

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

W L A B INVESTMENT GROUP,  
LLC,

Appellant,

v.

TKNR, INC., a California Corporation, and CHI ON WONG aka CHI KUEN WONG, an individual, and KENNY ZHONG LIN, aka KEN ZHONG LIN aka KENNETH ZHONG LIN aka WHONG K. LIN aka CHONG KENNY LIN aka ZHONG LIN, an individual, and LIWE HELEN CHEN aka HELEN CHEN, an individual and YAN QIU ZHANG, an individual and INVESTPRO LLC dba INVESTPRO REALTY, a Nevada Limited Liability Company, and MAN CHAU CHENG, an individual, and JOYCE A. NICKRANDT, an individual, and INVESTPRO INVESTMENTS LLC, a Nevada Limited Liability Company, and INVESTPRO MANAGER LLC, a Nevada Limited Liability Company and JOYCE A. NICKDRANDT, an individual and does 1 through 15 and roe corporation I-XXX,

Respondents.

Supreme Court Case No: 82835  
District Court Case No: A785917  
Nov 18 2021 09:33 a.m.  
Electronically Filed  
Elizabeth A. Brown  
Clerk of Supreme Court

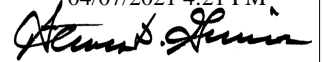
**APPEAL**

from the Eighth Judicial District Court, Clark County  
The Honorable Adriana Escobar, District Judge  
District Court Case No. A-18-785917-C

**APPELLANT'S APPENDIX VOLUME VII**

**CHRONOLOGICAL INDEX**

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CLERK OF THE COURT

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**IN THE EIGHTH JUDICIAL DISTRICT COURT**

**CLARK COUNTY, NEVADA**

W L A B INVESTMENT, LLC,

Plaintiff,

vs.

TKNR INC., a California Corporation, and  
CHI ON WONG aka CHI KUEN WONG, an  
individual, and KENNY ZHONG LIN, aka  
KEN ZHONG LIN aka KENNETH ZHONG  
LIN aka WHONG K. LIN aka CHONG  
KENNY LIN aka ZHONG LIN, an  
individual, and LIWE HELEN CHEN aka  
HELEN CHEN, an individual and YAN QIU  
ZHANG, an individual, and INVESTPRO  
LLC dba INVESTPRO REALTY, a Nevada  
Limited Liability Company, and MAN  
CHAU CHENG, an individual, and JOYCE  
A. NICKRANDT, an individual, and  
INVESTPRO INVESTMENTS LLC, a  
Nevada Limited Liability Company, and  
INVESTPRO MANAGER LLC, a Nevada  
Limited Liability Company and JOYCE A.  
NICKRANDT, an individual and Does 1  
through 15 and Roe Corporation I - XXX,

Defendants.

AND RELATED CLAIMS.

CASE NO.: A-18-785917-C  
DEPT. NO.: XIV

**ORDER GRANTING DEFENDANTS'  
MOTION FOR SUMMARY JUDGMENT,  
OR IN THE ALTERNATIVE, PARTIAL  
SUMMARY JUDGMENT**

Date of Hearing: March 11, 2021  
Time of Hearing: 9:30 a.m.

This matter being set for hearing before the Honorable Court on March 11, 2021 at 9:30  
a.m., on Defendants' TKNR INC., CHI ON WONG aka CHI KUEN WONG, KENNY ZHONG  
LIN, aka KEN ZHONG LIN aka KENNETH ZHONG LIN aka WHONG K. LIN aka CHONG  
KENNY LIN aka ZHONG LIN, LIWE HELEN CHEN aka HELEN CHEN, YAN QIU  
ZHANG, INVESTPRO LLC dba INVESTPRO REALTY, MAN CHAU CHENG, JOYCE A.  
NICKRANDT, INVESTPRO INVESTMENTS LLC, and INVESTPRO MANAGER LLC,

(collectively, the “Defendants”), Motion for Summary Judgment, or in the Alternative, Partial Summary Judgment (“Motion”), by and through their attorney of record, MICHAEL B. LEE, P.C. Plaintiff W L A B INVESTMENT, LLC appeared on and through its counsel of record, DAY & NANCE. Defendants filed the Motion on December 15, 2020. Plaintiff filed an Opposition to the Motion (“Opposition”), Countermotion for Continuance Based on NRCP 56(f) (“56(f) Countermotion”), and Countermotion for Imposition of Monetary Sanctions (collectively, “Countermotion”) on December 29, 2020. On January 20, 2021, Defendants filed a Reply brief. On January 29, 2021, Defendants filed a Supplement (“Supplement”) to Defendants’ Motion for Summary Judgment. The Supplement included the deposition of Frank Miao (“Miao”), the designated person most knowledgeable for Plaintiff, from January 12, 2021. Plaintiff did not file a response to the Supplement. Mr. Miao attended the hearing.

After considering the pleadings of counsel, the Court enters the following order **GRANTING** the Motion, **DENYING** the 56(f) Countermotion, and Countermotion, and **GRANTING** attorneys’ fees and costs to Defendants pursuant to Nevada Rule of Civil Procedure 11:

**Findings of Facts**

**First Residential Purchase Agreement and Waiver of Inspections, Contractual Broker Limitations**

1. 2132 Houston Drive, Las Vegas, NV 89104 (“Property”) was originally constructed in 1954. On or about August 11, 2017, Marie Zhu (“Zhu”), the original purchaser, executed a residential purchase agreement (“RPA”) for the Property. At all times relevant, Ms. Zhu and Mr. Miao, the managing member of Plaintiff, were sophisticated buyers related to “property management, property acquisition, and property maintenance.” The purchase price for the property was \$200,000.

2. Through the RPA, Ms. Zhu waived her due diligence, although she had a right to conduct inspections:

During such Period, Buyer shall have the right to conduct, non-invasive/non-destructive inspections of all structural, roofing, mechanical, electrical, plumbing, heating/air conditioning,

water/well/septic, pool/spa, survey, square footage, and any other property or systems, through licensed and bonded contractors or other qualified professionals.

3. Ms. Zhu did not cancel the contract related to any issues with the Property.

4. Under Paragraph 7(C) of the RPA, Ms. Zhu waived the Due Diligence condition.

*Id.* Under Paragraph 7(D) of the RPA, it provided:

*It is strongly recommended that Buyer retain licensed Nevada professionals to conduct inspections. If any inspection is not completed and requested repairs are not delivered to Seller within the Due Diligence Period, Buyer is deemed to have waived the right to that inspection and Seller's liability for the cost of all repairs that inspection would have reasonably identified had it been conducted, except as otherwise provided by law.*

5. Ms. Zhu waived any liability of Defendants for the cost of all repairs that inspection would have reasonably identified had it been conducted. Ms. Zhu also waived the energy audit, pest inspection, roof inspection, septic lid removal inspection, mechanical inspection, soil inspection, and structural inspection.

6. Under Paragraph 7(F), it was Ms. Zhu's responsibility to inspect the Property sufficiently as to satisfy her use. Additionally, Wong, Lin, Chen, Zhang, Cheng, and Nickrandt (collectively, "Brokers" or "Broker Defendants") had "no responsibility to assist in the payment of any repair, correction or deferred maintenance on the Property which may have been revealed by the above inspections, agreed upon by the Buyer and Seller or requested by one party."

7. On August 2, 2017, TKNR submitted Seller's Real Property Disclosure Form ("SRPDF" or "Seller's Disclosures") timely indicating all known conditions of the Subject Property. In fact, TKNR disclosed that "3 units has (sic) brand new AC installed within 3 months," and further that the "owner never resided in the property and never visited the property." It also disclosed that the minor renovations, such as painting, were conducted by the Seller's "handyman" as disclosed in the Seller's Disclosures. Seller also disclosed that it had done construction, modification, alterations, or repairs without permits. Despite these disclosures, Plaintiff chose not to inspect the Subject Property, request additional information and/or conduct any reasonable inquiries.

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Second Residential Purchase Agreement and Waiver of Inspections, Contractual Broker Limitations

8. On or before September 5, 2017, Ms. Zhu had issues related to the financing for the Property because of an appraisal, so Ms. Zhu executed a new purchase agreement, and would agree to pay the difference in an appraisal with a lower value than the purchase price, and waive inspections:

Please note that seller agree the rest of terms and request to add the below term on the contract:

"Buyer agree to pay the difference in cash if appraisal come in lower than purchase price, not to exceed purchase price of \$200k"  
I just send you the docs, please review and sign if you are agree.  
Thank you!

**(Per buyer's request will waive licensed home inspector to do the home inspection)**

9. On the same day, Ms. Zhu and TKNR agreed to Addendum No. 1 to cancel the RPA dated August 11, 2017 and entered into a new Residential Purchase Agreement dated September 5, 2017 ("2<sup>nd</sup> RPA"). As before, the overall purchase price for the Property was \$200,000, but Ms. Zhu changed the contingency for the loan to \$150,000 with earnest money deposit of \$500 and a balance of \$49,500 owed at the close of escrow ("COE" or "Closing"). The COE was set for September 22, 2017.

10. Notably, although Ms. Zhu had not initialed the "Failure to Cancel or Resolve Objections" provision in the RPA, she initialed the corresponding provision in the 2<sup>nd</sup> RPA. This was consistent with Ms. Zhu's instructions to Ms. Chen. Ex. D. This is the second time that Ms. Zhu waived inspections for the Property despite the language in the 2<sup>nd</sup> RPA that strongly advised to get an inspection done.

11. As noted, Ms. Zhu waived any inspections related to the purchase of the Property in the 2<sup>nd</sup> RPA. Although Ms. Zhu had actual knowledge of the Seller's Disclosures, and the Parties agreed to extend the COE to January 5, 2018, Ms. Zhu did not conduct professional inspections. Instead, she put down an additional \$60,000 as a non-refundable deposit to the TKNR. Moreover, she also agreed to pay rent in the amount of \$650 per month for one of the units, and to also pay the property manager \$800 for the tenant placement fee. Through

Addendum 2 to the 2<sup>nd</sup> RPA, Ms. Zhu later changed the purchaser to Plaintiff.

Deposition of Plaintiff's Person Most Knowledgeable – Mr. Miao

12. Since 2008, Mr. Miao, Ms. Zhu, and/or Plaintiff have been involved in the purchase of approximately twenty residential properties. In Clark County alone, Ms. Zhu and Mr. Miao were involved with the purchase of at least eight rental properties starting in 2014.

13. Plaintiff understands the importance of reading contracts.

14. Mr. Miao specified that he understands that he needs to check public records when conducting his due diligence.

15. Plaintiff was a sophisticated buyer who understood the necessity of getting properties inspected.

Requirement to Inspect was Known

16. The terms of the RPA were clear to Plaintiff.

17. As to Paragraph 7(A), Mr. Miao specified that he believed that his inspection and conversations with the tenant constituted the actions necessary to deem the Property as satisfactory for Plaintiff's purchase.

19. . . A. . Yes. . Based on -- we bought this -- we go  
20 to the inspection, then we also talk to the tenant,  
21 so we thinking this is investment property; right?  
22 So financial it's looking at the rent, it's  
23 reasonable, it's not very high compared with the  
24 surrounding area. . Then also financially, it's good.  
25. . . . Then I take a look at the -- everything  
Page 164  
1 outside. . Good. . So I said, Fine. . That's satisfied.  
2 That's the reason I command my wife to sign the  
3 purchase agreement.

18. At all times relevant prior to the purchase of the Property, Plaintiff had access to inspect the entire property and conduct non-invasive, non-destructive inspections:

2. . . Q. . So at the time when you did your  
3 diligence, you had a right to conduct noninvasive,  
4 nondestructive inspection; correct?  
5. . . A. . Yes, I did.  
6. . . Q. . And you had the opportunity to inspect all  
7 the structures?  
8. . . A. . I check the other one -- on the walk, I  
9 don't see the new cracking, so the -- some older  
10 cracking. . I check the neighbor who also have that

11 one. I think it's okay; right? Then the –  
Supplement at 166:2-11.

8. . . Q. . So you had the right to inspect the  
9 structure; correct?  
10. . . A. . Yes, yes, I did that.  
11. . . Q. . You had the right to inspect the roof; is  
12 that correct?  
13. . . A. . Yes.  
14. . . Q. . Okay. Did you do that?  
15. . . A. . I forgot. I maybe did that because  
16 usually I go to the roof.

\* \* \*

22. . . Q. . You had the right to inspect the  
23 mechanical system; correct?  
24. . . A. . Right. Yes, yes.  
25. . . Q. . You had the right to inspect the  
Page 167  
1 electrical systems; correct?  
2. . . A. . I check the electrical system, yes.  
3. . . Q. . You had a right to inspect the plumbing  
4 systems; correct?  
5. . . A. . Yes.  
6. . . Q. . You had the right to inspect the  
7 heating/air conditioning system; correct?  
8. . . A. . Yes.

\* \* \*

3. . . Q. . And then you could have inspected any  
4 other property or system within the property itself;  
5 correct?  
6. . . A. . Yes, yes.

*Id.* at 167:8-16, 167:22-25-168:1-11, 168:25-169:1-6.

19. Prior to the purchase, Mr. Miao was always aware that the Seller “strongly  
recommended that buyer retain licensed Nevada professionals to conduct inspections”:

13. . . Q. . "It is strongly recommended that buyer  
14 retain licensed Nevada professionals to conduct  
15 inspections."  
16. . . A. . Yes.  
17. . . Q. . Yeah. So you were aware of this  
18 recommendation at the time --  
19. . . A. . Yeah, I know.

*Id.* at 176:13-19.

20. Plaintiff was also aware of the language in the RPA under Paragraph 7(D) that  
limited potential damages that could have been discovered by an inspection:

////



18. . . Q. . Okay. . So going back to paragraph 7D --

19. . . A. . Yeah.

20. . . Q. . --- right, after the language that's in  
21 italics, would you admit that because it's in the  
22 italics, it's conspicuous, you can see this  
23 language?

24. . . A. . Yeah. . Yeah.

25. . . Q. . Okay. . Then it goes on to say, "If any  
Page 179

.1 inspection is not completed and requested repairs  
.2 are not delivered to seller within the due diligence  
.3 period, buyer is deemed to have waived the right to  
.4 that inspection and seller's liability for the cost  
.5 of all repairs that inspection would have reasonably  
.6 identified had it been conducted."

.7. . . . . Did I read that correctly?

.8. . . A. . Yes, yes.

.9. . . Q. . Okay. . So we'll eventually get to the  
10 issues that, you know, Ms. Chen identified that you  
11 wanted corrected in the emails or text messages.

12. . . . . Is that fair to say that those are the  
13 only issues that you deemed needed to be resolved to  
14 go forward with the purchase?

15. . . A. . Yeah. . After that time, yes.

*Id.* at 179:18-25-180:1-15.

21. Finally, as to the RPA, Mr. Miao agreed that all the terms in it were conspicuous and understandable, and it was a standard agreement similar to the other agreements he had used in purchasing the other properties in Clark County, Nevada. *Id.* at 198:19-25-199:1-2, 200:3-15.

*Mr. Miao Does Inspections for Plaintiff Although he is not a Licensed, Bonded Professional Inspector*

22. As to all the properties purchased by Plaintiff, Mr. Miao always does the inspections and does not believe a professional inspection is necessary. *Id.* at 116:2-9, 119:3-25, 140:5-10. Based on his own belief, he does not believe that a professional inspection is necessary for multi-tenant residential properties. *Id.* at 120:6-9 (his own understanding), 120:16-25 (second-hand information he received).

23. Notably, he does not have any professional license related to being a general contractor, inspector, appraiser, or project manager. *Id.* at 123:5-16 (no professional licenses), 123:23-24 (no property management license), 169:7-14 (no licensed or bonded inspector), 171:23-25 (have not read the 1952 Uninformed Building Code), 172:17-19 (not an electrician),

1 172:23-25-1-16 (no general contractor license or qualified under the intentional building code),  
2 174:13-23 (not familiar with the international residential code).

3 24. Mr. Miao has never hired a professional inspector in Clark County, *Id.* at 140:19-  
4 21, so he does not actually know what a professional inspection would encompass here. *Id.* at  
5 143:9-13, 144:8-19.

6 25. The main reason Plaintiff does not use a professional inspector is because of the  
7 cost. *Id.* at 147:2-7.

8 26. On or about August 10, 2017, Mr. Miao did an inspection of the Property. *Id.* at  
9 158:1-25-159:1-12. During that time, he admitted that he noticed some issues with the Property  
10 that were not up to code, finishing issues, GFCI outlets, and electrical issues:

11 16. . . A. . I looked at a lot of things. . For example,  
12 17 like, the -- I point out some drywall is not  
13 18 finished; right? . And the -- some of smoke alarm is  
14 19 not -- is missing and -- which is law required to  
15 20 put in for smoke alarm. . Then no carbon monoxide  
16 21 alarm, so I ask them to put in.  
17 22. . . . Then in the kitchen, lot of electrical,  
18 23 the outlet is not a GFCI outlet, so I tell them, I  
19 24 said, You need to change this GFCI. . Right now this  
20 25 outlet is not meet code. . You probably have problem.

21 *Id.*

22 27. Similarly, he also specified that there was an issue with exposed electrical in Unit  
23 C. *Id.* at 175:10-24. He also noted that there could have been a potential asbestos issue as well.  
24 *Id.* at 160:7-12.

25 28. Additionally, Mr. Miao noted that there were cracks in the ceramic floor tiles, *Id.*  
26 at 249:22-25, and he was aware of visible cracks in the concrete foundation, *Id.* at 269:13-22  
27 (aware of slab cracks), which were open and obvious. *Id.* at 270:14-24.

28 29. Mr. Miao admitted that he could also have seen the dryer vent during his  
inspection. *Id.* at 269:23-25.

30. As to those issues, Mr. Miao determined that the aforementioned issues were the  
only issues that TKNR needed to fix after his inspection. *Id.* at 171:2-9 (was only concerned  
about the appraisal), *Id.* at 219:13-25-221:1-2.

31. Moreover, Mr. Miao received the SRPDF prior to the purchase of the Property. *Id.* at 201:22-25. As to SRPDF, Plaintiff was aware that TKNR was an investor who had not resided in the Property, and there were issues with the heating systems, cooling systems, and that there was work done without permits. *Id.* at 201:1-25-202:1-12. Similarly, it was aware that the Property was 63 years old at that time, *Id.* at 204:4-7, and all the work was done by a handyman other than the HVAC installation. *Id.* at 205:14-25, *Id.* at 134:14-25 (understands the difference between a handyman and a licensed contractor), 243:2 ("Yes. They did by the handyman, yes.").

32. Despite these disclosures, Mr. Miao never followed up:

23. . . Q. . Okay. . So when they disclosed that there  
24 was construction and modification, alterations,  
25 and/or repairs made without State, City, County  
Page 205  
1 building permits, which was also work that was done  
2 by owner's handyman, did you ever do any follow-up  
3 inquiries to the seller about this issue?  
4. . . A. . No, I didn't follow up. .

*Id.* at 204:23-25-205:1-4.

33. However, Mr. Miao also admitted that he could have followed up on the issues identified in the SRPDF that included the HVAC and the permits:

10. . . Q. . Under the disclosure form --  
11. . . A. . Yeah.  
12. . . Q. . --- like, where it specified that there  
13 were heating system/cooling system issues that  
14 they're aware of, that you could have elected to  
15 have an inspection done at that time; correct?  
16. . . A. . Yes.

*Id.* at 206:10-16.

15. . . Q. . Okay. . So as your attorney said, you could  
16 have obtained a copy of the permits at any time?  
17 Yes?  
18. . . A. . Yes.  
19. . . Q. . Okay. . And then it's fair to say that just  
20 put you on notice of the potential permit issue;  
21 correct?  
22. . . A. . Yes.  
23. . . Q. . It also put you on notice of the issues of  
24 everything that's basically specified on page 38;  
25 correct?  
Page 209  
1. . . A. . Yes.

