of the judgment debtors, Reynolds and Diamanti. *See* Writ of Execution, **Exhibit 4**. The Sheriff's Sale of Reynolds and Diamanti's choses in action went forward on July 11, 2019. Raffi and Luxury Holdings credit bid \$100.00 for the choses in action of Reynolds and Diamanti. Raffi and Luxury Holdings were the winning bidders (and the only bidders, for that matter). *See* Notice of Sheriff's Certificate of Sale, **Exhibit 5**. Upon completion of the sale, Raffi and Diamanti became, and are, owners of Reynolds and Diamanti's claims on this appeal. *Id.*

III. LAW AND ARGUMENT

Raffi and Luxury Holdings respectfully request this Court grant this Motion to Substitute as the Real Parties in Interest for this Appeal and Dismiss this Appeal. With the exception of certain matters, the district court is divested of jurisdiction and jurisdiction vests in Supreme Court upon the timely filing of a notice of appeal. *Smith v. Emery*, 109 Nev. 737, 856 P.2d 1386 (1993). Here, the pending appeal divests the District Court of jurisdiction to address Raffi and Luxury Holdings' rights to be substituted as real parties in interest for the appeal and rights to dismissal of the appeal. Raffi and Luxury Holdings are the rightful owners of the Appellants' claims. Further, once Raffi and Luxury Holdings are substituted in

place of the Appellants, there will be no aggrieved party, thereby requiring dismissal pursuant to NRAP 3A.¹ Finally, there is no limitation in Nevada law concerning execution against claims on appeal and no basis to deny Raffi and Luxury Holdings this requested relief.

A. RAFFI AND LUXURY HOLDINGS MUST BE SUBSTITUTED AS THE REAL PARTIES IN INTEREST FOR THIS APPEAL

At this time, Raffi and Luxury Holdings are the real parties in interest to this appeal. Upon motion, parties may be substituted on appeal. *See* NRAP 43. Here, the Appellant's claims in this appeal have been transferred to Raffi and Luxury Holdings. *See* Notice of Certificate of Sheriff's Sale, **Exhibit 5**. The Appellants were given adequate notice of the sale, the opportunity to do something about the sale, and the opportunity to bid at a Sheriff's Sale. They took no action in response to the sale and its attendant notices.

Raffi and Luxury Holdings are now the rightful owners of these claims on appeal. And, they wish for this appeal to be dismissed.

....

....

....

¹ Alternatively, Raffi and Luxury Holdings could stipulate to dismiss the appeal with themselves upon the granting of substitution.

B. APPELLANTS' CLAIMS SHOULD ALL BE DISMISSED WITH PREJUDICE

An appeal may be dismissed on the motion of the appellant upon such terms as may be agreed upon by the parties or fixed by the court. *See* NRAP 42(b). Once substituted as the real parties in interest for this appeal, Raffi and Luxury Holdings have the right to voluntarily dismiss this appeal. As the owners of the Appellants' claims on appeal, Raffi and Luxury Holdings no longer wish to pursue the appeal and respectfully request the Court dismiss the appeal with prejudice.

Moreover, once Raffi and Luxury Holdings are appropriately substituted as the real party in interest for this appeal, there will no longer be an aggrieved party requesting review from this court. *See* NRAP 3A(a); *Albert D. Massi, LTD. V. Bellmyre*, 111 Nev. 1520, 908 P.2d 705 (1995) (noting that only an aggrieved party may appeal). Once Raffi and Luxury Holdings are substituted as the real parties in interest for this appeal, no aggrieved party will be left to carry on this appeal. Again, dismissal is appropriate.

C. NEVADA LAW CONTAINS NO LIMITATION ON THE RIGHT TO EXECUTE, SUBSTITUTE AND DISMISS CLAIMS

1. Statutory Language Unambiguously Allows for Execution against "Things in Action"

The clear and unambiguous language of the Nevada Statutes supports allowing the execution against personal property including things in action by a

judgment creditor. Personal property includes “money, goods, chattels, *things in action* and evidence of debt.” *See* NRS 10.045 (emphasis added). “All goods, chattels, money and other property, real and personal of the judgment debtor ... are liable to execution.” *See* NRS 21.080(1).

While it is true that defenses are not subject to execution, defenses are not at issue here. Only claims are. The Appellants’ claims, therefore, were indisputably personal property subject to execution.

What NRS 21.080 does not say also supports allowing execution. NRS 21.080 does not allow the seizure or interference with any money, thing in action, lands or property held in a spendthrift trust or discretionary or support trust. *See* NRS 21.080(2). Nothing in NRS 21.080, however, limits execution against pending “things in action” like those in this appeal. *Id.* Furthermore, NRS 21.090 lists specific items that are exempt from execution without ever identifying “things in action” held as personal property by an appellant. *See* NRS 21.090, *et. seq.* The Nevada Legislature, therefore, has taken steps to create specific categories of personal property that are exempt from execution, none of which include “things in action.”

Most analogous to this situation is *RMA Ventures California v. SunAmerica Life Ins. Co.*, 576 F.3d 1070 (10th Cir. 2009). Just like in this case, the trial court

in *RMA Ventures California* entered summary judgment against the plaintiff's claims for misrepresentation and breach of contract, and later, awarded the defendants attorney fees and costs. Like here, the defendants then executed upon the plaintiff's chose in action and then moved to dismiss the appeal for lack of standing. After considering all applicable authorities, the 10th Circuit granted the motion to dismiss, and dismissed the plaintiff's appeal.

While the *RMA Ventures* court expressed concern about the practice, its concerns were obviated by the fact that the plaintiff failed to appeal the trial court's order denying a motion to quash or stay execution; thus resulting in waiver. The Appellants efforts in this case have been less diligent. They never posted a supersedeas bond, filed a motion to stay but never saw to it to have a hearing (but regardless, never offered a meaningful bond and did not serve any exhibits),, never claimed an objection to the execution of the chose in action, and did not show up at the chose in action auction. Although Reynolds, *pro se*,² claimed an exemption to the garnishment of the jewelry at the Diamanti jewelry store, Diamanti never filed such a claim and the District Court later sustained Raffi and Luxury Holdings

² It was odd that Reynolds chose to appear in the district court *pro se* when he is represented. See Case Appeal Statement ¶¶ 6 – 7, **Exhibit 8** (“Appellant is represented by retained counsel in the district court ... Appellant is represented by retained counsel on appeal.”).

objection to the claim of exemption. *See* Objection to Claim of Exemption, **Exhibit 6**; *and see* Order Sustaining Objection, **Exhibit 7**. At this juncture, any effort to challenge the order sustaining the objection is untimely.

