

IN THE SUPREME COURT OF THE STATE OF NEVADA

AARON LEIGH-PINK; AND TANA  
EMERSON,  
Appellants,  
vs.  
RIO PROPERTIES, LLC,  
Respondent.

No. 82572  
**FILED**

**APR 09 2021**

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY S. Young  
DEPUTY CLERK

***ORDER ACCEPTING CERTIFIED QUESTION, DIRECTING  
BRIEFING, AND DIRECTING SUBMISSION OF FILING FEE***

This matter involves a legal question certified to this court, under NRAP 5, by the United States Court of Appeals for the Ninth Circuit. Specifically, the Ninth Circuit certified the following question to this court:

For purposes of a fraudulent concealment claim, and for purposes of a consumer fraud claim under NRS § 41.600, has a plaintiff suffered damages if the defendant's fraudulent actions caused the plaintiff to purchase a product or service that the plaintiff would not otherwise have purchased, even if the product or service was not worth less than what the plaintiff paid?

In determining whether to accept a certified question, this court considers three factors: (1) will this court's answer be determinative of part of the federal case, (2) is there any clearly controlling Nevada precedent, and (3) will the answer help settle important questions of law. *Volvo Cars of N. Am., Inc. v. Ricci*, 122 Nev. 746, 751, 137 P.3d 1161, 1164 (2006); see also NRAP 5(a). Having considered the factors, we accept the certified question.

Appellants shall have 30 days from the date of this order to file and serve an opening brief addressing the certified question. Respondent shall have 30 days from the date the opening brief is served to file and serve

an answering brief. Appellants shall then have 20 days from the date the answering brief is served to file and serve any reply brief. The parties' briefs shall comply with NRAP 28, 28.2, 31(c), and 32. See NRAP 5(g)(2). The parties may file a joint appendix containing any portions of the record before the Ninth Circuit that are necessary to this court's resolution of the certified question and were not already provided to this court with the Certification Order. See NRAP 5(d), (g)(2).

Lastly, in any proceeding under NRAP 5, fees "shall be the same as in civil appeals . . . and shall be equally divided between the parties unless otherwise ordered by the certifying court." NRAP 5(e). The Ninth Circuit's order does not address the payment of this court's fees. Accordingly, appellants and respondent shall each tender to the clerk of this court, within 14 days from the date of this order, the sum of \$125, representing half of the filing fee. See NRAP 3(e); NRAP 5(e).

It is so ORDERED.

Hardesty, C.J.  
Hardesty

Parraguirre, J.  
Parraguirre

Cadish, J.  
Cadish

Pickering, J.  
Pickering

Stiglich, J.  
Stiglich

Silver, J.  
Silver

Herndon, J.  
Herndon

cc: Robert A. Waller, Jr.  
Cozen & O'Connor/Philadelphia  
Wood, Smith, Henning & Berman, LLP/Las Vegas  
Brandon Smerber Law Firm  
Cozen & O'Connor/New York  
Clerk, United States Court of Appeals for the Ninth Circuit