*Id.* at 209:15-25-210:1, 245:22-25 (could have obtained permit information in 2018).

34. Similarly, Mr. Miao was aware that he should have contacted the local building department as part of his due diligence:

22. . . . Q. . Okay. So you understand that for more  
23 information during the diligence process, you should  
24 contact the local building department?

25. . . . A. . Yes.

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\* \* \*

5. . . . Q. . --- it provides you with the address of the  
6 building and safety department; is that correct?

7. . . . A. . Yes.

8. . . . Q. . And the office hours; is that correct?

9. . . . A. . Yes.

10. . . . Q. . And it also provides you with a phone  
11 number; correct?

12. . . . A. . Yes.

13. . . . Q. . And this is information or resources that  
14 you could have used at any time related to finding  
15 information about the permits of the property;  
16 correct?

17. . . . A. . Yes.

18. . . . Q. . And this would have been true prior to the  
19 purchase of the building; correct?

20. . . . A. . Yes.

21. . . . Q. . And this would also have been true at the  
22 time you read the disclosure that specified that  
23 some of the improvements or some of the disclosures  
24 had been done without a permit; right?

25. . . . A. . Yes.

*Id.* at 260:22-25, 261:5-25.

35. Plaintiff was also on notice of the potential for mold and the requirement to get a mold inspection:

5. . . . Q. . Okay. And it says, "It's the buyer's duty  
6 to inspect. Buyer hereby assumes responsibility to  
7 conduct whatever inspections buyer deems necessary  
8 to inspect the property for mold contamination.

9. . . . . "Companies able to perform such  
10 inspections can be found in the yellow pages under  
11 environmental and ecological services."

12. . . . . I read that correctly? Yes?

13. . . . A. . Yes.

14. . . . Q. . Okay. And then you elected not to get a  
15 mold inspection; correct?

16. . . . A. . Yeah.

1 *Id.* at 213:5-16.

2 .5. . . Q. . So you relied upon your own determination  
3 .6 related to the potential mold exposure of the  
4 .7 property; correct?  
5 .8. . . A. . Yes.  
6 .9. . . Q. . Okay. . And you elected to proceed with  
7 10 purchasing it without a professional mold  
8 11 inspection; correct?  
9 12. . . A. . Yes.

10 *Id.* at 216:5-12.

11 36. Despite actual knowledge of these issues, Plaintiff did not elect to have a  
12 professional inspection done. 160:17-20.

13 37. Finally, Plaintiff was also acutely aware of the requirement of Nevada law to  
14 protect itself by getting an inspection:

15 .2. . . Q. . If we go to page 40 --  
16 .3. . . A. . Mm-hmm.  
17 .4. . . Q. . --- there's a bunch of Nevada statutes  
18 .5 here.  
19 .6. . . A. . Mm-hmm.  
20 .7. . . Q. . If you look at NRS 113.140 --  
21 .8. . . A. . Mm-hmm.  
22 .9. . . Q. . --- do you see that at the top of the page?  
23 10 "Disclosure of unknown defects not required. . Form  
24 11 does not constitute warranty duty of buyer and  
25 12 prospective buyer to exercise reasonable care."  
26 13. . . . . Do you see that?  
27 14. . . A. . Yes.  
28 15. . . Q. . Okay. . So this disclosure form gave Marie  
16 Zhu, your wife, a copy of the Nevada law that was  
17 applicable to the sale of the property; correct?  
18 18. . . A. . Yeah.  
19 19. . . Q. . Okay. . And under NRS 113.1403, it  
20 specifies, "Either this chapter or Chapter 645 of  
21 the NRS relieves a buyer or prospective buyer of the  
22 duty to exercise reasonable care to protect  
23 himself."  
24 24. . . . . Did I read that correctly?  
25 25. . . A. . Yes.

26 *Id.* at 209:2-25.

27 38. Plaintiff assumed the risk of failing to exercise reasonable care to protect itself.

28 *There Is No Dispute a Professional Inspection Could Have Revealed the Alleged Issues*

39. The alleged defects identified by both parties' experts could have been discovered

1 at the time of the original purchase. As to the ability to inspect, Mr. Miao admitted that he had  
2 access to the entire building. *Id.* at 250:22-25. He had access to the attic and looked at it. *Id.* at  
3 251:4-14. Mr. Miao admitted that Plaintiff's expert examined the same areas that he did:

4 .6. . . Q. . Okay. . So you walked through the property  
5 .7 with him at the time he did his inspection; correct?  
6 .8. . . A. . Right.  
7 .9. . . Q. . Okay. . During that time, did he inspect  
8 10 any areas that -- that you did not have access to in  
9 11 2017?  
12 .12. . . A. . Yes. . He didn't go to anything I didn't  
13 inspect during 2017 too.  
14 .14. . . Q. . So he inspected the same areas you  
15 inspected?  
16 .16. . . A. . Yes, yes.

10 *Id.* at 291:6-16.

11 40. Notably, Plaintiff's expert did not do any destructive testing, so the expert's  
12 access was exactly the same as Mr. Miao's original inspection. *Id.* at 291:1-5.

13 41. Mr. Miao admitted that Plaintiff's expert's inspection of the HVAC, *Id.* at 292:2-  
14 5, 293:18-23, and the plumbing system, *Id.* at 300:19-25-301:1-4, would have been the same as  
15 his in 2017.

16 42. Mr. Miao also admitted that the pictures attached to Plaintiff's expert report were  
17 areas that he could have inspected in 2017. *Id.* at 302:6-13.

18 43. Additionally, Mr. Miao accompanied Defendants' expert during his inspection.  
19 *Id.* at 320:31-25. As before, Mr. Miao had the same access to the Property in 2017 for the areas  
20 inspected by Defendants' expert. *Id.* at 321:1-6.

21 44. Mr. Miao agreed with Defendants' expert that the alleged conditions identified by  
22 Plaintiff's expert were "open and obvious":

23 22. . . Q. . And then the second line down, the first  
24 23 sentence begins, "Items complained about in the Sani  
25 24 report were open and obvious in the roof area, attic  
26 25 area, and on the exterior/interior of the property."  
27 Page 318

\* \* \*

26 .3. . . Q. . Do you agree with this statement?  
27 .4. . . A. . Yes.

28 *Id.* at 318:22-25-319:3-4.

45. He also agreed with Defendants' expert's finding that there was no noticeable sagging in the roof. *Id.* at 333:20-24.

46. Incredibly, Mr. Miao also recognized the deficiency in Plaintiff's expert's report that failed to differentiate between conditions prior to when TKNR owned the Property, while it owned it, and those afterwards:

17. . . Q. . . . midway down the first complete sentence  
18 says, "The Sani report does not recognize prior  
19 conditions in existence before any work took place  
20 by defendants."

21. . . . Do you agree with this statement?

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\* \* \*

3. . . . Yes, yes.

4 BY MR. LEE:

5. . . Q. You agree with that? Okay.

6. . . A. Agree.

*Id.* at 321:17-21 – 322:3-6. This would have also included any issues with the dryer vent and ducts, *Id.* at 325:3-20, as he recognized that most rentals do not include washer / dryer units. *Id.* at 326:7-25-327:1-9.

*No Permits Required for Cosmetic Work by TKNR*

47. No dispute exists that TKNR did not need permits for the interior work it had done to the Property. Mr. Miao admitted the following:

5. . . Q. Number 5 says, "Painting, papering,  
6 tiling, carpeting, cabinets, countertops, interior  
7 wall, floor or ceiling covering, and similar finish  
8 work."

9. . . . Do you see that?

10. . . A. Yes.

11. . . Q. So you agree that no permits are required  
12 for any of these types of work; correct?

13. . . A. Yes.

*Id.* at 262:5-13.

1 Window Replacements where no structural member -- no  
2 structural member is altered or changed," that does  
3 not need a permit either; right?  
4. . . A. Yes.

*Id.* at 265:1-4.

17. . . Q. Okay. If you turn the page to 82,  
18 Plumbing Improvements, no permits required to repair

19 or replace the sink; correct?  
20. . . A. . . Yes.  
21. . . Q. . . To repair or replace a toilet?  
22. . . A. . . Yes.  
23. . . Q. . . To repair or replace a faucet?  
24. . . A. . . Yes.  
25. . . Q. . . Resurfacing or replacing countertops?  
Page 264  
.1. . . A. . . Yes.  
.2. . . Q. . . Resurfacing shower walls?  
.3. . . A. . . Yes.  
.4. . . Q. . . Repair or replace shower heads?  
.5. . . A. . . Yes.  
.6. . . Q. . . Repair or replace rain gutters and down  
.7 spouts?  
.8. . . A. . . Yes.  
.9. . . Q. . . Regrouting tile?  
10. . . A. . . Yes.  
11. . . Q. . . And a hose bib, whatever that is.  
12. . . A. . . Water freezer. . . It's, like, for the  
13 filtration of the water.  
14. . . Q. . . Okay. . . And then for the mechanical, no  
15 permits required for portable heating appliances;  
16 correct.  
17. . . A. . . Yes.  
18. . . Q. . . For portable ventilation appliances?  
19. . . A. . . Yes.  
20. . . Q. . . Or portable cooling units; correct?  
21. . . A. . . Yes.  
22. . . Q. . . And for portable evaporative coolers  
23 installed in windows; correct?  
24. . . A. . . Yes.

*Id.* at 264:17-25-265:1-24.

*Plaintiff Does not Disclose the Alleged Issues to Potential Tenants*

48. Since the date it purchased the Property, Plaintiff has always been trying to lease  
it. *Id.* at 330:19-25-331:1-2. According to Mr. Miao, the landlord must provide safe housing for  
the tenant:

19. . . . Then also in according to the law, and  
20 they said it very clearly, because this is  
21 residential income property, right, rental income  
22 property, multi-family, we need -- landlord need  
23 provide housing and well-being and -- for the  
24 tenant. . . The tenant is not going to do all this  
25 inspection. . . They can't. . . The burden is on the  
Page 120  
.1 landlord to make sure all these building is safe and  
.2 in good condition.



1 *Id.* at 120:16-25-121:1-2, 140:10-14. However, they have not done any of the repairs listed by  
2 Plaintiff's expert. *Id.* at 331:3-12. This illustrates the lack of merit of Plaintiff that there are  
3 underlying conditions with the Property.

4 49. Moreover, Plaintiff does not provide any notice to the tenants about its expert's  
5 report or this litigation:

6 ·6· · · Q· ·All right· In terms of tenants -- renting  
7 ·7 out the units to any tenants, do you ever provide  
8 them with a copy of the Sani report?

9 ·9· · · A· ·No.

10 ·10· · · Q· ·Do you ever provide them with any of the  
11 pleadings or the first amended complaint, second  
12 amended complaint, the complaint itself?

13 ·13· · · A· ·No.

14 \* \* \*

15 ·22· · · Q· ·Okay· So basically, you just tell them,  
16 ·23 There's this· You can inspect the unit if you want;  
17 ·24 is that it?

18 ·25· · · A· ·Yeah· And also we need to tell is a lot  
19 Page 337

20 ·1 of things report that we don't need to go to the  
21 ·2 inside the building· It's wall cracking· It's  
22 ·3 outside· You can see.

23 ·4· · · Q· ·Okay· So it's open and obvious for them?

24 ·5· · · A· ·Yeah· You can see always outside.

25 *Id.* at 337:6-13, 337:22-25-338:1-5.

26 50. This illustrates the lack of merit of Plaintiff's claims, proven that it has done  
27 nothing to correct the allegedly deficient conditions that are clearly not so dangerous as it does  
28 not tell prospective tenants about them.

*Squatters or Tenants Could Have Damaged the Property*

51. Mr. Miao admitted that multiple third parties could have potentially damaged the  
Property. The Property has a historic problem with squatters during the time that Plaintiff owned  
it:

12· · · Q· ·Do you generally have a squatter problem  
13 with the property?

14· · · A· ·Yes· As a matter of fact, today I just  
15 saw the one text message that said one -- some  
16 people go to my apartment.

*Id.* at 110:12-16. He also admitted that tenants could have damaged the Property while they

were occupying it:

·4· . . . Q· . Okay· So the tenant in this context would  
·5 have damaged the unit at the time that you owned it;  
·6 is that fair?  
·7· . . . A· . Maybe· Yes.  
·8· . . . Q· . Okay· So some of the -- so the damage  
·9 that was to the water heater system, could the  
10 tenant have damaged that as well?  
11· . . . A· . Yes.  
12· . . . Q· . And then he could have damaged the cooler  
13 pump and the valve as well; is that correct?  
14· . . . A· . Yes.  
15· . . . Q· . Okay· Then on 122, these are all issues  
16 that the tenant could have damaged; is that correct?  
17· . . . A· . Yes.  
18· . . . Q· . And then the same through for 145; is that  
19 right?  
20· . . . A· . Yes.

*Id.* at 306:4-20, 330:5-7. This could also account for the cracking on the walls. *Id.* at 310:8-12.  
Tenants could have also damaged the Property if they hit it with their cars. *Id.* at 332:14-16.

*No Evidence That Defendants Knew of Alleged Conditions*

52. Plaintiff's case is based on assertions that Defendants knew about the alleged conditions in the Property; however, Mr. Miao admitted that there is no evidence that shows Defendants knew about them. *Id.* at 245:1-13 (speculating that InvestPro made changes).

53. The entire case is based on Mr. Miao's personal belief and speculation. *Id.* at 253:17-19.

54. Mr. Miao admitted that he has no evidence Defendants knew about the alleged moisture conditions. *Id.* at 293:24-25-294:1-3. Additionally, he also admitted that there is no evidence that Defendants knew about the alleged issues with the plumbing system. *Id.* at 301:21-24. He also admitted that he did not know if Defendants knew about the alleged issues with the duct work when they owned the Property. *Id.* at 314:5-19. He also recognized the deficiency in Plaintiff's expert's report that failed to differentiate between conditions prior to when TKNR owned the Property, while it owned it, and those afterwards. *Id.* at 321:17-21 – 322:3-6.

55. Mr. Miao recognized that a 63-year-old property could have issues that were not caused by Defendants. *Id.* at 324:6-15. This would have also included any issues with the dryer

vent and ducts, *Id.* at 325:3-20, and when the duct became disconnected. *Id.* at 329:1-16.

56. Plaintiff did not identify any discovery illustrating a genuine issue of material fact that Defendants knew of the alleged issues with the Property that they had not already disclosed on Seller's Disclosures.

57. Notably, during Mr. Miao's due diligence period, he spoke with the tenants of the Property. *Id.* at 163:12-25-164:1-6. This included a conversation with the long-term tenant of Unit A, who still resides in the Property to this day. *Id.* At that time, the tenant reported being very happy with the Property and had no complaints. *Id.* In fact, the tenant reported still being very happy with the Property. *Id.* at 170:7-9. This illustrates that there is no basis that Defendants should have been aware of any of the issues when Mr. Miao, a self-professed expert, did not even know about them following his inspection.

*No Basis for Claims for RICO and/or Related to Flipping Fund*

58. The Flipping Fund had nothing to do with Plaintiff's decision to purchase the Property. *Id.* at 223:15-25.

20. . . Q. . . Yeah. . So there's no way that you relied  
21 upon any flipping fund since it would have been  
22 closed at this time; right?  
23. . . A. . . Yeah.

*Id.* at 274:20-23. He also admitted that he never received any pro forma, private placement information, calculations of profit and loss, capital contribution requirements, member share or units, or any such information about the Flipping Fund. *Id.* at 277:7-16.

*Cost of Repairs*

59. Mr. Miao contacted contractors to bid the potential cost of repair for the Property and determined that it would have been \$102,873.00. *Id.* at 307:6-22. However, Plaintiff's expert opined that the cost of repair would have been \$600,000, although he did not provide an itemized cost of repair. *Id.* at 334:17-21.

*Allegations in the Second Amended Complaint*

60. On November 23, 2020, Plaintiff filed its Second Amended Complaint ("SAC").

Based on the admissions of Mr. Miao and the waivers related to the RPA and the 2<sup>nd</sup> RPA, these allegations illustrate the overall frivolous nature of this action and why Rule 11 sanctions are appropriate:

25. TKNR failed to disclose one or more known condition(s) that materially affect(s) the value or use of the Subject Property in an adverse manner, as required by NRS Chapter 113, in a particular NRS 113.130.

\* \* \*

27. Factual statements from the August 7, 2017 Seller Real Property Disclosure Form (SRPDF) are set forth in Paragraph 31 and the subsections thereof state whe (sic) the disclosures were either inadequate or false. The SRPDF states that it was prepared, presented and initialed by Kenny Lin.

\* \* \*

29. Since the Subject Property is a residential rental apartment, to protect tenants and consumers, the applicable local building code requires all renovation, demolition, and construction work must be done by licensed contractors with permits and inspections to ensure compliance with the Uniform Building Code [UBC].

\* \* \*

31. Defendants Lin, Investpro, as TKNR's agent, TKNR, Wong and INVESTPRO MANAGER LLC, as the true owner of the Subject Property, did not disclose any and all known conditions and aspects of the property which materially affect the value or use of residential property in an adverse manner, as itemized below.

a. SRPDF stated that Electrical System had no problems or defects. The fact is that many new electric lines were added and many old electric lines were removed by Investpro Manager LLC . The swamp coolers that were removed were supplied by 110 volt power supply lines. Investpro Manager LLC first added one 220v power supply line for one new 5 ton heat pump package unit on one roof top area for the whole building for Unit A. Unit B and Unit C. Investro (sic) Manager, LLC then removed the one year old 5 ton heat pump packaged unit from the roof top with power supply lines and added two new 220v power supply lines for two new 2 ton heart pump package units, one each for Unit B and Unit C.

Inestpro (sic) Manager, LLC then added one new 110 volt power supply line for two window cooling units for Unit A. The electrical system load for Unit A was increased due to the installation of two new cooling units and required 100 amp service, but the electrical service was not upgraded to 100 amp service from the existing 50 amp service. Failure to upgrade the electrical service caused the fuses to be blown out multiple times during the cooling seasons of 2018. The tenants in Unit A could not use air conditioning units in cooling seasons of 2018, causing Unit A to be uninhabitable until the Unit A electrical supply panel was upgraded to 100 amp service.

All the electrical supply line addition and removal work

1 were performed without code required electrical load  
2 calculation, permits and inspections. To save money,  
3 minimize flipping cost, minimize flipping time, maximize  
4 flipping fund profits, Investpro Manager LLC used  
unlicensed and unskilled workers to do the electrical work  
and used low quality materials used inadequate electrical  
supply lines.

5 Further, to save money, minimize flipping cost, minimize  
6 flipping time, maximize flipping fund profits, Investpro  
7 Manager LLC used unskilled workers who did not know  
the UBC requirements to do the electrical work This  
substandard work may lead electrical lines to overheat and  
cause fires in the attic when tenant electrical load is high.

8 Further, to save money, minimize flipping cost, minimize  
9 flipping time, maximize flipping fund profits, Investpro  
10 Manager LLC used unskilled workers who did not know  
the UBC requirements to do the electrical work. The outlets  
near the water faucets in kitchens, bathrooms and laundry  
areas were not GFCI outlets as required by the UBC.

11 b. SRPDF stated that Plumbing System had no problems  
12 or defects

13 The fact is that that within two years prior to the sale to  
14 Plaintiff, Investpro Manager LLC removed and plugged  
15 swamp cooler water supply lines without UBC required  
16 permits and inspections. To save money, minimize flipping  
17 cost, minimize flipping time, and maximize flipping fund  
18 profits, Investpro Manager LLC used unlicensed and  
unskilled workers who just plugged high pressure water  
supply lines at rooftop instead of at ground level and who  
did not remove the water supply lines on top of the roof,  
inside the attic and behind the drywall. In cold winter, the  
high pressure water line which was left inside the building  
may freeze and break the copper line and lead flooding in  
the whole building.