IV. CONCLUSION

For the foregoing reasons, the Court should grant the instant motion, substitute Raffi and Luxury Holdings as appellants for this appeal, only, and dismiss the appeal.

Dated this 25th day of July, 2019.

MARQUIS AURBACH COFFING

By /s/ Christian T. Balducci
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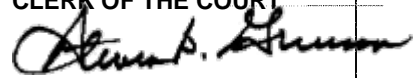
CERTIFICATE OF SERVICE

I hereby certify that the foregoing **MOTION TO SUBSTITUTE AS REAL PARTIES IN INTEREST AND DISMISS** was filed electronically with the Nevada Supreme Court on the 25th day of July, 2019. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

Bradley M. Marx, Esq.
brad@marxfirm.com
Attorneys for Plaintiffs

/s/ Cheryl Becnel
An employee of Marquis Aurbach Coffing

Exhibit 1



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Attorneys for Defendants

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
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<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, 2015.¹

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.²

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."³

¹ See Ex. N to Defendants' Motion.

² See generally *id.*

³ *Id.* at 4

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

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."⁵

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.⁶

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."⁷

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 ⁴ *Id.*

25 ⁵ *Id.*

26 ⁶ 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.").

⁷ *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.⁸

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.⁹

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."¹⁰

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.

⁸ Closing Agreement (attached as Ex. I to Defendants' Motion).

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

¹⁰ 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.

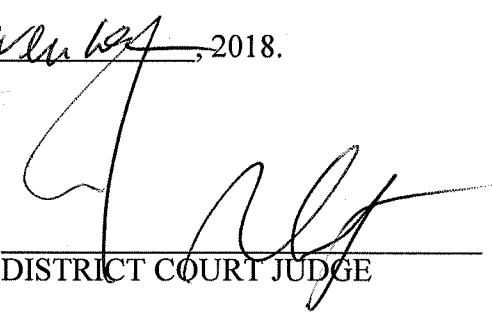
25 8. In light of the above, the Court concludes that no genuine issues of material fact
26 remain. Further, Defendants have established that they are entitled to judgment as a matter of
27 law on all of Plaintiffs’ claims. Defendants’ motion for summary judgment is thus GRANTED
28 in its entirety.

ORDER

IT IS HEREBY ORDERED, ADJUDGED AND DECREED

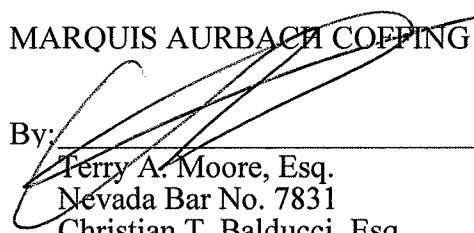
1. Defendants Raffi Tufenkjian and Luxury Holdings LV, LLC's Motion for Summary Judgment is hereby GRANTED;

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 13th day of November, 2018.
DISTRICT COURT JUDGE

Respectfully Submitted By:

MARQUIS AURBACH COFFING

By: 
Terry A. Moore, Esq.
Nevada Bar No. 7831
Christian T. Balducci, Esq.
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Attorneys for Defendants

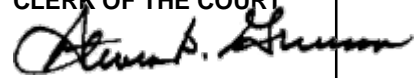
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CHASEY LAW OFFICES

By: Refused

Peter L. Chasey, Esq.
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Las Vegas, Nevada 89129
Attorneys for Plaintiffs

Exhibit 2



NOTC

PETER L. CHASEY, ESQ.

Nevada Bar No. 007650

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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 28th 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 29th day of January, 2019.

CHASEY LAW OFFICES


PETER L. CHASEY, ESQ.

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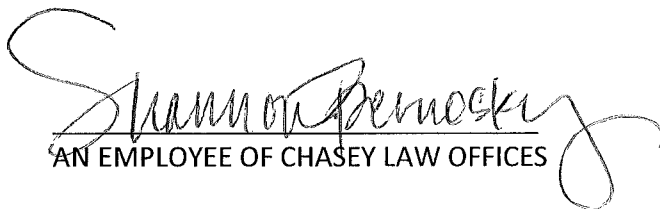
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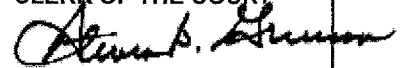
1
2 **CERTIFICATE OF SERVICE**

3 Pursuant to Rule 5(b) of the Nevada Rules of Civil Procedure, I hereby certify that on the 29th
4 day of January, 2019, I served a true and complete copy of **NOTICE OF ENTRY OF ORDER** upon those
5 persons designated by the parties in the E-Service Master List for the above-referenced matter in the
6 Eighth Judicial District Court eFiling System in accordance with the mandatory electronic service
7 requirements of Administrative Order 14-2 and the Nevada Electronic Filing and Conversion Rules:
8

9 Terry A. Moore, Esq.
10 Christian T. Balducci, Esq.
11 MARQUIS AURBACH COFFING
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14 (702) 382-0711 Phone
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16 
17 AN EMPLOYEE OF CHASEY LAW OFFICES
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ORDR

PETER L. CHASEY, ESQ.
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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
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**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 24th 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

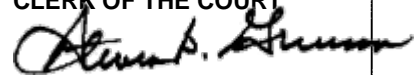
25 Approved as to form, only.

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

Exhibit 3



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Attorneys for Defendants

DISTRICT COURT

CLARK COUNTY, NEVADA

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

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.

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

Hearing Date: January 7, 2019
Hearing Time: 9:00 a.m.

ORDER GRANTING DEFENDANTS'
MOTION FOR ATTORNEY'S FEES AND COSTS

AND

JUDGMENT AGAINST PLAINTIFFS

THIS MATTER having come before this Court on January 7, 2019, on Defendants' Motion for Attorney's Fees and Costs; 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, and oral argument of

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1 counsel, hereby ORDERS that Defendants' Motion for Attorney's Fees and Costs is GRANTED
2 IN PART, and enters JUDGMENT, based on the following:

3 1. Defendants' Motion seeks attorney's fees based on a contractual provision and, in
4 the alternative, based on rejected offers of judgment under NRCP 68.