19 Further, to save money, minimize flipping cost, minimize  
20 flipping time, and maximize flipping fund profits, Investpro  
21 Manager LLC used unlicensed and unskilled workers to  
22 remove and plug natural gas lines for the natural gas wall  
23 furnaces without UBC required permits and inspections.

24 Further, to save money, minimize flipping cost, minimize  
25 flipping time, and maximize flipping fund profits, Investpro  
26 Manager LLC used unlicensed and unskilled workers with  
27 little knowledge of natural gas pipe connection  
28 requirements. The unlicensed and unskilled workers used  
the wrong sealing materials and these sealing materials may  
degrade and lead to natural gas leaks and accumulation  
inside the drywall and the attic which may cause an  
explosion or fire.

Further, to save money, minimize flipping cost, minimize  
flipping time, and maximize flipping fund profits, Investpro  
Manager LLC used unlicensed and unskilled workers to  
completely renovate all three bathrooms in the Subject  
Property without UBC required permits and inspections.  
Some faucets and connections behind tile walls and drywall

1 leak and are causing moisture conditions behind tile walls  
2 and drywalls.

3 c. SRPDF stated that Sewer System and line had no  
4 problems or defects.

5 The subject property was built in 1954. Clay pipes were  
6 used at that time for sewer lines. Before the sale, within  
7 few days after tenants moved into apartment Unit B, they  
8 experienced clogged sewer line which caused the  
9 bathrooms to be flooded. The tenants called Investpro to  
10 ask them to fix the clogged pipes and address the flooding  
11 issues. After this report, Investpro asked tenants to pay to  
12 hire plumber to snake the sewer line. After tenants  
13 threatened to call the Las Vegas code enforcement office,  
14 to save money, minimize flipping cost, minimize flipping  
15 time, and maximize flipping fund profits, Investpro used  
16 unlicensed and unskilled workers to snake the clay sewer  
17 pipes. Licensed contractors must be hired to snake sewer  
18 pipes as code required. This approach to clearing the clog  
19 may break the clay sewer pipes and cause future tree root  
20 grown into sewer lines and clogs in sewer lines.

21 d. SRPDF stated that Heating System had problems or  
22 defects.

23 No full explanation was provided, as required. Investro  
24 (sic) Manager, LLC disabled natural gas heating system  
25 without UBC required permits and inspections. To save  
26 money, minimize flipping cost, minimize flipping time, and  
27 maximize flipping fund profits, Investpro Manager LLC  
28 used unlicensed and unskilled workers with little  
knowledge about natural gas pipe connection requirements.  
They used the wrong sealing materials and these sealing  
materials may degrade and lead to a natural gas leak inside  
the drywall and the attic and may cause an explosion or  
fire.

Further, Investpro Manager LLC installed two electrical  
heat pump heating systems without UBC required permits  
and inspections for Unit B and Unit C. The Unit A does not  
have an electrical heat pump heating system nor a natural  
gas wall furnace heating system now. Unit A has to use  
portable electrical heaters.

29 e. SRPDF stated that the Cooling System had problems or  
30 defects

31 No full explanation was provided, as required. Investro  
32 (sic) Manager, LLC removed old swamp cooler systems  
33 without UBC required permits and inspections. To save  
34 money, minimize flipping cost, minimize flipping time, and  
35 maximize flipping fund profits, Investpro used unlicensed  
36 and unskilled workers to disconnect water supply lines,  
37 cover swamp cooler ducting holes, and disconnect 110V  
38 electrical supply lines.

Further, as early as March of 2016, Investro Manager, LLC  
hired Air Supply Cooling to install one five ton new heat  
pump package unit with new rooftop ducting systems on

one roof area to supply cooling and heating air to the whole building consisting of Unit A, Unit B and Unit C without UBC required weight load and wind load calculations, permits and inspections. The five ton heat pumps package unit was too big, too heavy and had control problems. To save money, minimize flipping cost, minimize flipping time, and maximize flipping fund profits, Investpro Manager LLC also used unlicensed and unskilled workers to remove the one year old five ton heat pump package unit with ducting system without UBC required permits and inspections. All of this work was done without UBC required structural calculation, permits and inspections.

Further, in early June, 2017, Investro Manager, LLC hired The AIRTEAM to install two new two ton heat pump package units, one each for Unit B and Unit C. Invespro (sic) Manager, LLC also used unlicensed and unskilled workers to install two window cooling units in Unit A's exterior walls. All of the above work was done without UBC required permits and inspections.

Further, to save money, minimize flipping cost, minimize flipping time, and maximize flipping fund profits, Investro Manager, LLC did not replace the old, uninsulated swamp cooler ducts with new insulated HVAC ducts as the UBC required. This resulted in the heat pump package units being overloaded and damaged during cooling season because cool air was heated by uninsulated attic hot air before delivering the cooled air to the rooms. The old, uninsulated swamp cooler ducts were also rusted and leaked due to high moisture air from the bathroom vent fans and the clothes washer/dryer combination unit exhaust vents. The heat pumps would run all the time but still could not cool the rooms.

f. SRPDF stated that Smoker detector had no problems or defects

During Plaintiff's inspection at August 10, 2017 afternoon, some smoke detectors were missing.

g. SRPDF stated that no Previous or current moisture conditions and or water damage.

To save money, minimize flipping cost, minimize flipping time, and maximize flipping fund profits, Investro Manager, LLC used unlicensed and unskilled workers to vent high moisture bathroom fan exhaust and washer/dryer combination unit exhaust into the ceiling attic area instead of venting outside the building roof without UBC required permits and inspections. The improper ventings caused high moisture conditions in ceiling attic and water damages in ceiling and attic. The high moisture conditions in the ceiling attic destroyed ceiling attic insulations, damaged the roof decking, damaged roof trusses and damaged roof structure supports.

To saving money, minimize flipping cost, minimize flipping time, and maximize flipping fund profits, Investpro Manager LLC used unlicensed and unskilled workers to

complete renovation to all three bathrooms without UBC required permits and inspections. Some faucets and connections behind tile walls and drywall leaks and caused moisture conditions behind tile walls and drywalls.

h. SRPDF stated that there was no structure defect.

Investpro Manager LLC added one new five ton heat pump package unit with ducting systems on the one roof top area for the whole building in early March, 2016 without UBC required weight load and wind load calculation, permits and inspections. Due to the five ton heat pump package unit being too big, too heavy and having control problems to save money, minimize flipping cost, minimize flipping time, and maximize flipping fund profits, Investro (sic) Manager, LLC used unlicensed and unskilled workers to remove the one year old five ton heat pump package unit with part of the ducting system again without UBC required permits and inspections. Investpro Manager LLC added two new two ton heat pump package units on the two roof top areas for Unit B and Unit C with new ducting systems without UBC required weight load and wind loan calculation, permits and inspections.

Further, to save money, minimize flipping cost, minimize flipping time, and maximize flipping fund profits, Investpro Manager LLC used unlicensed and unskilled workers to open two new window holes on

exterior walls for two window cooling units in Unit A without UBC required structure calculation, permits and inspections. This work damaged the building structure.

Further, the moisture condition behind tile walls and drywall due to faucets leaking damaged the building structure.

Further, Investpro Manager LLC's unlicensed and unskilled workers used the space between two building support columns as a duct to vent high moisture exhaust from the washer/dryer combination unit exhaust vent from Unit A without UBC required permits and inspections and this damaged the building structure.

The recent inspection of the exterior wall found multiple cracks which indicates structural problems caused by the heavy load on the roof.

i. SRPDF marked Yes and NO for construction, modification, alterations or repairs made without required state, city or county building permits.

Defendants Lin, Investpro, as TKNR's agent, TKNR, and Wong did not provide detailed explanations. All renovation, demolition, and construction work was done by Investpro Manager LLC using unlicensed, and unskilled workers without UBC required weight load and wind load calculations, permits and inspections.

j. SRPDF stated that there were not any problems with the roof.

The roof of the Subject Property was damaged by changing



1 roof top HVAC units and ducting systems multiple times  
2 from October, 2015 to June, 2017. Investpro Manager LLC  
3 removed the existing swamp coolers from roof top and  
4 covered the swamp coolers ducting holes. Investpro  
5 Manager LLC added a five ton heat pump package unit  
6 with a new ducting system on one roof top area in March,  
7 2016. Investpro the removed the one year old five ton heat  
8 pump package unit with part of the ducting system from the  
9 one roof top area in June, 2017. Then Investpro Manager  
10 LLC added two two ton heat pump package units on the  
11 two roof top areas in June, 2017. The work damaged the  
12 roof of the Subject Property to such an extent that when it  
13 rains the roof leaks. All of this renovation, demolition, and  
14 construction work was done without UBC required weight  
15 load and wind load calculations, permits and inspections  
16 and this damaged the building roof structure.

17 k. SRPDF stated that no there were not any fungus or  
18 mold problems.

19 To save money, minimize flipping cost, minimize flipping  
20 time, and maximize flipping fund profits, Investpro  
21 Manager LLC vented the bathroom high moisture fans and  
22 the washer/dryer combination unit exhaust vents into the  
23 ceiling and attic without venting outside of the roof. All of  
24 this renovation, demolition, and construction work was  
25 done without UBC required permits and inspections and  
26 this damaged the building structure. After the purchase of  
27 the Subject Property, Plaintiff discovered black color  
28 fungus mold was found inside ceiling and attic.

1 l. SRPDF stated that there were not any other conditions  
or aspects of the property which materially affect its value  
or use in an adverse manner.

i. Problems with flooring.

To save money, minimize flipping cost, minimize  
flipping time, and maximize flipping fund profits,  
Investpro Manager LLC used unlicensed and  
unskilled workers to lay low quality cheap ceramic  
tiles on the loose sandy ground rather than on a  
strong, smooth, concrete floor base. Within few  
months after tenants moving into the Subject  
Property, mass quantities of floor ceramic tiles  
cracked and the floor buckled. These cracked  
ceramic tiles may cut tenants' toes and create a trip  
and fall hazard. These are code violations had to be  
repaired before the units could be rented to tenants.  
The plaintiff has to spend lot money to replace all  
ceramic tile floor in Unit C with vinyl tile floor.

ii. Problems with the land/foundation.

Within few months after tenants moved into the  
Subject Property in 2017, large quantities of floor  
tiles cracked and the floor buckled. This indicated  
that there may have foundation problems likely due  
to heavy loads by the new HVAC systems and the  
venting of moisture into the ceiling and attic. Too  
much weight loads on the walls caused exterior wall

cracking.

iii. Problems with closet doors.

To save money, minimize flipping cost, minimize flipping time, and maximize flipping fund profits, Investpro Manager LLC used unlicensed and unskilled workers to install closet doors with poor quality for Unit C, all closet doors fell down in three months after tenant move into Unit C.

61. As to 31(a), Mr. Miao admitted that the Seller's Disclosures disclosed issues with the heating and cooling systems, the use of a handyman, and the lack of permits. Additionally, he specified that he noted issues with the electrical system and items not up to code at the time that he did his inspection and/or that any issues with the electrical system were "open and obvious" that a reasonable, professional inspection could have discovered in 2017. Despite these issues, Plaintiff chose not to have a professional inspection. Incredibly, Mr. Miao admitted that he was the person who asked for TKNR to install the GFCI outlets, so he was clearly aware of this issue as well. Moreover, Mr. Miao specified that this was a condition that Plaintiff could have inspected at or before the time it had originally purchased the Property. Notably, Mr. Miao admitted that no evidence showed that Defendants were aware of any of these issues.

62. As to 31(b), Mr. Miao admitted that the Seller's Disclosures disclosed issues with the heating and cooling systems, the use of a handyman, the lack of permits, and issues with the sprinklers. Additionally, he specified that he noted issues with the plumbing system were "open and obvious" that a reasonable, professional inspection could have discovered in 2017. Despite these issues, Plaintiff chose not to have a professional inspection. Moreover, Mr. Miao specified that this was a condition that Plaintiff could have inspected at or before the time it had originally purchased the Property. Notably, Mr. Miao admitted that no evidence showed that Defendants were aware of any of these issues.

63. As to 31(c), Mr. Miao admitted that the Seller's Disclosures disclosed the use of a handyman, the lack of permits, and issues with the sprinklers. Additionally, he specified that he noted issues with the sewer system were "open and obvious" that a reasonable, professional inspection could have discovered in 2017. Despite these issues, Plaintiff chose not to have a professional inspection. Moreover, Mr. Miao specified that this was a condition that Plaintiff

1 could have inspected at or before the time it had originally purchased the Property. Notably, Mr.  
2 Miao admitted that no evidence showed that Defendants were aware of any of these issues.

3 64. As to 31(d), Mr. Miao admitted that the Seller's Disclosures disclosed issues with  
4 the heating and cooling systems, the use of a handyman, and the lack of permits. Additionally,  
5 he specified that he did his inspection and/or that any issues with the heating system were "open  
6 and obvious" that a reasonable, professional inspection could have discovered in 2017. Despite  
7 these issues, Plaintiff chose not to have a professional inspection. Moreover, Mr. Miao specified  
8 that this was a condition that Plaintiff could have inspected at or before the time it had originally  
9 purchased the Property. Notably, Mr. Miao admitted that no evidence showed that Defendants  
10 were aware of any of these issues.

11 65. As to 31(e), Mr. Miao admitted that the Seller's Disclosures disclosed issues with  
12 the heating and cooling systems, the use of a handyman, and the lack of permits. Additionally,  
13 he specified that he noted issues with the heating and cooling system and items not up to code at  
14 the time that he did his inspection and/or that any issues with the heating and cooling system  
15 were "open and obvious" that a reasonable, professional inspection could have discovered in  
16 2017. Despite these issues, Plaintiff chose not to have a professional inspection. Moreover, Mr.  
17 Miao specified that this was a condition that Plaintiff could have inspected at or before the time  
18 it had originally purchased the Property. Notably, Mr. Miao admitted that no evidence showed  
19 that Defendants were aware of any of these issues.

20 66. As to 31(f), this allegation illustrates that Plaintiff had knowledge before  
21 purchasing the Property, and the overall emphasis on the failure to obtain a professional  
22 inspection of the Property prior to purchasing it.

23 67. As to 31(g), (k), Mr. Miao admitted Plaintiff executed the mold and moisture  
24 waiver, and understood its affirmative duty to have an inspection done prior to the purchase of  
25 the Property. He also admitted that the Seller's Disclosures disclosed the use of a  
26 handyman, installation of the cabinetry, bathrooms, and the lack of permits. Additionally, he  
27 specified that he personally inspected the attic and the dryer vent before Plaintiff purchased the  
28 Property. Despite these issues, Plaintiff chose not to have a professional inspection. Moreover,

1 Mr. Miao specified that this was a condition that Plaintiff could have inspected at or before the  
2 time it had originally purchased the Property. Notably, Mr. Miao admitted that no evidence  
3 showed that Defendants were aware of any of these issues.

4 68. As to 31(h), Mr. Miao admitted that the Seller's Disclosures disclosed issues with  
5 the heating and cooling systems, the use of a handyman, and the lack of permits. Mr. Miao  
6 admitted that there was visible cracking on the foundation, walls, and the tiles that were open and  
7 obvious at the time that Plaintiff purchased the Property in 2017. Moreover, Mr. Miao specified  
8 that this was a condition that Plaintiff could have inspected at or before the time it had originally  
9 purchased the Property. Notably, Mr. Miao admitted that no evidence showed that Defendants  
10 were aware of any of these issues.

11 69. As to 31(i), this allegation illustrates the prior knowledge that Plaintiff had before  
12 purchasing the Property, and the overall emphasis on the failure to obtain a professional  
13 inspection of the Property prior to purchasing it. Mr. Miao admitted that he should have  
14 followed up related to the permit issue prior to Plaintiff purchasing the Property.

15 70. As to 31(j), Mr. Miao admitted that the Seller's Disclosures disclosed issues with  
16 the heating and cooling systems, the use of a handyman, and the lack of permits. Additionally,  
17 he specified that he noted issues were "open and obvious" that a reasonable, professional  
18 inspection could have discovered in 2017. Mr. Miao agreed that there was no noticeable sagging  
19 on the roof. Despite these issues, Plaintiff chose not to have a professional inspection.  
20 Moreover, Mr. Miao specified that this was a condition that Plaintiff could have inspected at or  
21 before the time it had originally purchased the Property. Notably, Mr. Miao admitted that no  
22 evidence showed that Defendants were aware of any of these issues.

23 71. As to 31(l), Mr. Miao admitted that the Seller's Disclosures disclosed issues with  
24 the heating and cooling systems, the use of a handyman, and the lack of permits. Mr. Miao  
25 admitted that there was visible cracking on the foundation, walls, and the tiles that were open and  
26 obvious at the time that Plaintiff purchased the Property in 2017. Mr. Miao noted that this  
27 condition could have been inspected at or prior to the Property's purchase. Mr. Miao  
28 acknowledged there was no evidence that Defendants were aware of these issues.

Plaintiffs Did Not Reply on Broker Agents

72. As to the Broker Defendants, Ms. Zhu agreed that she was not relying upon any representations made by Brokers or Broker's agent. Ms. Zhu agreed to purchase the Property AS-IS, WHERE-IS, without any representations or warranties. Ms. Zhu waived all claims against Brokers or their agents for (a) defects in the Property . . . (h) factors related to Ms. Zhu's failure to conduct walk-throughs or inspections. Ms. Zhu assumed full responsibility and agreed to conduct such tests, walk-throughs, inspections and research, as she deemed necessary. In any event, Broker's liability was limited, under any and all circumstances, to the amount of that Broker's commission/fee received in the transaction.

Mr. Miao Agreed with Defendants' Expert

73. On November 17, 2020, Defendants' expert, Neil D. Opfer, an Associate Professor of Construction Management at UNLV and overqualified expert, conducted an inspection of the Property. At that time, as noted earlier, Mr. Miao walked the Property with Professor Opfer. Supplement at 320:31-25.

74. Mr. Miao agreed with Professor Opfer that the alleged conditions identified by Plaintiff's alleged expert were open and obvious:

[n]ote that the Plaintiff could have hired an inspector or contractor to evaluate this real-estate purchase beforehand but did not. Items complained about in the Sani Report were open and obvious at the roof area, attic area, and on the exterior and interior areas of the Property.

*Id.* at 318:22-25-319:3-4.

75. Mr. Miao agreed with Professor Opfer that Plaintiff's expert did not conduct destructive testing, so the same alleged conditions that the expert noted would have been made by an inspector at the time of the purchase. *Id.* at 291:1-5.

76. Mr. Miao agreed with Professor Opfer that Plaintiff's expert did "not recognize prior conditions in existence before any work took place by the Defendants." *Id.* at 321:17-21 – 322:3-6.

Conclusions of Law

1. Summary judgment is appropriate when the pleadings, depositions, answers to

1 interrogatories, admissions, and affidavits, if any, that are properly before the Court demonstrate  
2 that no genuine issue of material fact exist, and the moving party is entitled to judgment as a  
3 matter of law. *Pegasus v. Reno Newspapers, Inc.*, 118 Nev. 706, 713, 57 P.3d 82, 87 (2002).  
4 Substantive law controls whether factual disputes are material and will preclude summary  
5 judgment; other factual disputes are irrelevant. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242,  
6 106 S. Ct. 2505, 91 L.Ed.2d 202 (1986). A genuine issue of material fact is one where the  
7 evidence is such that a reasonable jury could return a verdict for the non-moving party. *Valley*  
8 *Bank v. Marble*, 105 Nev. 366, 367, 775 P.2d 1278, 1282 (1989).

9 2. The Nevada Supreme Court has held that the non-moving party may not defeat a  
10 motion for summary judgment by relying “on gossamer threads of whimsy, speculation and  
11 conjecture.” *Wood v. Safeway*, 121 Nev. 724, 732, 121 P.3d 1026, 1031 (2005). The Nevada  
12 Supreme Court has also made it abundantly clear when a motion for summary judgment is made  
13 and supported as required by Nevada Rule of Civil Procedure 56, the non-moving party must not  
14 rest upon general allegations and conclusions, but must by affidavit or otherwise set forth  
15 specific facts demonstrating the existence of a genuine factual issue. *Id.*

16 3. Under Nevada Rule of Civil Procedure 56(a), a party may move for summary  
17 judgment, or partial summary judgment. “The court shall grant summary judgment if the movant  
18 shows that there is no genuine dispute as to any material fact and the movant is entitled to  
19 judgment as a matter of law.” The court may rely upon the admissible evidence cited in the  
20 moving papers and may also consider other materials in the record as well. *Id.* at 56(c). “If the  
21 court does not grant all the relief requested by the motion, it may enter an order stating any  
22 material fact — including an item of damages or other relief — that is not genuinely in dispute  
23 and treating the fact as established in the case.” *Id.* at 56(g).

24 4. The pleadings and proof offered in a Motion for Summary Judgment are  
25 construed in the light most favorable to the non-moving party. *Hoopes v. Hammargren*, 102  
26 Nev. 425, 429, 725 P.2d 238, 241 (1986). However, the non-moving party still “bears the  
27 burden to ‘do more than simply show that there is some metaphysical doubt’ as to the operative  
28 facts in order to avoid summary judgment being entered.” *Wood*, 121 Nev. at 732, 121 P.3d at

1 1031. “To successfully defend against a summary judgment motion, ‘the nonmoving party must  
2 transcend the pleadings and, by affidavit or other admissible evidence, introduce specific facts  
3 that show a genuine issue of material fact.’” *Torrealba v. Kesmetis*, 178 P.3d 716, 720 (Nev.  
4 2008) (quoting *Cuzze v. Univ. & Cmty. Coll. Sys. of Nev.*, 172 P.3d 131, 134 (Nev. 2007)).

5 5. The non-moving party bears the burden to set forth specific facts demonstrating  
6 the existence of a “genuine” issue for trial or have summary judgment entered against him.  
7 *Collins v. Union Federal Savings & Loan*, 99 Nev. 284, 294, 662 P.2d 610, 618-619 (1983).  
8 When there is no genuine issue of material fact and the non-moving party provides no admissible  
9 evidence to the contrary, summary judgment is “mandated.” *Celotex Corp. v. Catrett*, 477 US  
10 317, 322 (1986). When a motion for summary judgment is made and supported, an adversary  
11 party who does not set forth specific facts showing a genuine issue to be resolved at trial may  
12 have a summary judgment entered against him. *Collins v. Union Federal Sav. & Loan Ass’n*, 99  
13 Nev. 284, 294, 662 P.2d 610, 616 (1983) (citing *Van Cleave v. Kietz-Mill Minit Mart*, 97 Nev.  
14 414, 633 P.2d 1220 (1981); *Bird v. Casa Royale West*, 97 Nev. 67, 624 P.2d 17 (1981)).

15 6. “Under NRS Chapter 113, residential property sellers are required to disclose any  
16 defects to buyers within a specified time before the property is conveyed.” *Nelson v. Heer*, 163  
17 P.3d 420, 425 (Nev. 2007) (citing NRS 113.140(1)). “NRS 113.140(1), however, provides that a  
18 seller is not required to ‘disclose a defect in residential property of which [she] is not aware.’ A  
19 ‘defect’ is defined as “a condition that materially affects the value or use of residential property  
20 in an adverse manner.” *Id.* (citing NRS 113.100(1)). The Nevada Supreme Court clarified that:

21 [a]scribing to the term “aware” its plain meaning, we determine  
22 that the seller of residential real property does not have a duty to  
23 disclose a defect or condition that “materially affects the value or  
24 use of residential property in an adverse manner,” if the seller does  
25 not realize, perceive, or have knowledge of that defect or  
26 condition. Any other interpretation of the statute would be  
unworkable, as it is impossible for a seller to disclose conditions in  
the property of which he or she has no realization, perception, or  
knowledge. The determination of whether a seller is aware of a  
defect, however, is a question of fact to be decided by the trier of  
fact.

27 *Id.* at 425 (citations omitted). Thus, in the context where the plaintiff cannot demonstrate an  
28 omitted disclosure that caused damage, the seller is entitled to summary judgment as a matter of

1 law. *Id.* at 426.

2 7. Generally, “[n]ondisclosure by the seller of adverse information concerning real  
3 property . . . will not provide the basis for an action by the buyer to rescind or for damages when  
4 property is sold ‘as is.’ ” *Mackintosh v. Jack Matthews & Co.*, 109 Nev. 628, 633, 855 P.2d 549,  
5 552 (1993). Moreover, “[l]iability for nondisclosure is generally not imposed where the buyer  
6 either knew of or could have discovered the defects prior to the purchase.” *Land Baron Invs.,*  
7 *Inc. v. Bonnie Springs Family LP*, 131 Nev. 686, 696, 356 P.3d 511, 518 (2015). The general  
8 rule foreclosing liability for nondisclosure when property is purchased as-is does not apply when  
9 the seller knows of facts materially affecting the value or desirability of the property which are  
10 known or accessible only to [the seller] and also knows that such facts are not known to, or  
11 within the reach of the diligent attention and observation of the buyer. *Mackintosh*, 109 Nev. at  
12 633, 855 P.2d at 552 (alteration in original) (internal quotation marks omitted).

13 8. A buyer waives its common law claims of negligent misrepresentation, fraudulent  
14 or intentional misrepresentation, and/or unjust enrichment when it expressly agreed that it would  
15 carry the duty to inspect the property and ensure that all aspects of it were suitable prior to close  
16 of escrow, and the information was reasonably accessible to the buyer. *Frederic and Barbara*  
17 *Rosenberg Living Tr. v. MacDonald Highlands Realty, LLC*, 427 P.3d 104, 111 (Nev. 2018).  
18 Accordingly, the Nevada Supreme Court concluded that an agreement to purchase property as-is  
19 foreclosed the buyer’s common law claims, justifying the granting of summary judgment on  
20 common law claims. *Id.* (citation omitted).

21 The terms and conditions of the purchase agreement do not create  
22 a duty to disclose. Rather, these disclosures are required by NRS  
23 Chapter 113, which sets forth specific statutory duties imposed by  
24 law independent of the purchase agreement's terms and conditions.  
Additionally, the terms of the purchase agreement do not require  
[the seller] to do anything other than provide the listed disclosures.

25 *Anderson v. Ford Ranch, LLC*, 78684-COA, 2020 WL 6955438, at \*5 (Nev. App. Nov. 25,  
26 2020).

27 9. Nevada Revised Statute § 113.140 clearly provides that the Seller Disclosures  
28 does not constitute a warranty of the Subject Property and that the Buyer still has a duty to



1 exercise reasonable care to protect himself. Nevada Revised Statute § 113.140 also provides that  
2 the Seller does not have to disclose any defect that he is unaware of. Similarly, Nevada Revised  
3 Statute § 113.130 does not require a seller to disclose a defect in residential property of which  
4 the seller is not aware. A completed disclosure form does not constitute an express or implied  
5 warranty regarding any condition of residential property. Nevada Revised Statute § 113.140(2).  
6 Chapters 113 and “645 of Nevada Revised Statutes do not relieve a buyer or prospective buyer of  
7 the duty to exercise reasonable care to protect himself or herself.” *Id.* at § 113.140(2).

8 10. Summary Judgment is appropriate as a matter of law on all of Plaintiff’s claims.  
9 It is undisputed that the alleged deficiencies were either disclosed by Defendants, could have  
10 been discovered by an inspection, were open and obvious whereby Plaintiff / Ms. Zhu / Mr.  
11 Miao had notice of them at the time Plaintiff purchased the Property, or were unknown to  
12 Defendants at the time of the sale.

13 11. On August 2, 2017, TKNR submitted its Seller Disclosures timely indicating all  
14 known conditions of the Subject Property. TKNR disclosed that “3 units has (sic) brand new AC  
15 installed within 3 months,” and further that the “owner never resided in the property and never  
16 visited the property.” Plaintiff was also aware that the minor renovations, such as painting, was  
17 conducted by the Seller’s “handyman” as disclosed in the Seller’s Disclosures. TKNR also  
18 disclosed that it was aware of issues with the heating and cooling systems, there was  
19 construction, modification, alterations, or repairs done without permits, and lead-based paints.

20 12. On August 11, 2020, through the original RPA, Ms. Zhu waived her due  
21 diligence, although she had a right to conduct inspections:

22 During such Period, Buyer shall have the right to conduct, non-  
23 invasive/non-destructive inspections of all structural, roofing,  
24 mechanical, electrical, plumbing, heating/air conditioning,  
25 water/well/septic, pool/spa, survey, square footage, and any other  
property or systems, through licensed and bonded contractors or  
other qualified professionals.

26 13. Section II(B)(1) lists the disclosures by TKNR. Despite these disclosures,  
27 Plaintiff did not inspect the Subject Property, request additional information and/or conduct any  
28 reasonable inquires. Ms. Zhu cancelled the original RPA, Ex. E, because of an issue related to

her financing, unrelated to the Seller's Disclosures. Notably, she included the explicit waiver of the inspections, which included her initialing the provision that she had not done in the original RPA. Ms. Zhu informed her agent to waive all inspections. Although Ms. Zhu had actual knowledge of the Seller's Disclosures from August 11, 2017, and the Parties agreed to extend the COE to January 5, 2018, Ms. Zhu still never did any professional inspections. Instead, she put down an additional \$60,000 as a non-refundable deposit to the TNKR. Moreover, she also agreed to pay rent in the amount of \$650 per month for one of the units, and to also pay the property manager \$800 for the tenant placement fee. Through Addendum 2 to the 2<sup>nd</sup> RPA, Ms. Zhu later changed the purchaser to Plaintiff.

14. Ms. Zhu agreed that she was not relying upon any representations made by Brokers or Broker's agent. Ms. Zhu agreed to purchase the Property AS-IS, WHERE-IS, without any representations or warranties. Thus, Ms. Zhu waived all claims against Brokers or their agents for (a) defects in the Property . . . (h) factors related to Ms. Zhu's failure to conduct walk-throughs or inspections. Ms. Zhu assumed full responsibility and agreed to conduct such tests, walk-throughs, inspections and research, as she deemed necessary. In any event, Broker's liability was limited, under any and all circumstances, to the amount of that Broker's commission/fee received in the transaction.

15. As to the waivers, Paragraph 7(D) of the both the RPA and 2<sup>nd</sup> RPA expressly provided:

*It is strongly recommended that Buyer retain licensed Nevada professionals to conduct inspections. If any inspection is not completed and requested repairs are not delivered to Seller within the Due Diligence Period, Buyer is deemed to have waived the right to that inspection and Seller's liability for the cost of all repairs that inspection would have reasonably identified had it been conducted, except as otherwise provided by law.*

Nevertheless, Ms. Zhu waived her inspection related to the original RPA and the 2<sup>nd</sup> RPA, reinforced further by actually initialing next to the waiver in the 2<sup>nd</sup> RPA. Ms. Zhu also waived the energy audit, pest inspection, roof inspection, septic lid removal inspection, mechanical inspection, soil inspection, and structural inspection. Thereby, Ms. Zhu waived any liability of

Defendants for the cost of all repairs that inspection would have reasonably identified had it been conducted. The RPA and the 2<sup>nd</sup> RPA clearly indicated that Ms. Zhu was purchasing the Property “AS-IS, WHERE-IS without any representations or warranties.”

16. Additionally, Ms. Zhu also agreed that the Brokers Defendants had “no responsibility to assist in the payment of any repair, correction or deferred maintenance on the Property which may have been revealed by the above inspections, agreed upon by the Buyer and Seller or requested by one party.” Paragraph 7(D) of the RPA.

17. Since 2008, Mr. Miao, Ms. Zhu, and/or Plaintiff have been involved in the purchase of approximately twenty residential properties. In Clark County alone, Ms. Zhu and Mr. Miao were involved with the purchase of at least eight rental properties starting in 2014.

18. Mr. Miao understood the importance to check public records when conducting due diligence.

19. Plaintiff was a sophisticated buyer aware of the necessity of property inspection.

20. At all times relevant prior to the purchase of the Property, Plaintiff had access to inspect the entire property and conduct non-invasive, non-destructive inspections.

21. Prior to the purchase, Mr. Miao was aware that the Seller “strongly recommended that buyer retain licensed Nevada professionals to conduct inspections”.

22. Plaintiff was also aware of the language in the RPA under Paragraph 7(D) that limited potential damages that could have been discovered by an inspection.

23. As to the RPA, Mr. Miao agreed that all the terms in it were conspicuous and understandable, and it was a standard agreement similar to the other agreements he had used in purchasing the other properties in Clark County, Nevada.

24. On or about August 10, 2017, Mr. Miao inspected Property. During that time, Mr. Miao noted issues with the Property that were not up to code, finishing issues, GFCI outlets<sup>1</sup>, and electrical issues.

25. Mr. Miao acknowledged there was an issue with exposed electrical in Unit C as

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<sup>1</sup> The Second Amended Complaint references GFCI at Paragraph 31(a). This illustrates the frivolous nature of the pleading since Mr. Miao requested TKNR to install these for Plaintiff.

1 well as possible asbestos.

2 26. Mr. Miao noted that there were cracks in the ceramic floor tiles and visible cracks  
3 in the concrete foundation, which were open and obvious.

4 27. Mr. Miao admitted that he could also have seen the dryer vent during his  
5 inspection.

6 28. Mr. Miao admitted that he could have followed up on the issues identified in the  
7 SRPDF that included the HVAC and the permits.

8 29. Similarly, Mr. Miao should have contacted the local building department as part  
9 of his due diligence.

10 30. Plaintiff was also on notice of the potential for mold and the requirement to get a  
11 mold inspection.

12 31. Despite actual knowledge of these issues, Plaintiff did not elect to have a  
13 professional inspection done.

14 32. Finally, Plaintiff was also acutely aware of the requirement of Nevada law to  
15 protect itself by getting an inspection.

16 33. Plaintiff assumed the risk of failing to exercise reasonable care to protect itself.

17 34. The alleged defects identified by both parties' experts could have been discovered  
18 at the time of the original purchase as they were "open and obvious".

19 35. Plaintiff failed to differentiate between conditions prior to when TKNR owned the  
20 Property, while it owned it, and those afterwards.

21 36. No dispute exists that TKNR did not need permits for the interior work it had  
22 done to the Property.

23 37. Plaintiff has always been trying to lease the Property despite not doing any of the  
24 repairs listed by Plaintiff's expert. This illustrates the lack of merit of Plaintiff that there are  
25 underlying conditions with the Property.

26 38. Moreover, Plaintiff does not provide any notice to the tenants about its expert's  
27 report or this litigation. This illustrates the lack of merit of Plaintiff's claims and proves that it  
28 has done nothing to correct the allegedly deficient conditions that are clearly not so dangerous as

1 it does not tell prospective tenants about them.

2 39. Mr. Miao admitted that multiple third parties could have potentially damaged the  
3 Property.

4 40. Plaintiff did not present any evidence related to Defendants' alleged knowledge  
5 other than his personal belief and speculation.

6 41. Mr. Miao admitted that he has no evidence Defendants knew about the alleged  
7 moisture conditions. Additionally, he also admitted that there is no evidence that Defendants  
8 knew about the alleged issues with the plumbing system. He also admitted that he did not know  
9 if Defendants knew about the alleged issues with the duct work when they owned the Property.  
10 He also recognized the deficiency in Plaintiff's expert's report that failed to differentiate between  
11 conditions prior to when TKNR owned the Property, while it owned it, and those afterwards.

12 42. Mr. Miao also recognized that a 63-year-old property could have issues that were  
13 not caused by Defendants.

14 43. The Flipping Fund had nothing to do with Plaintiff's decision to purchase the  
15 Property.

16 44. Plaintiff admittedly amplified its alleged damages by more than 6x, and then  
17 trebled the damages, and have run up egregious attorneys' fees for this frivolous action. These  
18 are undisputed facts that prove abuse of process as a matter of law given the known issues with  
19 the Property and Plaintiff's waivers related to the inspections. Plaintiff waived the inspections  
20 and purchased the property "as is". This shows that Plaintiff had no interest in having a  
21 professional inspection done. It shows the behavior of the Plaintiff related to the entire case.

22 45. Plaintiff was encouraged to inspect the property, and they did not do it. It was a  
23 63-year-old property. There were specific disclosures that were made by the Seller, and Plaintiff  
24 was strongly encouraged to conduct the inspection, and they did not want to.

25 46. This is a 2018 case. Plaintiff has not been diligent in conducting discovery.

26 Rule 56(f) is not a shield that can be raised to block a motion for  
27 summary judgment without even the slightest showing by the  
28 opposing party that his opposition is meritorious. A party invoking  
its protections must do so in good faith by affirmatively  
demonstrating why he cannot respond to a movant's affidavits as

otherwise required by Rule 56(e) and how postponement of a ruling on the motion will enable him, by discovery or other means, to rebut the movant's showing of the absence of a genuine issue of fact. Where, as here, a party fails to carry his burden under Rule 56(f), postponement of a ruling on a motion for summary judgment is unjustified.

See *Bakerink v. Orthopaedic Associates, Ltd.*, 581 P.2d 9, 11 (Nev. 1978) (quoting *Willmar Poultry Co. v. Morton-Norwich Products*, 520 F.2d 289, 297 (8th Cir. 1975), Cert. denied, 424 U.S. 915, 96 S.Ct. 1116, 47 L.Ed.2d 320 (1975)).

47. Plaintiff failed to articulate the alleged discovery that it would likely have. Additionally, Plaintiff already opposed enlarging discovery by specifying that any extension of discovery would prejudice it, indicating that it had no need for additional discovery and that Plaintiff would largely rest upon the findings of its expert. See Plaintiff's Opposition to Motion to Enlarge Discovery. Also, Plaintiff's counsel's declaration in the Opposition illustrated that he had additional discussions with Plaintiff's expert related to the MSJ, but Plaintiff's expert did not proffer any additional opinions to counter the Motion. See *Opp.* at p. 18:7-9.

48. As a matter of law, Plaintiff is precluded from seeking damages from Defendants because of her failure to inspect. "Nondisclosure by the seller of adverse information concerning real property . . . will not provide the basis for an action by the buyer to rescind or for damages when property is sold 'as is.' " *Mackintosh v. Jack Matthews & Co.*, 109 Nev. 628, 633, 855 P.2d 549, 552 (1993). Moreover, "[l]iability for nondisclosure is generally not imposed where the buyer either knew of or could have discovered the defects prior to the purchase." *Land Baron Invs., Inc. v. Bonnie Springs Family LP*, 131 Nev. 686, 696, 356 P.3d 511, 518 (2015).

49. Defendants also do not have liability as Ms. Zhu / Plaintiff purchased the Property "as-is" within the reach of the diligent attention and observation of the buyer. *Mackintosh*, 109 Nev. at 633, 855 P.2d at 552. NRS § 113.140 clearly provides that the disclosures do not constitute a warranty of the Property and that the purchaser still has a duty to exercise reasonable care to protect himself. A completed disclosure form does not constitute an express or implied warranty regarding any condition of residential property. NRS § 113.140(2). Chapters 113 and "645 of Nevada Revised Statutes do not relieve a buyer or prospective buyer of the duty to exercise reasonable care to protect himself or herself." *Id.* at § 113.140(2).