5 2. The contract at the heart of this litigation contained an express and unambiguous
6 provision entitling the prevailing party to recover reasonable attorney's fees and costs incurred in
7 litigation arising out of the contract. *See* Plaintiff's offer dated January 12, 2015; Defendants'
8 counter-offer dated January 13, 2015; and Closing Agreement dated March 24, 2015.

9 3. Thus, both Plaintiff Reynolds and Plaintiff Diamanti are contractually bound to
10 this fee provision.

11 4. Because Plaintiffs filed suit based on allegations that the Defendants
12 misrepresented material facts about the business's profitability during negotiations of the sale
13 agreement, as well as for an alleged breach of contract, this litigation arises out of the contract
14 between the parties, and thus the prevailing party is entitled to reasonable attorney's fees and
15 costs. Judgment was entered in Defendants' favor on all of Plaintiffs' claims, making
16 Defendants the prevailing parties. Therefore, Defendants are entitled under the contract to
17 recover reasonable attorney's fees and costs incurred in this action.

18 5. On May 25, 2017, Defendants served offers of judgment to both Plaintiff
19 Reynolds and Plaintiff Diamanti Fine Jewelers, LLC for \$250.00 and \$5,000.00, respectively.

20 6. The decision to award attorney fees is within the sound discretion of the Court.
21 *Allianz Ins. Co. v. Gagnon*, 109 Nev. 990 (1993) (citing *County of Clark v. Blanchard Constr.*
22 *Co.*, 98 Nev. 488, 492, 653 P.2d 1217, 1220 (1982)).

23 7. The Court considers the amounts offered in Defendants' respective offers of
24 judgment to be unlikely to have elicited serious consideration of acceptance in the context of the
25 contentions being vehemently advanced by Plaintiffs at the time the offers were made. *See*
26 *Beattie v. Thomas*, 99 Nev. 579, 588, 668 P.2d 753 (1983). Thus, the Court applies the subject
27 contractual provision in awarding attorney's fees in lieu of NRCP 68.
28

1 8. The Nevada Supreme Court has mandated that a district court analyze the
2 reasonableness of attorney's fees by considering the factors enumerated in *Brunzell v. Golden*
3 *Gate National Bank*, 85 Nev. 345, 349, 455 P.2d 31, 33 (1969), which are (1) the qualities of the
4 advocate; (2) the character of the work to be done; (3) the work actually performed; and (4) the
5 result.

6 9. The Court has analyzed the *Brunzell* factors as they relate to the instant motion,
7 and for the most part agrees with Defendants' analysis proffered in the Motion. The Court
8 further finds that Plaintiff Reynolds has wide experience in business transactions, that Plaintiffs
9 made serious allegations against Defendants, and that it would reasonably be expected that
10 Defendants would vigorously defend themselves, which they did in a professional and
11 appropriate manner. In light of these considerations, the Court awards reasonable attorney's fees
12 in the amount of \$50,000.00 and costs in the sum of \$7,941.92 per Defendants' Verified
13 Memorandum of Costs and Disbursements filed November 16, 2018.

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ORDER AND JUDGMENT

IT IS HEREBY ORDERED, ADJUDGED AND DECREED

1. Defendants' Motion for Attorney's Fees and Costs is GRANTED IN PART.

2. Defendant Luxury Holdings LV, LLC is awarded attorney's fees in the sum of \$50,000.00, and Defendants Luxury Holdings LV, LLC and Raffi Tufenkjian are awarded costs in the sum of \$7,941.92.

3. Based upon the foregoing, JUDGMENT is hereby entered and against Plaintiffs Robert G. Reynolds and Diamanti Fine Jewelers, LLC, in the total amount of \$57,941.92, with that entire amount being in favor Defendant Luxury Holdings LV, LLC, and \$7,941.92 of that amount being in favor of Raffi Tufenkjian (joint and severally against each of the Plaintiffs).

4. Consistent with this Order and Judgment, the bond posted by Defendants in support of their petition for pre-judgment writ of attachment is hereby released because, by virtue of this Order and Judgment, a Judgment is entered and thus there is no need for a bond to secure pre-judgment relief.

IT IS SO ORDERED this 13th day of February 2019.

DISTRICT JUDGE

Respectfully Submitted By:

MARQUIS AURBACH COFFING

By:

Terry A. Moore, Esq.
Nevada Bar No. 7831
Christian T. Balducci, Esq.
Nevada Bar No. 12688
Attorneys for Defendants

Exhibit 4

MARQUIS AURBACH COFFING

10001 Park Run Drive
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(702) 382-0711 FAX: (702) 382-5816

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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

Name of Judgment Creditor: RAFFI TUFENKJIAN and LUXURY HOLDINGS LV,
LLC

Name of Judgment Debtor: ROBERT G. REYNOLDS and DIAMANTI FINE
JEWELERS, LLC

WRIT OF EXECUTION

THE PEOPLE OF THE STATE OF NEVADA:

TO THE SHERIFF OF CLARK COUNTY, NEVADA

Greetings:

On February 14, 2019, an Order Granting Defendants' Motion for Attorney's Fees and
Costs and Judgment against Plaintiffs was entered by the above-entitled court in the above-
entitled action in favor of RAFFI TUFENKJIAN and LUXURY HOLDINGS LV, LLC,

1 Plaintiffs, as Judgment Creditor and against ROBERT G. REYNOLDS and DIAMANTI FINE
2 JEWELERS, LLC, Defendants, as Judgment Debtors, for:

3 \$ _____ principal
4 \$ 50,000 attorney fees
5 \$ _____ interest, and
6 \$ 7,941.92 costs, making a total amount of
7 \$ 57,941.92 the Judgment as entered, and

8 WHEREAS, according to an affidavit or a memorandum of costs after judgment, or both,
9 filed herein, it appears that further sums have accrued since the entry of judgment, to wit:

10 \$ 428.61 accrued interest,
11 \$ _____ accrued costs, and
12 \$ 10.00 fee for the issuance of this writ, making a total of:
13 \$ 438.61 as accrued costs, accrued interest and fees

14 Credit must be given for payments and partial satisfaction in the amount of:

15 \$ _____

16 which is to be first credited against the total accrued costs and accrued interest, with any excess
17 credited against the judgment as entered, leaving a net balance of:

18 \$ 58,370.53

19 actually due on the date of the issuance of this writ, of which:

20 \$ 57,941.92

21 (the amount of the Judgment as entered) bears interest in the amount of \$11.91 per day, from the
22 date of the Judgment to the date of levy, to which must be added the commissions and costs of
23 the officer executing this writ.
24
25
26
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JUDGMENT BALANCE

Principal	\$	
Attorney Fees	\$	50,000
Prejudgment Interest	\$	
Costs	\$	7,941.92
Accrued Costs & Fees	\$	10.00
Accrued Interest	\$	428.61
Less Satisfaction	\$	
NET BALANCE	\$	58,370.53

AMOUNTS TO BE COLLECTED BY LEVY

NET BALANCE	\$	58,370.53
Fee this Writ	\$	
Garnishment Fee	\$	
Mileage	\$	
Advertising	\$	
Interest from date of issuance	\$	
Levy	\$	
SUB-TOTAL	\$	
Commission	\$	
TOTAL LEVY	\$	

NOW, THEREFORE, SHERIFF OF CLARK COUNTY, NEVADA, you are hereby commanded to satisfy this Judgment with interest and costs as provided by law, out of the personal property of the Judgment Debtor, except that for any workweek, 75% of the disposable earnings of the debtor during that week or 50 times the minimum hourly wage prescribed by section 6(a)(1) of the federal Fair Labor Standards Act of 1938, 29 U.S.C. § 206(a)(1), and in effect at the time the earnings are payable, whichever is greater, is exempt from any levy of execution pursuant to this writ, and if sufficient personal property cannot be found, then out of the real property belonging to the debtor in the aforesaid county, and make return to this writ within not less than 10 days or more than 60 days endorsed thereon with what you have done.

Specifically, you are instructed to satisfy the judgment in the above entitled suit for the total amount due out of the following described personal property:

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1. Please levy and seize upon any and all causes of action, claims, allegations, assertions or defenses of Judgment Debtors, including but not limited to those pending in the Eighth Judicial District Court of Clark County, Nevada designated as:

ROBERT G. REYNOLDS, an individual, DIAMANTI FINE JEWELERS, LLC, a Nevada limited liability company v. RAFFI TUFENKJIAN, an individual, and LUXURY HOLDINGS LV, LLC, a Nevada Limited Liability Company, DOES 1-10, and ROE CORPORATIONS 1-10 inclusive

Clark County District Court
Case No. A-17-753532-B

Dated this ___ day of March, 2019.

STEVEN D. GRIERSON
CLERK OF COURT

By: 

DEPUTY CLERK

4/3/2019

Vivian Canela

Submitted by:

MARQUIS AURBACH COFFING

By: 

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

SHERIFF'S RETURN TO DISTRICT COURT

I hereby certify that I have this date returned the foregoing Writ of Execution with the results of the levy endorsed thereon.

SHERIFF

By: _____
Title Date

_____ not satisfied	
_____ satisfied in sum	\$ _____
_____ costs retained	\$ _____
_____ commission retained	\$ _____
_____ costs incurred	\$ _____
_____ commission incurred	\$ _____
_____ costs received	\$ _____
REMITTED TO	
JUDGMENT CREDITOR	\$ _____

NOTICE OF EXECUTION**YOUR PROPERTY IS BEING ATTACHED OR YOUR WAGES ARE BEING GARNISHED**

A court has determined that you owe money to RAFFI TUFENKJIAN AND LUXURY HOLDINGS LV, LLC, the judgment creditor. The judgment creditor has begun the procedure to collect that money by garnishing your wages, bank account and other personal property held by third persons or by taking money or other property in your possession.

Certain benefits and property owned by you may be exempt from execution and may not be taken from you. The following is a partial list of exemptions:

1. Payments received pursuant to the federal Social Security Act, including, without limitation, retirement and survivors' benefits, supplemental security income benefits and disability insurance benefits.

2. Payments for benefits or the return of contributions under the Public Employees' Retirement System.

3. Payments for public assistance granted through the Division of Welfare and Supportive Services of the Department of Health and Human Services or a local governmental entity.

4. Proceeds from a policy of life insurance.

5. Payments of benefits under a program of industrial insurance.

6. Payments received as disability, illness or unemployment benefits.

7. Payments received as unemployment compensation.

8. Veteran's benefits.

9. A homestead in a dwelling or a mobile home, not to exceed \$550,000, unless:

(a) The judgment is for a medical bill, in which case all of the primary dwelling, including a mobile or manufactured home, may be exempt.

(b) Allodial title has been established and not relinquished for the dwelling or mobile home, in which case all of the dwelling or mobile home and its appurtenances are exempt, including the land on which they are located, unless a valid waiver executed pursuant to NRS 115.010 is applicable to the judgment.

10. All money reasonably deposited with a landlord by you to secure an agreement to rent or lease a dwelling that is used by you as your primary residence, except that such money is not exempt with respect to a landlord or landlord's successor in interest who seeks to enforce the terms of the agreement to rent or lease the dwelling.

11. A vehicle, if your equity in the vehicle is less than \$15,000.

12. Eighty-two percent of the take-home pay for any workweek, unless the weekly take-home pay is less than 50 times the federal minimum hourly wage, in which case the entire amount may be exempt.

13. Money, not to exceed \$1,000,000 in present value, held in:

(a) An individual retirement arrangement which conforms with the applicable limitations and requirements of section 408 or 408A of the Internal Revenue Code, 26 U.S.C. §§ 408 and 408A;

(b) A written simplified employee pension plan which conforms with the applicable limitations and requirements of section 408 of the Internal Revenue Code, 26 U.S.C. § 408;

(c) A cash or deferred arrangement that is a qualified plan pursuant to the Internal Revenue Code;

(d) A trust forming part of a stock bonus, pension or profit-sharing plan that is a qualified plan pursuant to sections 401 et seq. of the Internal Revenue Code, 26 U.S.C. §§ 401 et seq.; and

(e) A trust forming part of a qualified tuition program pursuant to chapter 353B of NRS, any applicable regulations adopted pursuant to chapter 353B of NRS and section 529 of the Internal Revenue Code, 26 U.S.C. § 529, unless the money is deposited after the entry of a judgment against the purchaser or account owner or the money will not be used by any beneficiary to attend a college or university.

14. All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support, education and maintenance of a child, whether collected by the judgment debtor or the State.

15. All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support and maintenance of a former spouse, including the amount of any arrearages in the payment of such support and maintenance to which the former spouse may be entitled.

16. Regardless of whether a trust contains a spendthrift provision:

(a) A present or future interest in the income or principal of a trust that is a contingent interest, if the contingency has not been satisfied or removed;

(b) A present or future interest in the income or principal of a trust for which discretionary power is held by a trustee to determine whether to make a distribution from the trust, if the interest has not been distributed from the trust;

(c) The power to direct dispositions of property in the trust, other than such a power held by a trustee to distribute property to a beneficiary of the trust;

(d) Certain powers held by a trust protector or certain other persons; and

(e) Any power held by the person who created the trust.

17. If a trust contains a spendthrift provision:

(a) A present or future interest in the income or principal of a trust that is a mandatory interest in which the trustee does not have discretion concerning whether to make the distribution from the trust, if the interest has not been distributed from the trust; and

(b) A present or future interest in the income or principal of a trust that is a support interest in which the standard for distribution may be interpreted by the trustee or a court, if the interest has not been distributed from the trust.

18. A vehicle for use by you or your dependent which is specially equipped or modified to provide mobility for a person with a permanent disability.

19. A prosthesis or any equipment prescribed by a physician or dentist for you or your dependent.

20. Payments, in an amount not to exceed \$16,150, received as compensation for personal injury, not including compensation for pain and suffering or actual pecuniary loss, by the judgment debtor or by a person upon whom the judgment debtor is dependent at the time the payment is received.

21. Payments received as compensation for the wrongful death of a person upon whom the judgment debtor was dependent at the time of the wrongful death, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

22. Payments received as compensation for the loss of future earnings of the judgment debtor or of a person upon whom the judgment debtor is dependent at the time the payment is received, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

23. Payments received as restitution for a criminal act.

24. Personal property, not to exceed \$1,000 in total value, if the property is not otherwise exempt from execution.

25. A tax refund received from the earned income credit provided by federal law or a similar state law.

26. Stock of a corporation described in subsection 2 of NRS 78.746 except as set forth in that section.

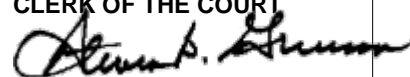
These exemptions may not apply in certain cases such as a proceeding to enforce a judgment for support of a person or a judgment of foreclosure on a mechanic's lien. You should consult an attorney immediately to assist you in determining whether your property or money is exempt from execution. If you cannot afford an attorney, you may be eligible for assistance through Nevada Legal Services. If you do not wish to consult an attorney or receive legal services from an organization that provides assistance to persons who qualify, you may obtain the form to be used to claim an exemption from the clerk of the court.

PROCEDURE FOR CLAIMING EXEMPT PROPERTY

If you believe that the money or property taken from you is exempt, you must complete and file with the clerk of the court an executed claim of exemption. A copy of the claim of exemption must be served upon the sheriff, the garnishee and the judgment creditor within 10 days after the notice of execution or garnishment is served on you by mail pursuant to NRS 21.076 which identifies the specific property that is being levied on. The property must be released by the garnishee or the sheriff within 9 judicial days after you serve the claim of exemption upon the sheriff, garnishee and judgment creditor, unless the sheriff or garnishee receives a copy of an objection to the claim of exemption and a notice for a hearing to determine the issue of exemption. If this happens, a hearing will be held to determine whether the property or money is exempt. The objection to the claim of exemption and notice for the hearing to determine the issue of exemption must be filed within 8 judicial days after the claim of exemption is served on the judgment creditor by mail or in person and served on the judgment debtor, the sheriff and any garnishee not less than 5 judicial days before the date set for the hearing. The hearing to determine whether the property or money is exempt must be held within 7 judicial days after the objection to the claim of exemption and notice for the hearing is filed. You may be able to have your property released more quickly if you mail to the judgment creditor or the attorney of the judgment creditor written proof that the property is exempt. Such proof may include, without limitation, a letter from the government, an annual statement from a pension fund, receipts for payment, copies of checks, records from financial institutions or any other document which demonstrates that the money in your account is exempt.

IF YOU DO NOT FILE THE EXECUTED CLAIM OF EXEMPTION WITHIN THE TIME SPECIFIED, YOUR PROPERTY MAY BE SOLD AND THE MONEY GIVEN TO THE JUDGMENT CREDITOR, EVEN IF THE PROPERTY OR MONEY IS EXEMPT.

Exhibit 5



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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 FILING CERTIFICATE OF SALE OF PERSONAL PROPERTY

Please take notice that a Certificate of Sale of Personal Property was filed in the above-captioned matter on the 18th day of July, 2019, a copy of which is attached hereto.

Dated this 18th day of July, 2019.

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 FILING CERTIFICATE OF SALE OF PERSONAL PROPERTY** was submitted electronically for filing and/or service with the Eighth Judicial District Court on the 18th day of July, 2019. Electronic service of the foregoing document shall be made in accordance with the E-Service List as follows:¹

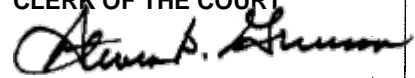
Bradley M. Marx, Esq.
MARX LAW FIRM, LLC
601 S. Rancho Dr., Ste. B14
Las Vegas, NV 89106
Attorney for Plaintiffs

I further certify that I served a copy of this document by mailing a true and correct copy thereof, postage prepaid, addressed to:

N/A

/s/ Cheryl Becnel
An employee of Marquis Aurbach Coffing

¹ 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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CLARK COUNTY SHERIFF

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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

Name of Judgment Creditor: RAFFI TUFENKJIAN and LUXURY HOLDINGS LV, LLC

Name of Judgment Debtor: ROBERT G. REYNOLDS and DIAMANTI FINE JEWELERS, LLC

CERTIFICATE OF SALE OF PERSONAL PROPERTY

Under, and by virtue of a writ of execution issued on a judgment entered out of the above-entitled court on February 14, 2019, in favor of Raffi Tufenkjian and Luxury Holdings LV, LLC as Judgment Creditor and against Robert G. Reynolds and Diamanti Fine Jewelers, LLC as Judgment Debtor, the undersigned was commanded to satisfy such judgment, together with interest and costs, out of the personal property belonging to Judgment Debtor all of which more fully appears from such writ of execution.