1           50. Plaintiff waived its common law claims of negligent misrepresentation, fraudulent  
2 or intentional misrepresentation, and/or unjust enrichment when it expressly agreed that it would  
3 carry the duty to inspect the property and ensure that all aspects of it were suitable prior to close  
4 of escrow, and the information regarding Property was reasonably accessible to the buyer.  
5 *Frederic and Barbara Rosenberg Living Tr. v. MacDonald Highlands Realty, LLC*, 427 P.3d  
6 104, 111 (Nev. 2018).

7           51. Summary judgment is appropriate under NRS § 113.140(1) (seller is not required  
8 to disclose a defect in residential property of which she is not aware). Under this statute,  
9 “[a]scribing to the term ‘aware’ its plain meaning, . . . the seller of residential real property does  
10 not have a duty to disclose a defect or condition that ‘materially affects the value or use of  
11 residential property in an adverse manner,’ if the seller does not realize, perceive, or have  
12 knowledge of that defect or condition.” *Nelson v. Heer*, 163 P.3d 420, 425 (Nev. 2007). Thus,  
13 as Plaintiff cannot demonstrate an omitted disclosure that caused damage, Defendants are  
14 entitled to summary judgment as a matter of law. *Id.* at 426.

15           52. Under NRS § 113.140(1) (seller is not required to disclose a defect in residential  
16 property of which she is not aware), *Nelson v. Heer*, 163 P.3d 420, 425 (Nev. 2007), and NRS §  
17 645.259(2), Defendants are entitled to Summary Judgment on Plaintiff’s claims for (1) Recovery  
18 Under NRS Chapter 113, (2) Constructive Fraud, (3) Common Law Fraud, (4) Fraudulent  
19 Inducement, (5) Fraudulent Concealment, (6) Breach Of Fiduciary Duty, (8) Damages Under  
20 NRS 645.257(1), (9) Failure To Supervise, Inadequate training and Education, (12) Civil  
21 Conspiracy, (13) Breach Of Contract, and (14) Breach Of Implied Covenant of Good Faith and  
22 Fair Dealing]. It also eliminates the causes of action for (7) RICO, (10) Fraudulent Conveyance,  
23 (11) Fraudulent Conveyance, and (15) Abuse of Process since they have no basis in fact or law.

24           53. Eighth Judicial District Court Rule 2.20(e) provides that, “[f]ailure of the  
25 opposing party to serve and file written opposition may be construed as an admission that the  
26 motion and/or joinder is meritorious and a consent to granting the same.” Simply filing an  
27 opposition does not relieve a party of its duty to actually oppose the issues raised in the motion.  
28 See *Benjamin v. Frias Transportation Mgt. Sys., Inc.*, 433 P.3d 1257 (Nev. 2019) (unpublished

1 disposition).

2 54. The Opposition failed to address the Motion’s arguments related to summary  
3 judgment in favor of Defendants on Plaintiff’s claims for: (7) RICO; (10) Fraudulent  
4 Conveyance; (11) Fraudulent Conveyance; (12) Civil Conspiracy; and (15) Abuse of Process.  
5 Additionally, Plaintiff fails to provide any meaningful or competent opposition to the Motion’s  
6 argument for summary judgment as to Plaintiff’s claims against the Broker Defendants. As there  
7 is no Opposition provided to those arguments made in the Motion, this court should find that  
8 those arguments are meritorious and grant the request as to those unopposed issues.

9 55. Pursuant to Nevada Rule of Civil Procedure 11(b), by presenting to the court a  
10 pleading or other paper, an attorney or unrepresented party certifies: (1) it is not being presented  
11 for any improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the  
12 cost of litigation, (2) the claims and other legal contentions are warranted by existing law or by a  
13 nonfrivolous argument for extending, modifying, or reversing existing law or for establishing  
14 new law, (3) the factual contentions have evidentiary support, and (4) the denials of factual  
15 contentions are warranted on the evidence or.

16 56. “If, after notice and a reasonable opportunity to respond, the court determines that  
17 Rule 11(b) has been violated, the court may impose an appropriate sanction on any attorney, law  
18 firm, or party that violated the rule or is responsible for the violation. Absent exceptional  
19 circumstances, a law firm must be held jointly responsible for a violation committed by its  
20 partner, associate, or employee.” NEV. R. CIV. PRO. 11(c).

21 57. “On its own, the court may order an attorney, law firm, or party to show cause  
22 why conduct specifically described in the order has not violated Rule 11(b).” *Id.* at 11(c)(3). “A  
23 sanction imposed under this rule must be limited to what suffices to deter repetition of the  
24 conduct or comparable conduct by others similarly situated. The sanction may include  
25 nonmonetary directives; an order to pay a penalty into court; or, if imposed on motion and  
26 warranted for effective deterrence, an order directing payment to the movant of part or all of the  
27 reasonable attorney fees and other expenses directly resulting from the violation.” *Id.* at  
28 11(c)(4).



1           58. Rule 11 prevents a party from bringing a lawsuit for an improper purpose, which  
2 includes: (1) harassment, causing unnecessary delay, or needless increasing the cost of litigation;  
3 or (2) making frivolous claims. NEV. R. CIV. PRO. 11(b)(1)-(2). Rule 11 sanctions should be  
4 imposed for frivolous actions. *Marshall v. District Court*, 108 Nev. 459, 465, 836 P.2d 47, 52.

5           59. A frivolous claim is one that is “both baseless and made without a reasonable and  
6 competent inquiry.” *Bergmann v. Boyce*, 109 Nev. 670, 676, 856 P.2d 560, 564 (1993) (quoting  
7 *Townsend v. Holman Consulting Corp.*, 929 F.2d 1358, 1362 (9th Cir.1990); *Golden Eagle*  
8 *Distrib. Corp. v. Burroughs Corp.*, 801 F.2d 1531, 1537 (9th Cir.1986)). A determination of  
9 whether a claim is frivolous involves a two-pronged analysis: (1) the court must determine  
10 whether the pleading is “well grounded in fact and is warranted by existing law or a good faith  
11 argument for the extension, modification or reversal of existing law”; and (2) whether the  
12 attorney made a reasonable and competent inquiry. *Bergmann*, 109 Nev. at 676, 856 P.2d at 564.  
13 A sanction imposed for violation of Rule 11 shall be limited to what is sufficient to deter  
14 repetition of such conduct or comparable conduct by others similarly situated. *Id.* at 11(c)(2).

15           60. Furthermore, a court may award attorneys’ fees to a prevailing party when it finds  
16 that the claim was brought or maintained without reasonable ground or to harass the prevailing  
17 party. NEV. REV. STAT. § 18.010(2)(b). In other cases, a court may award attorneys’ fees “when  
18 it finds that the opposing party brought or maintained a claim without reasonable grounds.”  
19 *Rodriguez v. Primadonna Co., LLC*, 216 P.3d 793, 800 (Nev. 2009). “The court shall liberally  
20 construe the provisions of this paragraph in favor of awarding attorney’s fees in all appropriate  
21 situations.” *Id.* The Nevada Legislature explained that:

22                   [i]t is the intent of the Legislature that the court award attorney’s  
23 fees pursuant to this paragraph and impose sanctions pursuant to  
24 Rule 11 of the Nevada Rules of Civil Procedure in all appropriate  
25 situations to punish for and deter frivolous or vexatious claims and  
26 defenses because such claims and defenses overburden limited  
judicial resources, hinder the timely resolution of meritorious  
claims and increase the costs of engaging in business and  
providing professional services to the public.

27 *Id.* “A claim is groundless if ‘the allegations in the complaint . . . are not supported by any  
28 credible evidence at trial.’” *Barozzi v. Benna*, 112 Nev. 635, 639, 918 P.2d 301, 303 (1996)

1 (quoting *Western United Realty, Inc. v. Isaacs*, 679 P.2d 1063, 1069 (Colo.1984)).

2 77. The overwhelming facts and law illustrate that Plaintiff's claim is frivolous. The  
3 findings of fact are incorporated by reference.

4 78. Plaintiff's claim is clearly frivolous: (1) where the pleading was not "well  
5 grounded in fact and is warranted by existing law or a good faith argument for the extension,  
6 modification or reversal of existing law", and (2) Plaintiff's attorney continued to make frivolous  
7 claims. *Bergmann*, 109 Nev. at 676, 856 P.2d at 564. Sanctions are warranted against Plaintiff  
8 and its counsel, which includes an award attorneys' fees to Defendants.

9 79. Alternatively, the elements of an abuse of process claim are: "(1) an ulterior  
10 purpose by the defendants other than resolving a legal dispute, and (2) a willful act in the use of  
11 the legal process not proper in the regular conduct of the proceeding." *Posadas v. City of Reno*,  
12 109 Nev. 448, 452, 851 P.2d 438, 441-42 (1993). Abuse of process can arise from both civil and  
13 criminal proceedings. *LaMantia v. Redisi*, 118 Nev. 27, 30, 38 P.3d 877, 879 (2002). Malice,  
14 want of probable cause, and termination in favor of the person initiating or instituting  
15 proceedings are not necessary elements for a prima facie abuse of process claim. *Nevada Credit*  
16 *Rating Bur. v. Williams*, 88 Nev. 601, 606, 503 P.2d 9, 12 (1972); Restatement (Second) of Torts  
17 § 682 cmt. a (1977). The mere filing of a complaint is insufficient to establish the tort of abuse  
18 of process. *Laxalt v. McClatchy*, 622 F. Supp. 737, 751 (1985).

19 80. Under either Rule 11, Plaintiff brought and maintained this action without  
20 reasonable ground. NEV. REV. STAT. § 18.010(2)(b). The overwhelming facts and law illustrate  
21 that Plaintiff brought or maintained this claim without reasonable grounds, which justifies an  
22 award of attorneys' fees. *Rodriguez v. Primadonna Co., LLC*, 216 P.3d 793, 800 (Nev. 2009).

23 81. The court intends to award to the Defendants the reasonable expenses, including  
24 attorneys' fees and costs, incurred for defending this lawsuit under Rule 11. This sanction is  
25 limited to what suffices to deter repetition of the conduct or comparable conduct by others  
26 similarly situated.

27 Based on the foregoing, the Court GRANTS Defendants Motion, DENIES the  
28 Counterclaim, and GRANTS attorneys' fees and costs to Defendants pursuant to Nevada Rule of

Civil Procedure 11.

**IT IS HEREBY ORDERED, ADJUDICATED, AND DECREED** that the Motion is **GRANTED**.

**IT IS FURTHER ORDERED, ADJUDICATED, AND DECREED** that the Countermotion, including the 56(f) Countermotion, is **DENIED**. This is a 2018 case. Discovery ended October 30, 2020. This Court will not agree to enlarge discovery.

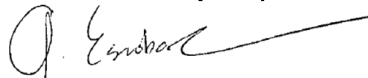
**IT IS FURTHER ORDERED, ADJUDICATED, AND DECREED** that Defendants are awarded attorneys' fees and costs pursuant to Rule 11. Defendants may file an affidavit in support of requested attorney's fees and costs within 10 days of the entry of Order.

**IT IS FURTHER ORDERED, ADJUDICATED, AND DECREED** that this is a final order related to the claims and counterclaim. This Court directs entry of a final judgment of all claims.

**IT IS FURTHER ORDERED, ADJUDICATED, AND DECREED** that any outstanding or pending discovery is quashed as moot.

**IT IS FURTHER ORDERED, ADJUDICATED, AND DECREED** that any trial dates and/or calendar calls are vacated as moot.

Dated this 7th day of April, 2021



THE HON. ADRIANA ESCOBAR  
DISTRICT COURT JUDGE

158 436 3E2D 40F2  
Adriana Escobar  
District Court Judge

1 **CSERV**

2  
3 DISTRICT COURT  
CLARK COUNTY, NEVADA

4  
5  
6 W L A B Investment LLC,  
Plaintiff(s)

CASE NO: A-18-785917-C

7 vs.

DEPT. NO. Department 14

8  
9 TKNR Inc, Defendant(s)

10  
11 **AUTOMATED CERTIFICATE OF SERVICE**

12 This automated certificate of service was generated by the Eighth Judicial District  
13 Court. The foregoing Amended Order was served via the court's electronic eFile system to  
all recipients registered for e-Service on the above entitled case as listed below:

14 Service Date: 4/7/2021

15 Brinley Richeson

bricheson@daynance.com

16 Steven Day

sday@daynance.com

17 Michael Matthis

matthis@mblnv.com

18 BENJAMIN CHILDS

ben@benchilds.com

19 Nikita Burdick

nburdick@burdicklawnv.com

20 Michael Lee

mike@mblnv.com

21 Bradley Marx

brad@marxfirm.com

22 Frank Miao

frankmiao@yahoo.com

23  
24  
25 If indicated below, a copy of the above mentioned filings were also served by mail  
26 via United States Postal Service, postage prepaid, to the parties listed below at their last  
known addresses on 4/8/2021

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|               |   |
|---------------|---|
| John Savage   | Holley Driggs<br>Attn: John Savage, Esq<br>400 South Fourth Street, Third Floor<br>Las Vegas, NV, 89101 |
| Nikita Pierce | 6625 South Valley View Blvd. Suite 232<br>Las Vegas, NV, 89118  |

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Location : District Court Civil/Criminal Help