I, the undersigned Deputy Sheriff of Clark County, State of Nevada, do hereby certify that I have levied on, and on July 11, 2019 at 9:00 a.m., caused to be sold at public auction according to the statutes of the State of Nevada, and after due and legal notice, all the rights, title and interest of Judgment Debtor in and to the following described real property located in the County of Clark, State of Nevada:

ROBERT G. REYNOLDS, an individual,
DIAMANTI FINE JEWELERS, LLC, a Nevada
limited liability company v. RAFFI TUFENKJIAN,
an individual, and LUXURY HOLDINGS LV,
LLC, a Nevada Limited Liability Company, DOES
1-10, and ROE CORPORATIONS 1-10 inclusive

Clark County District Court Case
No. A-17-753532-B

That all the interest of Judgment Debtor was purchased for the sum of One Hundred Dollars and No Cents (\$100.00), by Christian T. Balducci, Esq., as agent for Marquis Aurbach Coffing on behalf of Judgment Creditor, which was the highest bidder.

DATED this 17th day of July, 2019.

SHERIFF OF THE COUNTY OF CLARK,
STATE OF NEVADA

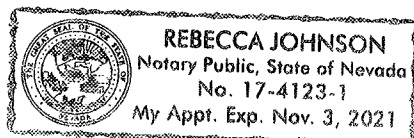
By: *Joseph Lombardo P9565*
Deputy Sheriff

J. Lombardo
Sr. Deputy Sheriff
Sheriff's Civil Section

ACKNOWLEDGMENT

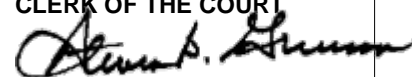
STATE OF NEVADA)
) ss:
COUNTY OF CLARK)

On this 17th day of July, 2019, *Joseph Lombardo* personally appeared before me, a Notary Public in and for said County and State, known to me to be the person described herein and who executed the foregoing Certificate of Sale of Real Property and who acknowledged to me that the same was executed freely and voluntarily and for the uses and purposes therein mentioned.



[Signature]
Notary Public in and for
said County and State

Exhibit 6



Marquis Aurbach Coffing
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Christian T. Balducci, Esq.
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Attorneys for Defendants

DISTRICT COURT**CLARK COUNTY, NEVADA**

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

Plaintiffs

vs.

RAFFI TUFENKJIAN, an individual, and
LUXURY HOLDINGS LV, LLC, a Nevada
Limited Liability Company, GREAT WASH
PARK, LLC, a Nevada limited liability company,
DOES 1-10, and ROE CORPORATIONS 1-10
inclusive,

Defendants

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

HEARING REQUESTED – NRS 21.112(6)

OBJECTION TO CLAIM OF EXEMPTION FROM EXECUTION

Pursuant to NRS 21.112(3), Defendants Raffi Tufenkjian and Luxury Holdings LV, LLC, through the law office of Marquis Aurbach Coffing, hereby objects to the Claim of Exemption filed in this case by Plaintiff Robert Reynolds, and moves the Court for a hearing¹ to be held

¹ PLEASE NOTE THAT at the hearing, the party or non-party who filed the Claim of Exemption will have the burden to prove to the Court that he or she is entitled to the claimed exemptions. NRS 21.112(6). Such proof may include, without limitation, a letter from the government, an annual statement from a pension fund, receipts for payment, copies of checks, records from financial institutions or any other document which demonstrates that the money in the party's or non-party's account is exempt. A proposed order to be used by the court to grant or deny an exemption, which the party or non-party who filed the Claim of Exemption should take to the hearing, is available at the Civil Law Self-Help Center, 200 Lewis Ave., Las Vegas, Nevada, or on its website at www.civillawselfhelpcenter.org

1 within seven judicial days pursuant to NRS 21,112 (6), to determine whether Plaintiff Robert
2 Reynolds is entitled to the exemptions claimed therein.

3 Dated this 3rd day of May, 2019.

4 MARQUIS AURBACH COFFING

5
6 By /s/ Christian T. Balducci
7 Terry A. Moore, Esq.
8 Nevada Bar No. 7831
9 Christian T. Balducci, Esq.
10 Nevada Bar No. 12688
11 10001 Park Run Drive
12 Las Vegas, Nevada 89145
13 Attorneys for Defendants

14 **MEMORANDUM OF POINTS AND AUTHORITIES**

15 **I. INTRODUCTION**

16 This was a fraud lawsuit filed by Diamanti Fine Jewelers, LLC ("**Diamanti**") and its
17 owner, Robert Reynolds ("**Reynolds**") against Luxury Holdings LV ("**Luxury Holdings**") and
18 its owner, Raffi Tufenkjian ("**Raffi**"). The lawsuit stemmed from Luxury Holdings' sale of the
19 Diamanti fine jewelry store in Tivoli Village to Diamanti. Diamanti and Reynolds lost this
20 lawsuit when the Court entered summary judgment, and became responsible for Raffi and
21 Luxury Holdings attorney fees and costs when this Court entered its order on the attorney fee and
22 cost motion.

23 This pleading is an objection to Reynolds claim of exemption. Basically, Reynolds
24 (acting *pro per* although he has an attorney) is claiming that all of the jewelry that was seized at
25 the Diamanti jewelry store were his personal possessions, and not the possessions of Diamanti
26 (the limited liability company that closed the subject transaction).

27
28 PLEASE NOTE THAT pursuant to NRS 21.112(8), you may withdraw your Claim of Exemption prior to
the hearing and direct that the property be released to the judgment creditor if you choose to do so.
Similarly, the judgment creditor may withdraw the objection and direct that the property be released to
you. You may be able to have your property released more quickly if you contact the judgment creditor or
the attorneys of the judgment creditor and provide written proof that the property is exempt.