**REGISTER OF ACTIONS**  
**CASE No. A-18-785917-C**

**W L A B Investment LLC, Plaintiff(s) vs. TKNR Inc, Defendant(s) §**

~~~~~

Case Type: **Other Real Property**

Date Filed: **12/11/2018**

Location: **Department 14**

Cross-Reference Case **A785917**

Number:

Supreme Court No.: **82835**  
**83051**

## PARTY INFORMATION

|           |                                                                                                                                                                                                                                            |                                                                        |
|-----------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------|
| Defendant | Chen, Liwe Helen <i>Also Known As</i> Chen, Helen                                                                                                                                                                                          | Lead Attorneys<br>Michael B. Lee<br><i>Retained</i><br>702-477-7030(W) |
| Defendant | Cheng, Man Chau                                                                                                                                                                                                                            | Michael B. Lee<br><i>Retained</i><br>702-477-7030(W)                   |
| Defendant | Investpro Investments I LLC                                                                                                                                                                                                                | Nikita R. Pierce<br><i>Retained</i><br>702-481-9207(W)                 |
| Defendant | Investpro LLC <i>Doing Business As</i> Investpro Realty                                                                                                                                                                                    | Michael B. Lee<br><i>Retained</i><br>702-477-7030(W)                   |
| Defendant | Investpro Manager LLC                                                                                                                                                                                                                      | Michael B. Lee<br><i>Retained</i><br>702-477-7030(W)                   |
| Defendant | Lin, Zhong Kenny <i>Also Known As</i> Lin, Chong Kenny <i>Also Known As</i> Lin, Ken Zhong <i>Also Known As</i> Lin, Kenneth Zhong <i>Also Known As</i> Lin, Kenny Zhong <i>Also Known As</i> Lin, Whong K <i>Also Known As</i> Lin, Zhong | Michael B. Lee<br><i>Retained</i><br>702-477-7030(W)                   |
| Defendant | Nickrandt, Joyce A                                                                                                                                                                                                                         | Michael B. Lee<br><i>Retained</i><br>702-477-7030(W)                   |
| Defendant | TKNR Inc                                                                                                                                                                                                                                   | Michael B. Lee<br><i>Retained</i><br>702-477-7030(W)                   |
| Defendant | Wong, Chi On <i>Also Known As</i> Wong, Chi Kuen                                                                                                                                                                                           | Michael B. Lee<br><i>Retained</i><br>702-477-7030(W)                   |
| Defendant | Zhang, Yan Qiu                                                                                                                                                                                                                             | Michael B. Lee<br><i>Retained</i><br>702-477-7030(W)                   |

Plaintiff **W L A B Investment LLC****Steven L. Day**  
Retained  
7023093333(W)

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**EVENTS & ORDERS OF THE COURT**

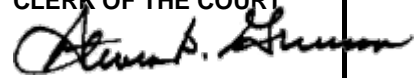
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04/07/2021 **Motion to Withdraw as Counsel** (3:00 AM) (Judicial Officer Escobar, Adriana)  
*Benjamin Childs' Motion to Withdraw as Attorney for Plaintiff/Counterdefendant***Minutes**

04/07/2021 3:00 AM

- Plaintiff's Counsel's Motion to Withdraw as Attorney for Plaintiff (Motion) came on for Chambers Calendar before Department 14 of the Eighth Judicial District Court, the Honorable Adriana Escobar presiding, on April 7, 2021. Upon thorough review of the pleadings, this Court enters the following order: Attorney Benjamin B. Childs seeks to withdraw as counsel of record for Plaintiff W L A B Investment, LLC. On December 15, 2020, Defendants filed their Motion for Summary Judgment, or in the Alternative, Partial Summary Judgment. On March 4, 2021, Mr. Childs filed a Motion to Withdraw as Counsel for Plaintiff. On March 10, 2021, Attorney Steven L. Day, Esq. filed a Substitution of Attorneys, substituting himself as counsel of record for Plaintiff in place and stead Mr. Childs. On March 11, the Court heard Defendants' Motion for Summary Judgment, or in the Alternative, Partial Summary Judgment. Mr. Day appeared on behalf of Plaintiff. On March 30, 2021, this Court issued an Order Granting Defendants' Motion for Summary Judgment, or in the Alternative, Partial Summary Judgment. On April 7, 2021, this Court issued an Amended Order Granting Defendants' Motion for Summary Judgment, or in the Alternative, Partial Summary Judgment, disposing of this matter. In this Order, the Court awarded Defendants attorney fees and costs pursuant to NRCP 11. For good cause showing pursuant to EDCR 7.40(b)(2), RPC 1.16(b), and SCR 46, this Court hereby GRANTS the Motion. This Court notes the following: This matter is closed. However, although this Court awarded Defendants attorney fees and costs under NRCP 11, this Court has not made a final determination regarding the amount of attorney fees and costs Defendants are entitled to. Given that Mr. Childs brought the instant action on behalf of Plaintiff, which was the basis of this Court's award of attorney fees and costs under NRCP 11, Mr. Childs is still within the jurisdiction of this Court until this matter is fully resolved. Mr. Childs must be present for remaining motion practice, if any, on this issue, regardless, of the Court's granting of this Motion. Counsel for Plaintiff is directed to prepare a proposed order that lists all future deadlines and hearings, and includes Plaintiff's last known physical and/or mailing address, email, and phone number. Counsel must submit the proposed order within 14 days of the entry of this minute order. EDCR 1.90(a) (4). All parties must submit orders electronically, in both PDF version and Word version, until further notice. You may do so by emailing DC14Inbox@clarkcountycourts.us. All orders must have either original signatures from all parties or an email - appended as the last page of the proposed order - confirming that all parties approved use of their electronic signatures. The subject line of the e-mail should identify the full case number, filing code and case caption. CLERK'S NOTE: This Minute Order was electronically served to all registered parties for Odyssey File & Serve. /mt

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TRAN

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

WLAB INVESTMENT LLC, )  
)  
Plaintiff, )  
)  
vs. )  
)  
TKNR INC., )  
)  
Defendant. )  
)  
AND RELATED PARTIES )

CASE NO. A-18-785917-C  
DEPT NO. XIV

**TRANSCRIPT OF  
PROCEEDINGS**

BEFORE THE HONORABLE ADRIANA ESCOBAR, DISTRICT COURT JUDGE

THURSDAY, MARCH 11, 2021

**OPPOSITION TO DEFENDANT'S MOTION FOR SUMMARY JUDGMENT  
COUNTERMOTION FOR CONTINUANCE BASED ON NRCP 56(f) AND  
COUNTERMOTION FOR IMPOSITION OF MONETARY SANCTIONS**

**DEFENDANTS MOTION FOR SUMMARY JUDGMENT, OR IN THE  
ALTERNATIVE, PARTIAL SUMMARY JUDGMENT**

**SETTLEMENT**

APPEARANCES:

FOR THE PLAINTIFF: STEVEN L. DAY, ESQ.

FOR THE DEFENDANTS: MICHAEL B. LEE, ESQ.

TRANSCRIBED BY: JD REPORTING, INC.



1 **LAS VEGAS, CLARK COUNTY, NEVADA, MARCH 11, 2021, 9:19 A.M.**

2 \* \* \* \* \*

3 UNIDENTIFIED SPEAKER: Department 14 is now in  
4 session. We're at page 1-2, Your Honor.

5 THE COURT: Okay. Very good. I'd like your  
6 appearances for the record, please.

7 MR. LEE: This is Michael Lee on behalf of the  
8 defendants.

9 MR. DAY: This is Steven Day on behalf of the  
10 plaintiff.

11 THE COURT: Okay. Good morning, Mr. Day and Mr. Lee.  
12 All right. I have before me the motion for summary  
13 judgment or in the alternative partial summary judgment by the  
14 defendant and the opposition and countermotion for continuance  
15 pursuant to NRCP 56(f) and by -- Forgive me. The motion for  
16 summary judgment is by the defendants. The plaintiff's  
17 opposition and also we have -- so let's get going.

18 Why don't you, Mr. Lee, please start.

19 MR. LEE: Thank you, Your Honor.

20 We also filed a supplement to our motion for summary  
21 judgment that includes the deposition of plaintiff's person  
22 most knowledgeable Frank Miao who is also on the line today.

23 In terms of the supplement, it illustrated several  
24 undisputed facts that illustrates why summary judgment is  
25 appropriate related to all of plaintiff's claims and our claim

1 for abuse of process. In particular, when we start looking at  
2 the background of plaintiff, Mr. Miao, admitted that plaintiff  
3 is a sophisticated buyer who has purchased at least 20  
4 properties, 8 in Las Vegas.

5 He also specified that the underlining terms of the  
6 residential purchase agreement were conspicuous and  
7 understandable. He specified it was a similar agreement to the  
8 other agreements that he had used purchasing other properties  
9 in Clark County. The terms were clear related to the duties --

10 THE COURT: Mr. Lee.

11 MR. LEE: Yes?

12 THE COURT: I'd like you to speak slower, please.

13 MR. LEE: Oh, I apologize.

14 THE COURT: That's okay. Thank you.

15 MR. LEE: He specified that the terms were clear  
16 related to the duty to inspect, and he also specified that  
17 plaintiff was acutely aware of the requirement under Nevada law  
18 to protect itself by getting an inspection.

19 As to the underlying issue of the inspection, what  
20 Mr. Miao also testified was that prior to the purchase he was  
21 aware that the seller had, quote, "He only recommended that I  
22 retain licensed Nevada professionals to conduct inspections,"  
23 end quote.

24 He also specified that he had access to inspect the  
25 entire property and conduct noninvasive, nondestructive

1 inspections, which he did.

2           During that time, he inspected the structure, the  
3 roof, the mechanical systems, the electrical systems, the  
4 plumbing, the HVAC and the dryer vent.

5           He noted at that time that there were some issues  
6 that were not up to code -- and this was prior to the  
7 purchase -- that there were finishing issues; that there were  
8 issues with the outlets not being GFCI outlets; electrical  
9 issues, including exposed electrical; potential asbestos;  
10 cracks on the ceramic floor tiles; visible cracks in the  
11 concrete foundation. And he specified that all of these were  
12 open and obvious prior to his purchase.

13           He also specified that he received the seller's real  
14 property disclosure forms prior to the purchase of the  
15 property. As to the disclosure form, prior to the purchase,  
16 plaintiff was aware that the seller TKNR was an investor who  
17 had never resided in the property; that there were issues with  
18 the heating systems, the cooling systems; and that there was  
19 work done without permits.

20           He also knew that the property was 63 years old at  
21 the time of the purchase and that most of the work done on the  
22 property was done by a handyman other than the HVAC  
23 installation.

24           Despite these disclosures, Mr. Miao never followed up  
25 with the seller at all. He also specified that he could have

1 followed up with these identified issues that included the HVAC  
2 and the permits, and he was aware that he should have contacted  
3 the local building department and also obtain the permits as  
4 part of his due diligence prior to the purchase.

5 He was also aware of the potential for mold and the  
6 requirement to get a mold inspection and understood it was his  
7 risk that he elected not to get a professional inspection.

8 When we look at the residential purchase agreement,  
9 plaintiff was also aware that there were limited damages in  
10 this case and that the damages under paragraph 7D limited the  
11 potential damages that could have been discovered by an  
12 inspection.

13 Now, Mr. Miao had also indicated that he doesn't  
14 believe in professional inspections. He does not have a  
15 professional license related to being a general contractor, an  
16 inspector, an appraiser or a project manager. He has never  
17 hired a professional inspector in Clark County, and he doesn't  
18 use them because he believes the underlining costs is too  
19 expensive, and he just relies upon himself to do the  
20 inspections.

21 If we look at the issue of the professional  
22 inspection, what Mr. Miao admitted is that he had access to the  
23 entire building. He had access to the attic when he looked at  
24 it.

25 He also retained an expert in this case. His expert

1 didn't do any destructive or invasive testing. It would've  
2 been exactly the same type of inspection that he could have  
3 done in 2017. He admitted that the plaintiff examined -- the  
4 plaintiff's expert examined exactly the same areas that he had  
5 done, that the plaintiff's access was exactly the same as his  
6 original inspection in 2017 and that the inspections --

7 THE COURT: Mr. Lee, will you please -- you may be  
8 reading, and it's okay. I just need you to speak slower. I've  
9 reviewed everything. This is in your motion. But I would like  
10 you to speak slower, please.

11 MR. LEE: Yes, Your Honor.

12 THE COURT: Thank you.

13 MR. LEE: And these references that I'm giving you  
14 right now are all from our supplement which is Mr. Miao's  
15 deposition which includes citation to everything that I'm  
16 referencing. So I appreciate that you've had an opportunity to  
17 read the briefing and also to review the supplement as well  
18 because it's the underlining basis that illustrates that --

19 THE COURT: Right. I have Mr. Miao's deposition.  
20 I've reviewed it.

21 MR. LEE: Okay. Great.

22 THE COURT: But I (video interference) make a record,  
23 please.

24 MR. LEE: Okay. I'll continue to make a record.

25 THE COURT: Just not so quickly. Just not so fast.

1 MR. LEE: Yeah. I'm sorry, Your Honor.

2 THE COURT: That's okay.

3 MR. LEE: Okay. During the -- he also specified that  
4 as to plaintiff's expert the report illustrated all the areas  
5 that he could have inspected in 2017 and that the pictures that  
6 were also attached to the expert report were areas that he  
7 could have inspected in 2017.

8 He also accompanied the defendants' expert during our  
9 inspection of the property. As before, Mr. Miao had the same  
10 access to the property in 2017 that our expert did during our  
11 inspection.

12 He agreed with our expert that the alleged conditions  
13 identified by plaintiff's expert were, quote, unquote, "open  
14 and obvious."

15 He also agreed with our expert's finding that there  
16 were no sagging issues in the roof.

17 And he also recognized the deficiencies in  
18 plaintiff's expert report that failed to differentiate when  
19 conditions prior to when TKNR owned the property while it owned  
20 it and that it was afterwards.

21 When we also look at the underlining issues related  
22 to permits, Mr. Miao agreed that the finishing work done by the  
23 seller did not need permits.

24 He also specified that although there are these  
25 alleged conditions with the property currently, he does not

1 place any notice to tenants, although they have not done any  
2 repairs to the property, which illustrates the lack of merit to  
3 this action.

4 He also specified that there were potential third  
5 parties that could have damaged the property, such as (video  
6 interference) or tenants.

7 He also specified that there's no evidence defendants  
8 knew about the alleged conditions, that the Flipping Fund,  
9 which is a party to this case related to the RICO action, had  
10 nothing to do with the sale.

11 And for the abuse of process claim, he indicated that  
12 his initial estimate of the cost of repair would've  
13 been \$102,000, but their -- plaintiff's expert inflated the  
14 cost of the repair to \$600,000.

15 We also noted the perjury in his declaration where he  
16 originally did try to settle this case for \$10,000, but he  
17 denied making that offer in his declaration.

18 When we turn back and we look at the Second Amended  
19 Complaint, the Second Amended Complaint illustrates that based  
20 on the undisputed facts from Mr. Miao, there's a lack of merit  
21 to this action.

22 Looking at paragraph 25, it reads,

23 TKNR failed to disclose one or more  
24 known conditions that materially affects the  
25 value or the use of the subject property in

1 an adverse manner.

2 This is not true based on his undisputed facts.

3 We looked at paragraph 27, seller's disclosure form  
4 was either inadequate or false.

5 Paragraph 29, construction work must be done by  
6 licensed contractors with permits and inspections.

7 Then at paragraph 31 outlines the alleged conditions  
8 that they're claiming that were a nondisclosure that they did  
9 not know about.

10 Paragraph 31A, the electrical systems, including the  
11 GFCI outlets. What's also notable about the GFCI outlets is  
12 that Mr. Miao is the one who requested that the sellers install  
13 the GFCI outlets at the time when he was purchasing the  
14 property.

15 31B relates to the alleged issues with plumbing  
16 systems.

17 C, sewer line.

18 D, heating systems.

19 E, cooling systems.

20 F, smoke detectors.

21 G, moisture conditions or water damage venting into  
22 the attic.

23 H, structural issues.

24 Notably, Item I admits that plaintiff knew that the  
25 construction was done without permits.



1 J, roof and HVAC.

2 K, mold, slash, fungus.

3 And then L.

4 THE COURT: A little bit slower, Mr. Lee, please.

5 I'm following you. So a little bit -- just a teeny bit slower,  
6 please.

7 MR. LEE: Yes. I'm sorry, Your Honor.

8 THE COURT: It happens all -- don't worry.

9 MR. LEE: Yeah.

10 THE COURT: Okay.

11 MR. LEE: Yeah.

12 Flooring, land, slash, foundation.

13 Now, the reason I started my presentation talking  
14 about the undisputed facts and then went into the underlining  
15 Second Amended Complaint was to illustrate that summary  
16 judgment is appropriate as to all these issues because there's  
17 no dispute that plaintiff was aware of any of these issues  
18 prior to plaintiff's purchase of the property or that they were  
19 open and obvious or that a reasonable professional inspection  
20 could've uncovered them.

21 In terms of the countermotion for additional  
22 discovery, Mr. Miao wrote to me directly specifying that he did  
23 not want there to be any additional discovery. So there is no  
24 basis for the 56(f) request. He wrote to me directly also  
25 copying in his counsel, and I asked him not to contact me

1 directly without his attorney's approval.

2 In terms of the law in the case, which is cited  
3 throughout the motion, Nevada Revised Statute 113.140 provides  
4 that a seller does not have a duty to disclose any defects that  
5 he is not aware of.

6 The case law under the *Bonnie Springs* case specifies  
7 that liability for nondisclosure is generally not imposed where  
8 the buyer either knew or could have discovered the defects  
9 prior to the purchase.

10 NRS 113.140 clearly provides that the seller's  
11 disclosure does not constitute a warranty and that the buyer  
12 still has a duty to exercise reasonable care to protect  
13 themselves.

14 A buyer waives their common-law claims for  
15 negligent -- negligent misrepresentation, fraudulent or  
16 intentional misrepresentation and/or unjust enrichment when  
17 they expressly agree that it would carry the duty to inspect  
18 the property and ensure that all aspects of it were suitable  
19 prior to the close of escrow and that the information was  
20 reasonably accessible to the buyer. That's the *McDonald*  
21 *Highlands* case.

22 The general rule for foreclosing liability for  
23 nondisclosure when a property is purchased as is applies when  
24 such facts are within the reach of the diligent attention and  
25 observation of the buyer. This is the *Macintosh* (phonetic)

1 case.

2           Importantly, the Nevada Supreme Court included an  
3 agreement to purchase property as is foreclosed each of the  
4 buyer's common-law claims justifying the granting of summary  
5 judgment on all common-law claims.

6           Now, when we look at the underlining complaint and we  
7 look at the motion, we are entitled to summary judgment on all  
8 the plaintiff's claims for Cause of Action 1, recovery under  
9 NRS Chapter 113;

10           For Cause of Action 2, constructive fraud;  
11           3, common-law fraud;  
12           4, fraudulent inducement;  
13           5, fraudulent concealment;  
14           6, breach of fiduciary duty;  
15           8, damages under NRS 645;  
16           9, failure to supervise, inadequate training or  
17 education;  
18           12, civil conspiracy;  
19           13, breach of contract; and  
20           14, breach of the covenant of good faith and fair  
21 dealing.

22           As to the other causes of action, plaintiff never  
23 filed an opposition to those requests. These were included in  
24 the Causes of Action 7, RICO;

25           10, fraudulent conveyance;

11, fraudulent conveyance; and  
15, their claim for abuse of process.

There's also no dispute that summary judgment is warranted as to all the broker defendants.

On our counterclaim for abuse of process, we are entitled to summary judgment on that claim as the undisputed facts illustrate that plaintiff's action was merely an attempt to extort all the defendants with a meritless claim and abuse of process.

It's undisputed that the property was a 63-year-old home at the time that plaintiff purchased it in 2018, that the purchase price was \$200,000, that plaintiffs now are claiming \$16.25 million in damages, that there's no basis for the claim for RICO or the fraudulent conveyance or any of those other claims where plaintiff didn't even oppose our request for summary judgment; that the original settlement demand by plaintiff was \$10,000.

Now, the only purpose of filing this claim and the related discovery was retaliatory. In that context, summary judgment is appropriate in favor of us related to abuse of process.

In the event that you find that there is somewhat of an disputed fact or there's a material damage issue of material fact, partial summary judgment is appropriate related to the undisputed facts and the unopposed claims.

1 And then we would also ask for attorneys' fees and  
2 costs.

3 Unless the Court has any questions, I'll go ahead and  
4 turn it over to Mr. Day.

5 THE COURT: Okay. I have no questions at this time.  
6 I have so many documents here.

7 Go on, Counsel. Mr. Day.

8 MR. DAY: Your Honor, this is Steven Day for the  
9 plaintiff.

10 THE COURT: Okay. And, Mr. Day, before you start,  
11 I'd like you to speak a little bit louder, please. For some  
12 reason I can't really hear you as well. So will you bring your  
13 microphone closer.

14 MR. DAY: Judge, I certainly will.

15 THE COURT: Okay. Thank you.

16 MR. DAY: Is that better?

17 THE COURT: Yeah, a little bit. Yes.

18 MR. DAY: Okay. Well, Judge, I made an appearance in  
19 the case yesterday. I looked at the motions for summary  
20 judgment, the opposition and the reply yesterday. And whenever  
21 I have a case where I have an opposing party that files a  
22 motion for summary judgment and that motion includes 33 pages  
23 of briefs and over a hundred pages of documents, hearsay  
24 documents, none of which were supported by testimony or have  
25 any foundation whatsoever, I immediately assumed that there are

1 factual issues in the case.

2 And Mr. Childs filed an opposition to defendants'  
3 motion which also included in excess of 30 pages of brief and  
4 well over a hundred pages of supporting documents, which would  
5 all further suggest that there are not only factual issues, but  
6 many factual issues --

7 THE COURT: Mr. Day, please speak louder. Mr. Day,  
8 excuse me. You must speak louder, please.

9 MR. DAY: How about this? Is this better?

10 THE COURT: That's better.

11 MR. DAY: Okay. Sorry about that, Judge.

12 THE COURT: No, it's okay. You know, it happens. I  
13 have one person speaking too quickly and the other one I can't  
14 hear. What you're doing now is better.

15 MR. DAY: Okay. There are -- there are numerous  
16 factual issues in this case. The plaintiff's contention is  
17 that -- I mean, defendants. Defendants argue that had an  
18 inspection of the property been done, the various issues with  
19 this triplex would've been discovered. The plaintiffs (sic)  
20 are claiming that; however, it's plaintiff's position that when  
21 defendants purchased this property, the defendants and their  
22 many investors purchased this property, the intent was to  
23 immediately flip the property. And when they could not flip  
24 the property, they attempted to cover up the numerous problems  
25 with the triplex with floor covering, wallcoverings, plaster.

1 And as can be seen in the expert reports, many of the issues  
2 are within the walls of the building itself and were not  
3 discovered until after the property was purchased.

4 For example, the issues with the foundation were  
5 discovered when tile started coming up from the floor after  
6 purchase. And when floor covering, which was all placed by the  
7 defendants, was removed to reveal what the primary issue with  
8 the foundation was.

9 This is a structure that, frankly, just should have  
10 been condemned. And instead of it being condemned and knocked  
11 down, defendants attempted to cover up the many problems with  
12 the triplex which precluded the plaintiff from observing these  
13 many problems upon his inspection of the premises.

14 So there are -- the argument that was made by  
15 defense, great argument, but that's an argument that should be  
16 made to the jury. The jury should be allowed to determine what  
17 the plaintiff knew or should have known prior to purchase, what  
18 efforts the defendants made to attempt to cover up the many  
19 problems with this triplex prior to purchase. And those are  
20 all factual issues that should be left to a jury.

21 With respect to the deposition that was included in  
22 the reply, you know, that's a little late. The initial motion  
23 that was filed included no testimony, no admissible evidence.  
24 The defense relied primarily or exclusively upon hearsay  
25 documents, documents that had no foundation in plaintiff's --

1 or defendants' presentation with the motion for summary  
2 judgment.

3 So plaintiff's contention is that there are numerous  
4 factual issues in this case which would preclude summary  
5 judgment with respect to all causes of action.

6 And with that, unless the Court has questions, we'll  
7 stand submitted.

8 THE COURT: Okay. Thank you, Mr. Day.

9 Mr. Lee, please.

10 MR. LEE: Yes, Your Honor. Thank you. And please  
11 slow me down if I start speaking too quickly.

12 THE COURT: All right. You've got to try to control  
13 yourself as well. But, yes, I hate to -- I really dislike  
14 having to -- to interrupt people, but so please try to speak  
15 slower.

16 MR. LEE: Yes.

17 THE COURT: And we're not in a crazy hurry. I'd  
18 rather hear everything thoroughly even though I have very  
19 thorough pleadings.

20 Go on.

21 MR. LEE: In terms of the very thorough pleadings,  
22 just because we have thoroughly briefed the issue doesn't mean  
23 that there's a genuine issue of material fact. It's a somewhat  
24 novel argument from Mr. Day that we did our job too good. So  
25 there has to be a genuine issue of material fact.



1           It's also somewhat of a novel argument that you  
2 should discount the deposition of Mr. Miao that illustrates  
3 that there were no genuine issues of material fact so that we  
4 can avoid summary judgment.

5           The general argument that Mr. Day, and while I  
6 appreciate he is new to the case, about the alleged discovery  
7 issues is without merit. Miao admitted that there's no  
8 evidence that defendant knew about the alleged conditions. And  
9 what we have to keep in mind is that the defendants owned the  
10 property for a short period of time prior to buying it,  
11 improving it, and then selling it to the plaintiff. Then  
12 plaintiff operated it for a long period of time utilizing the  
13 defendant realtors as a management property.

14           What we'll also note here is that Mr. Day  
15 conveniently omitted the fact that there's a long-term tenant  
16 who lived in the property prior to the defendants purchasing  
17 it, during the time of the improvement and currently resides  
18 there to this day and that Mr. Miao also specified in his  
19 deposition that that person is very unhappy with the property  
20 and still with the conditions living there.

21           We also have the undisputed fact that Mr. Miao  
22 admitted that plaintiff's expert failed to differentiate  
23 between what happened when the defendants owned the property  
24 and what happened thereafter.

25           So plaintiff here has not met any burden to show that

1 the defendants knew about the alleged conditions or what's  
2 actually more troubling in terms of the underlining case law is  
3 that a reasonable inspection at the time of purchase would have  
4 shown any alleged open and obvious conditions that Mr. Miao  
5 admitted was on the property.

6 We also have the issue related to the unopposed  
7 causes of action that we sought summary judgment on, but also  
8 with the underlining claims that Mr. Miao specified related to  
9 the GFCI outlets which was an actual condition caused by the  
10 plaintiff related to the property that illustrates that this  
11 was only -- this lawsuit was brought for a bad-faith purpose  
12 with underlying conditions that Mr. Miao knew about.

13 If we look at the deposition alone, it illustrates  
14 the undisputed facts that should grant summary judgment to  
15 defendants entirely or at least establish these are the  
16 undisputed facts in this case. Even if we have the partial  
17 finding that these are the undisputed facts within the case,  
18 plaintiff can never present any case as a matter of law because  
19 the case law is very clear that there is no basis for this case  
20 to continue.

21 Unless you have any questions, I'll go ahead and  
22 rest.

23 THE COURT: I have a couple of questions.

24 Mr. Day, when you were speaking, you mentioned that  
25 the deposition of Mr. Miao or Miao was late, and I'd like to

1 understand what you mean by that.

2 MR. DAY: Well, Your Honor, any evidence that the  
3 defendants have in support of their motion for summary judgment  
4 should have been included in the original motion.

5 The defendants in their reply included frankly the  
6 only admissible evidence that's included in any of their briefs  
7 in their reply. The reply should be nothing more than a  
8 response to plaintiff's opposition. So if they intended to use  
9 Mr. Miao's deposition, it actually should have been included in  
10 the original motion for summary judgment.

11 The original motion for summary judgment has no  
12 admissible evidence. There is no testimony in the original  
13 motion for summary judgment. Defendant simply relied upon  
14 documents which essentially are hearsay documents --

15 THE COURT: But, Mr. Day.

16 MR. DAY: -- so there is no foundation for those  
17 documents.

18 THE COURT: Let me interrupt you for a moment. When  
19 you're talking about the deposition and it's in the reply, can  
20 you cite law to this Court that says that, you know -- because  
21 I usually look at everything before. In other words, there's  
22 been a motion. There's been an opposition. There are exhibits  
23 that came first. Then there was a deposition that came in the  
24 reply.

25 Is there legally a basis for not allowing something

1 like that to be reviewed, a legal basis that this Court is  
2 prohibited from reading something that's included in a reply?

3 MR. DAY: Well, there's nothing preventing the Court  
4 from reviewing whatever the Court wants to review.

5 THE COURT: Right.

6 MR. DAY: I am not prepared to cite cases for the  
7 Court suggesting the proposition that -- I mean, I was not able  
8 to provide or Mr. Childs was not able to respond to their reply  
9 to the opposition. So, no, I'm not prepared to give you case  
10 law or suggesting that the Court cannot consider evidence that  
11 was not originally brought in plaintiff's -- or defendants'  
12 initial motion for summary judgment. I'd have to do some  
13 research and submit a supplemental brief on that.

14 I just -- Judge, I just find it interesting that  
15 their initial motion for summary judgment, as I'm reading the  
16 motion for summary judgment that there's no evidence. You  
17 know, the defense is arguing that there are no factual issues.  
18 They're arguing that there are no factual issues in the case,  
19 but they present no admissible evidence, no testimony, no  
20 nothing in their original motion for summary judgment other  
21 than documents, and they discuss those documents, but they have  
22 no testimony in their original motion for summary judgment  
23 laying any kind of foundation for any of those documents.

24 Those documents, their presentation would not be  
25 admissible at the time of trial in their original motion for

1 summary judgment. And yet they're asking the Court to render  
2 summary judgment on factual issues that were -- you know, on  
3 their motion for summary judgment, they present no fact -- no  
4 admissible facts. They presented no admissible factual issues.  
5 And that was my -- that was my point is that not until we get a  
6 reply do we even see any testimony, you know.

7           So, you know, we -- the plaintiff did not have an  
8 opportunity to respond to the testimony, the actual testimony  
9 that was presented by defendants in their motion because it was  
10 only included in their reply. Their original motion has no  
11 admissible evidence in it.

12           THE COURT: Mr. Lee.

13           MR. LEE: Yeah. While I appreciate that Mr. Day is  
14 late to the case, none of that is accurate.

15           Exhibit I to the motion for summary judgment is  
16 testimony that he's allegedly saying wasn't in there. It's a  
17 declaration from a defendant related to the documents.

18           Exhibit A is the document that was actually produced  
19 by -- well, a large portion of the documents in support of the  
20 motion for summary judgment were produced by the plaintiff. So  
21 they'd be self-authenticating anyway.

22           As it pertains to the supplement that we have with  
23 the deposition, it was filed as a supplement, not as a reply  
24 brief. Our reply brief did allude to Mr. Miao's deposition,  
25 which we took after filing the motion for summary judgment.

1 And then we supplemented on January 29th, 2021.

2 Today is March 11th, 2021. To say that the  
3 plaintiff never had an opportunity to respond to the  
4 supplemental brief that we provided that included the testimony  
5 of Mr. Miao is without merit and has no factual basis. We  
6 hadn't filed a motion when we filed a motion for summary  
7 judgment based on the deadlines set forth in the case. And on  
8 top of that, we were trying to keep this case moving forward.

9 We didn't try to do any ambush litigation tactics  
10 here. We didn't do anything that the plaintiff wasn't aware  
11 of. While I appreciate that Mr. Day was not the attorney at  
12 that time, he inherited the case as it was, and he doesn't get  
13 to re-examine the procedural history of the case or try to  
14 invent facts that just simply aren't true just because he's new  
15 to the case.

16 The underlining supplement that plaintiff had  
17 substantial (video interference) to go ahead and try to respond  
18 to this. They had substantial opportunity to allegedly do the  
19 discovery that they claimed that they needed to do to oppose  
20 the summary judgment motion, which they did not do and that  
21 Mr. Miao now indicates that he doesn't want there to be.

22 So if I'm Mr. Day, I appreciate that he is trying to  
23 avoid the deposition that illustrates the undisputed facts and  
24 the relevant testimony that is a hundred percent admissible  
25 that relates to the underlying documents that authenticate all

1 the documents that we're discussing here. Even without the  
2 documents, we have the undisputed admissible testimony of  
3 Mr. Miao, the person most knowledgeable, that illustrates the  
4 overwhelming undisputed facts that there is a lack of merit for  
5 this underlying action and that summary judgment should be  
6 appropriate as a matter of law.

7 Nevada case law is very clear related to a buyer's  
8 diligence that they have to do related to buying a piece of  
9 property. Mr. Miao admitted that the plaintiff was aware of  
10 those laws and those statutes related to the duty to inspect  
11 and that had he done a reasonable inspection at the time, they  
12 could have been -- they could've been discovered.

13 Even when you look at the opposition and the  
14 plaintiff's expert providing a declaration, he doesn't dispute  
15 any of the findings related to defense expert's findings that  
16 they were open and obvious or could have been discovered at the  
17 time of the purchase.

18 Under the plain language of the cases that I cited  
19 and the statutes, nothing there would relieve this Honorable  
20 Court of granting summary judgment as a matter of law based on  
21 those undisputed evidence. Well, whereas Mr. Day continually  
22 tries to expound upon the alleged defects in the motion,  
23 opposition and reply, omitting the supplement and the  
24 opportunity that the plaintiff had to respond to the  
25 supplement, the undisputed facts arise from the undisputed

1 testimony of the plaintiff in this case.

2           So while he tries to go out there and raise some  
3 generalities about what the alleged discovery would be,  
4 discovery is now closed. The plaintiff hasn't done any  
5 discovery on those issues. And even if they did do discovery,  
6 it would still be no genuine issue of material fact that  
7 summary judgment is appropriate as a matter of law.

8           Thank you.

9           MR. DAY: Your Honor.

10           THE COURT: I'll let you have a moment, but Mr. Lee  
11 will have the last word. So if you just want to speak to say  
12 something quickly, then I'm going to move on, Mr. Day. Okay.

13           MR. DAY: Judge, just one point. And my  
14 understanding is that plaintiff attempted to take the  
15 deposition of the defendant who failed to appear for a  
16 deposition, and that issue still has not been brought before  
17 the Court.

18           My understanding as well is there is written  
19 discovery that still has not been responded to by the  
20 defendant. There was a hearing before the Discovery  
21 Commissioner who has ordered defendants to respond to certain  
22 outstanding written discovery, which has still not been  
23 responded to.

24           So, you know, while we have a discovery cut off,  
25 there are -- there's discovery that's been ordered produced.



1 And frankly, the plaintiff still has -- intends to file a  
2 motion with the Court to compel defendants' appearance at a  
3 deposition.

4 THE COURT: Mr. Lee.

5 MR. LEE: While I appreciate Mr. Day is late in the  
6 case, again, it's simply not accurate. The prior attorney did  
7 not properly notice the underlying deposition allegedly for my  
8 client. But for one of my clients -- noticed two depositions,  
9 one that he called off because of a translator issue and  
10 inability to get that scheduled properly.

11 As to the second deposition that I wasn't aware of, I  
12 agreed to allow plaintiff to go ahead and take the deposition  
13 prior to this hearing, but Mr. Miao sent an email saying that  
14 no more depositions.

15 What Mr. Miao -- Day is also omitting is that on  
16 Monday I had the deposition set for plaintiff's expert.  
17 Plaintiff at that time had acknowledged that the plaintiff  
18 would appear for the deposition. He knew of the time, knew of  
19 the subpoena. And then I told him that his subpoena was  
20 available for pickup. He didn't show, and he did a  
21 nonappearance.

22 As to the alleged discovery dispute, it's simply not  
23 accurate again. The plaintiff -- the defendants in this case  
24 have disclosed almost 600 documents. What the Discovery  
25 Commissioner ordered is that of those 600 documents he would

1 just like us to put into our responses or this information is  
2 not available.

3 As to the underlining issue related to the corporate  
4 formalities, the articles of incorporation or those type of  
5 documents or business licenses, those will have no impact on  
6 this underlining case.

7 So while I appreciate that Mr. Day is late to the  
8 case, you know, the information that he presented related to  
9 alleged discovery is simply not accurate.

10 THE COURT: All right. I'm ready to give you my  
11 decision.

12 All right. So I've reviewed all of the  
13 documentation, all of the pleadings. And first, I'd like to  
14 start off with respect to while it wasn't the binding purchase  
15 agreement, it's the first one. The residential agreement dated  
16 September 5th of 2017, clearly shows that the buyer did not  
17 condition -- it was not conditioned on the buyer's due  
18 diligence as defined in Section 7(a). This condition referred  
19 to due diligence condition checked in the affirmative.

20 In other words, the bottom line is in the first  
21 residential, and I'm only saying that because one came right  
22 after another -- the buyer waived and purchased as is and had  
23 no interest apparently in moving forward and having an  
24 inspection done. While that residential agreement dated  
25 September 5th of '17, is not the binding agreement, it's

1 important because it shows how the -- the behavior of the  
2 plaintiff throughout this entire case.

3 Secondly, I have sellers real property disclosure  
4 form, August 2nd. It looks like the disclosures are there.  
5 And still after that the plaintiffs refused. They were  
6 actually encouraged to have -- to have someone review and --  
7 excuse me one moment -- inspect this property, and they did not  
8 want to do that. And, you know, this is a 63-year-old  
9 property. They're purchasing it as is. I'm not going to go  
10 into the details, but there are -- there are specific  
11 disclosures that were made by the seller, and the buyer was  
12 encouraged, strongly encouraged to make sure that they  
13 conducted an inspection, and they did not. They did not want  
14 to. Okay.

15 So in addition we have Mr. Miao's deposition. But  
16 even without the deposition, the deposition obviously  
17 references everything in more detail. But this was a waiver.  
18 And when it comes -- the discovery here closed October 30th  
19 of 2020. Okay. And -- and I -- this is not going -- I'm not  
20 going to allow more discovery on this. There's been plenty of  
21 time for this because this started, you know, long before  
22 COVID. And these cases have to move. You know, they have to  