II. FACTUAL BACKGROUND

- **December 3, 2018:** The Court granted Defendants' motion for pre-judgment attachment. In so doing, the Court seized the disposition of 68 pieces of jewelry at the Diamanti jewelry store. Defendants promptly posted a \$60,000 bond. No one ever came before the Court and claimed that they owned some of the items subject to the pre-judgment writ.
- **November 15, 2018:** The Court entered summary judgment in favor of Defendants, and against all of Plaintiffs' claims.
- **February 14, 2019:** The Court granted Defendants' motion for attorney fees and costs, which ultimately awarded \$57,941.92 to Luxury Holdings based upon the provisions of the contract in question (Raffi received a cost award, only, as the prevailing party under NRS 18 et seq.).
- **March 25, 2019:** The Clerk issued a writ of execution for the jewelry within the Diamanti jewelry store that was originally identified and attached as part of the pre-judgment writ of attachment (plus two other figurines).
- **March 28, 2019:** The Clerk issued a writ of execution for Plaintiffs chose in action.
- **April 18, 2019:** The Sheriff went to Diamanti and seized the jewelry. A number of items that were the subject of the pre-judgment writ of attachment were missing. Mr. Balducci and Raffi attended the seizure.
- **April 24, 2019:** Non-party, non-debtor Ninacci, Inc., a California corporation not licensed to do business in the state of Nevada, filed an exemption. In addition, Reynolds filed a *pro se* claim of exemption on a number of things, including many which Defendants have not attempted to garnish or execute upon.

III. LEGAL ARGUMENT

In the context of this objection, which addresses a claim of exemption which arises from execution of jewelry at the Diamanti jewelry store, the only exemption claimed by Reynolds which might have any application is his contention that "all jewelry in excess of the amount required to satisfy the total levy of this judgement (*sic*). Most jewelry is owned by suppliers."

1 First and foremost, Reynolds lacks standing because the writ of execution in question was
2 directed to Diamanti, only. Second, Diamanti, the possessor and owner, has not filed an
3 objection. Third, the fact that jewelry is supposedly owned by suppliers (a) lacks evidence, (b)
4 lacks foundation, and (c) only one supplier has filed a claim for exemption (and, Defendants are
5 working with that supplier to have its memorandum items returned to it). At this point, the time
6 period to claim an exemption has passed, and therefore, all of the jewelry which was seized from
7 Diamanti's possession belonged to Diamanti. See NRS 47.250(7) (presumption that things that
8 are possessed by someone belong to them).

9 Reynolds filed not even one shred of paper showing that the jewelry is owned by
10 someone else, nor does he even have standing to do so because the statutes require that the owner
11 of that property show up in Court, not Reynolds (a non-lawyer). See NRS 21.112(10).

12 There is no basis whatsoever for his claim. And in the event Reynolds is attempting to
13 exempt his chose in action (which the Sheriff already executed upon), the exemption fails
14 because that is not a statutorily delineated piece of personal property exempt from execution.
15 See Newitt v. Dawe, 61 Nev. 472, 133 P.2d 918 (1943) (noting choses in action as personal
16 property); Saucier v. Eighth Jud. Dist. Ct., 124 Nev. 1506, 238 P.3d 852 (2008) (unpublished
17 disposition) (rejecting writ of mandamus from an order denying a motion to quash a writ of
18 execution against a chose in action).

19 **IV. CONCLUSION**

20 Based on the foregoing, Defendants request that this Court deny the Claim and sustain
21 the Defendants' Objection in its entirety.

22 Dated this 3rd day of May, 2019.

23 MARQUIS AURBACH COFFING

24
25 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
Attorneys for Defendants

CERTIFICATE OF SERVICE

I hereby certify that the foregoing **OBJECTION TO CLAIM OF EXEMPTION FROM EXECUTION** was submitted electronically for filing and/or service with the Eighth Judicial District Court on the 3rd day of May, 2019. Electronic service of the foregoing document shall be made in accordance with the E-Service List as follows:²

Bradley M. Marx, Esq.
900 S. Rancho Dr., Suite B14
Las Vegas, NV 89106

I further certify that I served a copy of this document by mailing a true and correct copy thereof, postage prepaid, addressed to:

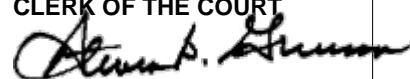
Robert Reynolds
410 S. Rampart Blvd., Suite 140
Las Vegas, Nevada 89145

Clark County Sheriff's Civil Process
301 E. Clark Ave., Suite 100
Las Vegas, Nevada 89101

/s/ Carrie Roberts
an employee of Marquis Aurbach Coffing

² 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).

Exhibit 7



Marquis Aurbach Coffing
Terry A. Moore, Esq.
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cbalducci@maclaw.com
Attorneys for Defendants

DISTRICT COURT**CLARK COUNTY, NEVADA**

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

Plaintiffs,

vs.

RAFFI TUFENKJIAN, an individual, and
LUXURY HOLDINGS LV, LLC, a Nevada
Limited Liability Company, GREAT WASH
PARK, LLC, a Nevada limited liability company,
DOES 1-10, and ROE CORPORATIONS 1-10,

Defendants.

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

NOTICE OF ENTRY OF ORDER

Please take notice that an Order Sustaining Objection to Claim of Exemption from Execution was entered in the above-captioned matter on the 3rd day of June, 2019, a copy of which is attached hereto.

Dated this 3rd day of June, 2019.

MARQUIS AURBACH COFFING

By /s/ Terry A. Moore
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

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 3rd day of June, 2019. Electronic service of the foregoing document shall be made in accordance with the E-Service List as follows:¹

Bradley Marx brad@marxfirm.com

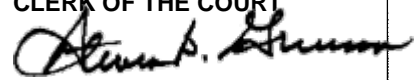
I further certify that I served a copy of this document by mailing a true and correct copy thereof, postage prepaid, addressed to:

Robert Reynolds
410 S. Rampart Blvd., Suite 140
Las Vegas, Nevada 89145

Clark County Sheriff's Civil Process
301 E. Clark Ave., Suite 100
Las Vegas, Nevada 89101

/s/ Carrie Roberts
an employee of Marquis Aurbach Coffing

¹ 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).