23 be done properly. So let's see.

24 So with respect to this case, I am granting -- this  
25 Court grants the motion for summary judgment as to all claims

1 and will also entertain the Rule 11 sanctions.

2 Because, honestly, I don't see in good faith how this  
3 can be brought by -- this can be brought by the plaintiffs in  
4 good faith when they've waived everything. And in addition,  
5 they refused to conduct an inspection knowing that they were  
6 purchasing a 63-year-old property. I mean, it's just absurd.

7 Also, I find that in my review that this is not the  
8 plaintiff's first purchase of a property. There apparently  
9 is -- you know, they've purchased quite a few properties before  
10 this one. So they should understand, you know, just like  
11 purchasing one home, you understand how important generally an  
12 inspection is. And here they are sophisticated in a sense that  
13 they should, you know, they knew what the repercussions may be  
14 of not holding an inspection.

15 And now, you know, we have a lot of law that has been  
16 cited by counsel for defense, Mr. Lee, that I actually think  
17 that -- you know, I'm not going to go into it here, but  
18 essentially the defendants, in my view, demonstrated that  
19 there's no genuine issue of material fact with respect to  
20 plaintiff's claims under Chapter 113. Defendants disclosed all  
21 of the known defects.

22 Plaintiffs have failed to create a genuine issue of  
23 material fact by introducing any evidence that the defendants  
24 were aware of the nondisclosed defects. And all of the defects  
25 were thoroughly explained by defendants' expert. They show

1 that those defects were discoverable with due diligence, which  
2 plaintiffs failed to do. So that is the reason why I'm  
3 granting it.

4 I don't take motions for summary judgment lightly at  
5 all. But this is one of the clearest cut cases I've seen.  
6 There's no evidence from the plaintiff that refutes material  
7 facts and introduces material facts. And that's really the key  
8 here. And then --

9 MR. MIAO: Excuse me.

10 THE COURT: Just a moment. I'm speaking.

11 Then when you're looking at the residential purchase  
12 agreement and signed disclosure, it's clear in my view that  
13 this is a baseless lawsuit, and I will grant defendants  
14 attorneys' fees under NRCP 11.

15 This Court denies plaintiff's request for Rule 56(f)  
16 continuance for more discovery. It's a 2018 case. Discovery  
17 closed on October 30th of 2020, and I'm not going to continue  
18 to move forward with this because I don't think there's a basis  
19 for it. So that's it. That's my decision. That's this  
20 Court's decision.

21 And I'd like Mr. Lee to prepare a very detailed order  
22 that adopts the information that you included in your motion,  
23 in the defendants' motion.

24 Make sure that Mr. Day has a chance to take a look at  
25 it as to form and content.

1           And I'd like to mention that, not from you or anyone  
2 in particular, but in many cases I've been -- I've been  
3 receiving orders, proposed orders really late. And pursuant to  
4 EDCR 1.90, they need to be filed with this Court no later than  
5 14 days after this decision. Okay. So please make sure that I  
6 have -- that everybody starts --

7           And, Mr. Lee, I'm not speaking to you. I have other  
8 counsel on the phone. So I'm speaking to everyone. I need my  
9 orders sooner. And, frankly, I prefer them within 10 days, but  
10 the rule says 14. If you're able to submit them in 10 days,  
11 then that's great. And, okay. That's it. That's it for this  
12 case.

13           MR. MIAO: Excuse me.

14           THE COURT: Yes? Who's --

15           MR. MIAO: Excuse me. I would (indiscernible).

16           THE COURT: No. No. I'm sorry. No, you may not  
17 speak. You're represented by your attorney, and we are done.

18           MR. MIAO: But I really just (indiscernible) the  
19 attorney just took over the case.

20           THE COURT: Excuse me.

21           MR. MIAO: A few days ago. I'm sorry.

22           THE COURT: Sir. Sir. This is -- this has been  
23 on -- this is not a surprise case. And this is the decision of  
24 this Court. Okay. It's a 2018 case. Discovery was closed in  
25 October of -- I've already indicated it, and I don't know where

1 I have that note. I believe it was 2020. And --

2 MR. MIAO: Twenty-second.

3 THE COURT: We're done. We're done here. We're  
4 done. Please don't speak anymore. I don't want to be  
5 disrespectful with you, but you must respect the Court as well.  
6 We're done.

7 Counsel, I hope you're being safe out there and your  
8 families are well, and --

9 MR. MIAO: But --

10 THE COURT: No. I'd like you to please mute the  
11 person who is speaking that is not Mr. Day or Mr. Lee.

12 THE MARSHAL: Mr. Frank has been muted, Your Honor,  
13 by the Court.

14 THE COURT: Okay. In any case, we're done now.

15 And I'd like you to call the next case, please,  
16 Marshal Ragsdale.

17 THE CLERK: Judge, there's a status check for  
18 settlement on this case. Do you want to hear --

19 THE COURT: Oh, wait. Before we go on, before we go  
20 on, if you're still on the line, if not, I'd like an email sent  
21 to all parties, Ms. Reid (phonetic), that makes sure you tell  
22 them to submit the order in PDF format and in Word format, and  
23 make sure both parties are -- all of the parties are in the  
24 email.

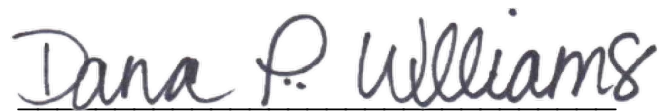
25 And ask them to not submit it twice. Because if they

1 send two copies, we don't get either one of anything. So only  
2 one PDF and only one Word document.

3 (Proceedings concluded at 10:26 a.m.)

4 -oOo-

5 ATTEST: I do hereby certify that I have truly and correctly  
6 transcribed the audio/video proceedings in the above-entitled  
7 case.

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10 Dana L. Williams  
11 Transcriber  
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|                                                                                                                                                                                                                                                                                                                                           | <b>31</b> [1] 9/7<br><b>31A</b> [1] 9/10<br><b>31B</b> [1] 9/15<br><b>33</b> [1] 14/22                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | <b>afterwards</b> [1] 7/20<br><b>again</b> [2] 26/6 26/23<br><b>ago</b> [1] 31/21<br><b>agree</b> [1] 11/17<br><b>agreed</b> [4] 7/12 7/15 7/22 26/12<br><b>agreement</b> [9] 3/6 3/7 5/8 12/3 27/15 27/15 27/24 27/25 30/12<br><b>agreements</b> [1] 3/8<br><b>ahead</b> [4] 14/3 19/21 23/17 26/12<br><b>all</b> [29] 2/12 2/25 4/11 4/25 6/14 7/4 10/8 10/16 11/18 12/5 12/7 13/4 13/8 15/5 16/6 16/20 17/5 17/12 23/25 27/10 27/12 27/12 27/13 28/25 29/20 29/24 30/5 32/21 32/23<br><b>alleged</b> [13] 7/12 7/25 8/8 9/7 9/15 18/6 18/8 19/1 19/4 24/22 25/3 26/22 27/9<br><b>allegedly</b> [3] 22/16 23/18 26/7<br><b>allow</b> [2] 26/12 28/20<br><b>allowed</b> [1] 16/16<br><b>allowing</b> [1] 20/25<br><b>allude</b> [1] 22/24<br><b>almost</b> [1] 26/24<br><b>alone</b> [1] 19/13<br><b>already</b> [1] 31/25<br><b>also</b> [40]<br><b>alternative</b> [2] 1/16 2/13<br><b>although</b> [2] 7/24 8/1<br><b>am</b> [2] 21/6 28/24<br><b>ambush</b> [1] 23/9<br><b>Amended</b> [3] 8/18 8/19 10/15<br><b>another</b> [1] 27/22<br><b>any</b> [23] 6/1 8/1 8/1 10/17 10/23 11/4 13/14 14/3 14/25 18/25 19/4 19/18 19/21 20/2 20/6 21/23 21/23 22/6 23/9 24/15 25/4 29/23 32/14<br><b>anymore</b> [1] 32/4<br><b>anyone</b> [1] 31/1<br><b>anything</b> [2] 23/10 33/1<br><b>anyway</b> [1] 22/21<br><b>apologize</b> [1] 3/13<br><b>apparently</b> [2] 27/23 29/8<br><b>appear</b> [2] 25/15 26/18<br><b>appearance</b> [2] 14/18 26/2<br><b>appearances</b> [2] 1/19 2/6<br><b>applies</b> [1] 11/23<br><b>appraiser</b> [1] 5/16<br><b>appreciate</b> [7] 6/16 18/6 22/13 23/11 23/22 26/5 27/7<br><b>appropriate</b> [6] 2/25 10/16 13/20 13/24 24/6 25/7 | <b>approval</b> [1] 11/1<br><b>are</b> [30] 6/14 7/24 11/24 12/7 13/5 13/12 14/25 15/5 15/15 15/15 15/20 16/2 16/14 16/19 17/3 19/15 19/17 20/14 20/22 21/17 21/18 25/25 28/4 28/10 28/10 29/12 31/17 32/8 32/23 32/23<br><b>areas</b> [3] 6/4 7/4 7/6<br><b>aren't</b> [1] 23/14<br><b>argue</b> [1] 15/17<br><b>arguing</b> [2] 21/17 21/18<br><b>argument</b> [6] 16/14 16/15 16/15 17/24 18/1 18/5<br><b>arise</b> [1] 24/25<br><b>articles</b> [1] 27/4<br><b>as</b> [37]<br><b>asbestos</b> [1] 4/9<br><b>ask</b> [2] 14/1 32/25<br><b>asked</b> [1] 10/25<br><b>asking</b> [1] 22/1<br><b>aspects</b> [1] 11/18<br><b>assumed</b> [1] 14/25<br><b>at</b> [35]<br><b>attached</b> [1] 7/6<br><b>attempt</b> [2] 13/7 16/18<br><b>attempted</b> [3] 15/24 16/11 25/14<br><b>attention</b> [1] 11/24<br><b>ATTEST</b> [1] 33/5<br><b>attic</b> [2] 5/23 9/22<br><b>attorney</b> [4] 23/11 26/6 31/17 31/19<br><b>attorney's</b> [1] 11/1<br><b>attorneys'</b> [2] 14/1 30/14<br><b>audio</b> [1] 33/6<br><b>audio/video</b> [1] 33/6<br><b>August</b> [1] 28/4<br><b>authenticate</b> [1] 23/25<br><b>authenticating</b> [1] 22/21<br><b>available</b> [2] 26/20 27/2<br><b>avoid</b> [2] 18/4 23/23<br><b>aware</b> [12] 3/17 3/21 4/16 5/2 5/5 5/9 10/17 11/5 23/10 24/9 26/11 29/24 | 25/6 28/23 29/3 29/3 29/13 31/4 32/4<br><b>because</b> [15] 5/18 6/18 10/16 17/22 19/18 20/20 22/9 23/14 26/9 27/21 28/1 28/21 29/2 30/18 32/25<br><b>been</b> [23] 5/11 6/2 8/13 15/18 15/19 16/10 20/4 20/9 20/22 20/22 24/12 24/12 24/16 25/16 25/19 25/22 25/25 28/20 29/15 31/2 31/2 31/22 32/12<br><b>been \$102,000</b> [1] 8/13<br><b>before</b> [11] 1/11 2/12 7/9 14/10 20/21 25/16 25/20 28/21 29/9 32/19 32/19<br><b>behalf</b> [2] 2/7 2/9<br><b>behavior</b> [1] 28/1<br><b>being</b> [4] 4/8 5/15 16/10 32/7<br><b>believe</b> [2] 5/14 32/1<br><b>believes</b> [1] 5/18<br><b>better</b> [4] 14/16 15/9 15/10 15/14<br><b>between</b> [1] 18/23<br><b>binding</b> [2] 27/14 27/25<br><b>bit</b> [5] 10/4 10/5 10/5 14/11 14/17<br><b>Bonnie</b> [1] 11/6<br><b>both</b> [1] 32/23<br><b>bottom</b> [1] 27/20<br><b>breach</b> [3] 12/14 12/19 12/20<br><b>brief</b> [5] 15/3 21/13 22/24 22/24 23/4<br><b>briefed</b> [1] 17/22<br><b>briefing</b> [1] 6/17<br><b>briefs</b> [2] 14/23 20/6<br><b>bring</b> [1] 14/12<br><b>broker</b> [1] 13/4<br><b>brought</b> [5] 19/11 21/11 25/16 29/3 29/3<br><b>building</b> [3] 5/3 5/23 16/2<br><b>burden</b> [1] 18/25<br><b>business</b> [1] 27/5<br><b>but</b> [25] 6/9 6/22 8/13 8/16 15/5 16/15 17/13 17/14 19/7 20/15 21/19 21/21 25/10 26/8 26/13 28/10 28/15 28/17 29/17 30/5 31/2 31/9 31/18 32/5 32/9<br><b>buyer</b> [9] 3/3 11/8 11/11 11/14 11/20 11/25 27/16 27/22 28/11<br><b>buyer's</b> [3] 12/4 24/7 27/17<br><b>buying</b> [2] 18/10 24/8 |
| <b>\$</b><br><b>\$10,000</b> [2] 8/16 13/17<br><b>\$102,000</b> [1] 8/13<br><b>\$16.25</b> [1] 13/13<br><b>\$16.25 million</b> [1] 13/13<br><b>\$200,000</b> [1] 13/12<br><b>\$600,000</b> [1] 8/14                                                                                                                                       | <b>5</b><br><b>56</b> [4] 1/14 2/15 10/24 30/15<br><b>5th</b> [2] 27/16 27/25                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | <b>6</b><br><b>600</b> [2] 26/24 26/25<br><b>63</b> [1] 4/20<br><b>63-year-old</b> [3] 13/10 28/8 29/6<br><b>645</b> [1] 12/15                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | <b>be</b> [22] 6/7 9/5 10/23 16/1 16/15 16/16 16/20 17/25 20/7 21/1 21/24 22/21 23/21 24/5 25/3                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            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| <b>UNIDENTIFIED SPEAKER:</b> [1] 2/3                                                                                                                                                                                                                                                                                                      | <b>7</b><br><b>7D</b> [1] 5/10                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | <b>7</b><br><b>7D</b> [1] 5/10                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | <b>B</b><br><b>back</b> [1] 8/18<br><b>background</b> [1] 3/2<br><b>bad</b> [1] 19/11<br><b>bad-faith</b> [1] 19/11<br><b>based</b> [5] 1/14 8/19 9/2 23/7 24/20<br><b>baseless</b> [1] 30/13<br><b>basis</b> [8] 6/18 10/24 13/13 19/19 20/25 21/1 23/5 30/18<br><b>be</b> [22] 6/7 9/5 10/23 16/1 16/15 16/16 16/20 17/25 20/7 21/1 21/24 22/21 23/21 24/5 25/3                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          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| <b>14/14 14/16 14/18 15/9 15/11 15/15 20/2 20/16 21/3 21/6 25/9 25/13</b>                                                                                                                                                                                                                                                                 | <b>9</b><br><b>9:19</b> [1] 2/1                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | <b>9</b><br><b>9:19</b> [1] 2/1                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | <b>C</b><br><b>call</b> [1] 32/15<br><b>called</b> [1] 26/9<br><b>came</b> [3] 20/23 20/23                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 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| <b>MR. LEE:</b> [19] 2/7 2/19 3/11 3/13 3/15 6/11 6/13 6/21 6/24 7/1 7/3 10/7 10/9 10/11 17/10 17/16 17/21 22/13 26/5                                                                                                                                                                                                                     | <b>A</b><br><b>a.m</b> [2] 2/1 33/3<br><b>able</b> [3] 21/7 21/8 31/10<br><b>about</b> [12] 8/8 9/9 9/11 10/14 15/9 15/11 18/6 18/8 19/1 19/12 20/19 25/3<br><b>above</b> [1] 33/6<br><b>above-entitled</b> [1] 33/6<br><b>absurd</b> [1] 29/6<br><b>abuse</b> [6] 3/1 8/11 13/2 13/5 13/8 13/20<br><b>access</b> [5] 3/24 5/22 5/23 6/5 7/10<br><b>accessible</b> [1] 11/20<br><b>accompanied</b> [1] 7/8<br><b>accurate</b> [4] 22/14 26/6 26/23 27/9<br><b>acknowledged</b> [1] 26/17<br><b>action</b> [11] 8/3 8/9 8/21 12/8 12/10 12/22 12/24 13/7 17/5 19/7 24/5<br><b>actual</b> [2] 19/9 22/8<br><b>actually</b> [5] 19/2 20/9 22/18 28/6 29/16<br><b>acutely</b> [1] 3/17<br><b>addition</b> [2] 28/15 29/4<br><b>additional</b> [2] 10/21 10/23<br><b>admissible</b> [10] 16/23 20/6 20/12 21/19 21/25 22/4 22/4 22/11 23/24 24/2<br><b>admits</b> [1] 9/24<br><b>admitted</b> [7] 3/2 5/22 6/3 18/7 18/22 19/5 24/9<br><b>adopts</b> [1] 30/22<br><b>ADRIANA</b> [1] 1/11<br><b>adverse</b> [1] 9/1<br><b>affects</b> [1] 8/24<br><b>affirmative</b> [1] 27/19<br><b>after</b> [6] 16/3 16/5 22/25 27/22 28/5 31/5 | <b>MR. MIAO:</b> [7] 30/9 31/13 31/15 31/18 31/21 32/2 32/9<br><b>THE CLERK:</b> [1] 32/17<br><b>THE COURT:</b> [41]<br><b>THE MARSHAL:</b> [1] 32/12                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| <b>1</b><br><b>1.90</b> [1] 31/4<br><b>10</b> [3] 12/25 31/9 31/10<br><b>10:26 a.m</b> [1] 33/3<br><b>11</b> [5] 1/12 2/1 13/1 29/1 30/14<br><b>113</b> [2] 12/9 29/20<br><b>113.140</b> [2] 11/3 11/10<br><b>11th</b> [1] 23/2<br><b>12</b> [1] 12/18<br><b>13</b> [1] 12/19<br><b>14</b> [4] 2/3 12/20 31/5 31/10<br><b>15</b> [1] 13/2 | <b>1</b><br><b>1.90</b> [1] 31/4<br><b>10</b> [3] 12/25 31/9 31/10<br><b>10:26 a.m</b> [1] 33/3<br><b>11</b> [5] 1/12 2/1 13/1 29/1 30/14<br><b>113</b> [2] 12/9 29/20<br><b>113.140</b> [2] 11/3 11/10<br><b>11th</b> [1] 23/2<br><b>12</b> [1] 12/18<br><b>13</b> [1] 12/19<br><b>14</b> [4] 2/3 12/20 31/5 31/10<br><b>15</b> [1] 13/2                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | <b>1</b><br><b>1.90</b> [1] 31/4<br><b>10</b> [3] 12/25 31/9 31/10<br><b>10:26 a.m</b> [1] 33/3<br><b>11</b> [5] 1/12 2/1 13/1 29/1 30/14<br><b>113</b> [2] 12/9 29/20<br><b>113.140</b> [2] 11/3 11/10<br><b>11th</b> [1] 23/2<br><b>12</b> [1] 12/18<br><b>13</b> [1] 12/19<br><b>14</b> [4] 2/3 12/20 31/5 31/10<br><b>15</b> [1] 13/2                                                                                                                                                                                                                                                           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| <b>2</b><br><b>20</b> [1] 3/3<br><b>2017</b> [6] 6/3 6/6 7/5 7/7 7/10 27/16<br><b>2018</b> [3] 13/11 30/16 31/24<br><b>2020</b> [3] 28/19 30/17 32/1<br><b>2021</b> [4] 1/12 2/1 23/1 23/2<br><b>25</b> [1] 8/22<br><b>27</b> [1] 9/3<br><b>29</b> [1] 9/5<br><b>29th</b> [1] 23/1<br><b>2nd</b> [1] 28/4                                 | <b>2</b><br><b>20</b> [1] 3/3<br><b>2017</b> [6] 6/3 6/6 7/5 7/7 7/10 27/16<br><b>2018</b> [3] 13/11 30/16 31/24<br><b>2020</b> [3] 28/19 30/17 32/1<br><b>2021</b> [4] 1/12 2/1 23/1 23/2<br><b>25</b> [1] 8/22<br><b>27</b> [1] 9/3<br><b>29</b> [1] 9/5<br><b>29th</b> [1] 23/1<br><b>2nd</b> [1] 28/4                                                                                                                                                                                                                                                                                                                                                                                  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| <b>3</b><br><b>30</b> [1] 15/3<br><b>30th</b> [2] 28/18 30/17                                                                                                                                                                                                                                                                             | <b>3</b><br><b>30</b> [1] 15/3<br><b>30th</b> [2] 28/18 30/17                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              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                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | <b>J</b><br><b>January</b> [1] 23/1<br><b>JD</b> [1] 1/25<br><b>job</b> [1] 17/24<br><b>JUDGE</b> [7] 1/11 14/14 14/18 15/11 21/14 25/13 32/17<br><b>judgment</b> [45]<br><b>jury</b> [3] 16/16 16/16 16/20<br><b>just</b> [19] 5/19 6/8 6/25 6/25 10/5 16/9 17/22 21/14 21/14 23/14 23/14 25/11 25/13 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<p><b>understanding [2]</b> 25/14 25/18</p> <p><b>understood [1]</b> 5/6</p> <p><b>undisputed [17]</b> 2/24 8/20 9/2 10/14 13/6 13/10 13/25 18/21 19/14 19/16 19/17 23/23 24/2 24/4 24/21 24/25 24/25</p> <p><b>unhappy [1]</b> 18/19</p> <p><b>unjust [1]</b> 11/16</p> <p><b>unless [3]</b> 14/3 17/6 19/21</p> <p><b>unopposed [2]</b> 13/25 19/6</p> <p><b>unquote [1]</b> 7/13</p> <p><b>until [2]</b> 16/3 22/5</p> | <p><b>up [7]</b> 4/6 4/24 5/1 15/24 16/5 16/11 16/18</p> <p><b>upon [5]</b> 5/19 16/13 16/24 20/13 24/22</p> <p><b>us [2]</b> 13/20 27/1</p> <p><b>use [3]</b> 5/18 8/25 20/8</p> <p><b>used [1]</b> 3/8</p> <p><b>usually [1]</b> 20/21</p> <p><b>utilizing [1]</b> 18/12</p> <hr/> <p><b>V</b></p> <p><b>value [1]</b> 8/25</p> <p><b>various [1]</b> 15/18</p> <p><b>VEGAS [2]</b> 2/1 3/4</p> <p><b>vent [1]</b> 4/4</p> <p><b>venting [1]</b> 9/21</p> <p><b>very [7]</b> 2/5 17/18 17/21 18/19 19/19 24/7 30/21</p> <p><b>video [4]</b> 6/22 8/5 23/17 33/6</p> <p><b>view [2]</b> 29/18 30/12</p> <p><b>visible [1]</b> 4/10</p> <hr/> <p><b>W</b></p> <p><b>wait [1]</b> 32/19</p> <p><b>waived [2]</b> 27/22 29/4</p> <p><b>waiver [1]</b> 28/17</p> <p><b>waives [1]</b> 11/14</p> <p><b>wallcoverings [1]</b> 15/25</p> <p><b>walls [1]</b> 16/2</p> <p><b>want [7]</b> 10/23 23/21 25/11 28/8 28/13 32/4 32/18</p> <p><b>wants [1]</b> 21/4</p> <p><b>warranted [1]</b> 13/4</p> <p><b>warranty [1]</b> 11/11</p> <p><b>was [60]</b></p> <p><b>wasn't [4]</b> 22/16 23/10 26/11 27/14</p> <p><b>water [1]</b> 9/21</p> <p><b>we [44]</b></p> <p><b>we'll [2]</b> 17/6 18/14</p> <p><b>we're [8]</b> 2/4 17/17 24/1 32/3 32/3 32/3 32/6 32/14</p> <p><b>well [12]</b> 6/17 14/12 14/18 15/4 17/13 20/2 21/3 22/19 24/21 25/18 32/5 32/8</p> <p><b>went [1]</b> 10/14</p> <p><b>were [34]</b></p> <p><b>what [15]</b> 3/19 5/22 15/14 16/7 16/16 16/17 18/9 18/14 18/23 18/24 20/1 25/3 26/15 26/24 29/13</p> <p><b>what's [2]</b> 9/11 19/1</p> <p><b>whatever [1]</b> 21/4</p> <p><b>whatsoever [1]</b> 14/25</p> <p><b>when [24]</b> 3/1 5/8 5/23 7/18 7/19 7/21 8/18 9/13 11/16 11/23 11/23 12/6 15/20 15/23 16/5 16/6 18/23 19/24 20/18 23/6 24/13 28/18 29/4 30/11</p> <p><b>whenever [1]</b> 14/20</p> | <p><b>where [5]</b> 8/15 11/7 13/15 14/21 31/25</p> <p><b>whereas [1]</b> 24/21</p> <p><b>which [18]</b> 4/1 6/14 6/15 8/2 8/9 11/2 14/24 15/3 15/4 16/6 16/12 17/4 19/9 20/14 22/25 23/20 25/22 30/1</p> <p><b>while [10]</b> 7/19 18/5 22/13 23/11 25/2 25/24 26/5 27/7 27/14 27/24</p> <p><b>who [8]</b> 2/22 3/3 4/16 9/12 18/16 25/15 25/21 32/11</p> <p><b>Who's [1]</b> 31/14</p> <p><b>why [3]</b> 2/18 2/24 30/2</p> <p><b>will [7]</b> 6/7 14/12 14/14 25/11 27/5 29/1 30/13</p> <p><b>Williams [1]</b> 33/10</p> <p><b>within [4]</b> 11/24 16/2 19/17 31/9</p> <p><b>without [7]</b> 4/19 9/25 11/1 18/7 23/5 24/1 28/16</p> <p><b>WLAB [1]</b> 1/4</p> <p><b>word [3]</b> 25/11 32/22 33/2</p> <p><b>words [2]</b> 20/21 27/20</p> <p><b>work [4]</b> 4/19 4/21 7/22 9/5</p> <p><b>worry [1]</b> 10/8</p> <p><b>would [13]</b> 6/9 11/17 14/1 15/4 17/4 19/3 21/24 24/19 25/3 25/6 26/18 26/25 31/15</p> <p><b>would've [3]</b> 6/1 8/12 15/19</p> <p><b>written [2]</b> 25/18 25/22</p> <p><b>wrote [2]</b> 10/22 10/24</p> <hr/> <p><b>X</b></p> <p><b>XIV [1]</b> 1/6</p> <hr/> <p><b>Y</b></p> <p><b>Yeah [5]</b> 7/1 10/9 10/11 14/17 22/13</p> <p><b>year [3]</b> 13/10 28/8 29/6</p> <p><b>years [1]</b> 4/20</p> <p><b>yes [8]</b> 3/11 6/11 10/7 14/17 17/10 17/13 17/16 31/14</p> <p><b>yesterday [2]</b> 14/19 14/20</p> <p><b>yet [1]</b> 22/1</p> <p><b>you [61]</b></p> <p><b>you're [7]</b> 15/14 20/19 30/11 31/10 31/17 32/7 32/20</p> <p><b>you've [2]</b> 6/16 17/12</p> <p><b>your [16]</b> 2/4 2/5 2/19 6/9 6/11 7/1 10/7 14/8 14/12 17/10 20/2 25/9 30/22 31/17 32/7 32/12</p> <p><b>yourself [1]</b> 17/13</p> |
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