Marquis Aurbach Coffing
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Attorneys for Defendants

DISTRICT COURT

CLARK COUNTY, NEVADA

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

Plaintiffs

vs.

RAFFI TUFENKJIAN, an individual, and
LUXURY HOLDINGS LV, LLC, a Nevada
Limited Liability Company, GREAT WASH
PARK, LLC, a Nevada limited liability company,
DOES 1-10, and ROE CORPORATIONS 1-10
inclusive,

Defendants

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

ORDER SUSTAINING OBJECTION TO CLAIM OF EXEMPTION FROM EXECUTION

This matter, having come for hearing on May 13, 2019 on Plaintiff Robert G. Reynolds' Claim for Exemption; Terry A. Moore, Esq. of the law firm of Marquis Aurbach Coffing appearing on behalf of Raffi Tufenkjian and Luxury Holdings, LV, LLC, ("Defendants") and Plaintiff Robert Reynolds ("Plaintiff"), in proper person, appearing on his own behalf.

The Court, having reviewed the papers and pleadings on file herein, and having entertained the arguments of counsel and Plaintiff, and good cause appearing, hereby ORDERS as follows:

MARQUIS AURBACH COFFING

10001 Park Run Drive
Las Vegas, Nevada 89145
(702) 382-0711 FAX: (702) 382-5816

RECEIVED

MAY 21 2019

DISTRICT COURT DEPT#13



MARQUIS AURBACH COFFING

10001 Park Run Drive
Las Vegas, Nevada 89145
(702) 382-0711 FAX: (702) 382-5816

1 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the Defendants'
2 Objection to Plaintiff's Claim for Exemption from Execution is SUSTAINED without prejudice
3 regarding the Motion for Stay of Execution.

4 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the Clark County
5 Sheriff may proceed with the public auction of any items seized pursuant to the writ of execution
6 issued March 27, 2019.

7 Dated this 31st day of May, 2019.


DISTRICT COURT JUDGE


11 Submitted by:
12 MARQUIS AURBACH COFFING

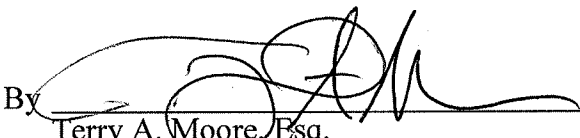
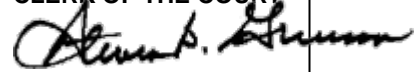
13
14 By 
15 Terry A. Moore, Esq.
16 Nevada Bar No. 7831
17 Christian T. Balducci, Esq.
18 Nevada Bar No. 12688
19 10001 Park Run Drive
20 Las Vegas, Nevada 89145
21 Attorneys for Defendants
22
23
24
25
26
27
28

Exhibit 8



CAS

Bradley M. Marx
Nevada Bar No. 12999
MARX LAW FIRM, PLLC
601 S. 10th St.
Las Vegas, Nevada 89101
Telephone: (702) 900-2541
brad@marxfirm.com
Attorney for Plaintiffs

**DISTRICT COURT
CLARK COUNTY, NEVADA**

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

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.

CASE NO. A-17-753532-B
DEPT NO. XIII

**ROBERT G. REYNOLDS AND
DIAMANTI FINE JEWELERS,
LLC'S CASE APPEAL STATEMENT**

Robert G. Reynolds and Diamanti Fine Jewelers, LLC by and through their attorneys of record at Marx Law Firm PLLC, submits their case appeal statement pursuant to NRAP 3(f)(3).

1. The appellants filing this case appear statement are Robert G. Reynolds and Diamanti Fine Jewelers, LLC (Appellants).
2. The order appealed is the Order Granting Summary Judgment dated November 14, 2018, as amended on January 24, 2019. A Notice of Entry of Final Judgment was entered on January 29, 2019 by the Honorable Judge Mark Denton.
3. Counsel for Appellants are Bradley M. Marx, Esq. of Marx Law Firm, PLLC, 601S. Rancho Dr., Suite B14, Las Vegas, NV 89106.
4. Trial counsel for Respondents Raffi Tufenkjian and Luxury Holdings LV, LLC, is Terry Moore, Esq. and Christian T. Balducci, Esq., of MARQUIS AURBACH

COFFING, 10001 Park Run Dr., Las Vegas, NV 89145. Appellant is unaware of whether trial counsel will also act as appellant counsel for Respondent.

5. Counsel for appellant is licensed to practice law in Nevada. Trial counsel for respondent is licensed to practice law in Nevada.

6. Appellant is represented by retained counsel in the district court.

7. Appellant is represented by retained counsel on appeal.

8. Appellant was not granted leave to proceed in forma pauperis by the district court.

9. The date proceedings commenced in the district court was April 5, 2017.

10. In this action, Appellant alleges that Respondents made certain fraudulent misrepresentations in a contract to purchase a jewelry store. Respondent filed a Motion for Summary Judgment to be entered against each of Appellant's 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 Respondent's motion for summary judgment over Appellant's opposition. Appellants now appeal the order granting Respondent Summary Judgment.

11. The case has not previously been the subject of an appeal to or original writ proceeding in the Supreme Court.

12. This appeal does not involve child custody or visitation.

13. This appeal has the possibility of settlement.

DATED this 19th day of February, 2019.

MARX LAW FIRM PLLC

By /s/ Bradley Marx

Bradley M. Marx

Nevada Bar No. 12999

601 S. 10th St.

Las Vegas, Nevada 89101

Attorney for Plaintiffs

1 **CERTIFICATE OF SERVICE**

2
3 I certify that on this 19th day of February, 2019, and pursuant to NRCP 5, I caused to be
4 served a true and correct copy of the foregoing **ROBERT G. REYNOLDS AND DIAMANTI**
5 **FINE JEWELERS, LLC'S CASE APPEAL STATEMENT**, to be served via the Court's
6 electronic filing and service system to all parties on the current service list.

7 Terry A. Moore, Esq.
8 Christian T. Balducci, Esq.
9 MARQUIS AURBACH COFFING
10 1001 Park Run Drive
11 Las Vegas, NV 89145
12 *Attorneys for Defendants*

13
14 By /s/ Bradley Marx

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Bradley Marx