

IN THE SUPREME COURT OF THE STATE OF NEVADA

ROBERT G. REYNOLDS,

Appellant,

vs.

RAFFI TUFENKJIAN; AND LUXURY
HOLDINGS LV, LLC

Respondents.

Supreme Court No.: 84413
District Court Case No.:
A753532

Electronically Filed
Apr 14 2022 05:27 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

**DOCKETING STATEMENT
CIVIL APPEALS**

GENERAL INFORMATION

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

WARNING

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

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

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

Judicial District Eighth Department XIII

County Clark Judge MARK R. DENTON

District Ct. Case No. A753532

Attorney filing this docketing statement:

Attorney Joseph Z. Gersten, Esq. Telephone 702-857-8777

Firm The Gersten Law Firm PLLC

Address 9680 W Tropicana Avenue # 146

Las Vegas, NV 89147

Client(s) Robert G. Reynolds

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

Attorney(s) representing respondents(s):

Telephone 702-382-0711

Attorney Christian T. Balducci

Firm Marquis Auerbach Coffing

Address 10001 Park Run Drive

Las Vegas, NV 89145

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

Attorney _____ Telephone _____

Firm _____

Address _____

Client(s) _____

(List additional counsel on separate sheet if necessary)

Nature of disposition below (check all that apply):

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

Does this appeal raise issues concerning any of the following?

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

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

Reynolds Vs. Tufenkjian NSC 78187

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

Reynolds Vs. Tufenkjian District Court Case No.: A753532

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

Plaintiffs Robert G. Reynolds and Diamanti Fine Jewelers, LLC's claimed intentional misrepresentation against Defendants Raffi Tufenkjian and Luxury Holdings, LV, LLC.

Brad Marx, Esq. appeared on behalf of Plaintiff Robert G. Reynolds and Diamanti Fine Jewelers, LLC and Christian T. Balducci, Esq. Appeared on behalf of Defendants Raffi Tufenkjian and Luxury Holdings, LV, LLC.

The matter came for a bench trial in the District Court on September 21, 22, and October 6, 2021.

The Court admitted various exhibits into evidence, entertained testimony from Robert Reynolds, Raffi Tufenkjian, and Aldo Aguirre, reviewed the pleadings, together with Opening statements and Closing arguments and erroneously found against Plaintiff.

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

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

Whether Respondents' misrepresentations are excused by contractual disclaimers.

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

Whether the District Court arbitrarily, capriciously, and erroneously ruled in favor of the Defendants again, after previously being overturned by this very court.

Whether the District Court arbitrarily, capriciously, and erroneously granted fees and costs.

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

Reynolds Vs. Tufenkjian NSC 78187, 84000

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

☒ N/A

☐ Yes

☐ No

If not, explain:

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

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

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

☐ A substantial issue of first impression

☐ An issue of public policy

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

☐ A ballot question

If so, explain:

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

This matter is presumptively retained by the Supreme Court because it originated in business court. NRAP 17(a)(9).

14. Trial. If this action proceeded to trial, how many days did the trial last? 3

Was it a bench or jury trial? Bench

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

No

TIMELINESS OF NOTICE OF APPEAL

16. Date of entry of written judgment or order appealed from 02/15/2022

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

17. Date written notice of entry of judgment or order was served 02/15/2022

Was service by:

☐ Delivery

☒ Mail/electronic/fax

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

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

☐ NRCP 50(b) Date of filing _____

☐ NRCP 52(b) Date of filing _____

☐ NRCP 59 Date of filing _____

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

(b) Date of entry of written order resolving tolling motion _____

(c) Date written notice of entry of order resolving tolling motion was served _____

Was service by:

☐ Delivery

☐ Mail

19. Date notice of appeal filed 03/21/2022

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

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

NRAP 4(a)(1)

SUBSTANTIVE APPEALABILITY

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

(a)

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

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

This is an appeal of a denial of a petition for judicial review denied by the district court. NRS 233B.150 provides an aggrieved party may obtain a review of any final judgment of the district court by appeal to the appellate court of competent jurisdiction pursuant to the rules fixed by the Supreme Court pursuant to Section 4 of Article 6 of the Nevada Constitution. The appeal shall be taken as in other civil cases.

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

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

(a) Parties:

Robert G. Reynolds

Diamanti Jewelers LLC

Raffi Tufenkjian

Luxury Holdings LV LLC

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

N/A

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

Robert G. Reynolds and Diamanti Fine Jewelers, LLC filed claims for fraud / misrepresentation, negligent misrepresentation, breach of contract, and exploitation. Each claim was disposed of on 11/19/2021 and 02/15/2022.

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

☒ Yes

☐ No

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

(a) Specify the claims remaining pending below:

(b) Specify the parties remaining below:

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

☐ Yes

☐ No

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

☐ Yes

☐ No

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

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

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

VERIFICATION

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

Robert G. Reynolds
Name of appellant

Joseph Z. Gersten, Esq.
Name of counsel of record

04/14/2022
Date

Joseph Z. Gersten
Signature of counsel of record

Clark County, Nevada
State and county where signed

CERTIFICATE OF SERVICE

I certify that on the 14 day of April, 2022, I served a copy of this completed docketing statement upon all counsel of record:

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

CHRISTIAN T. BALDUCCI
TERRY A. MOORE
Marquis Auerbach Coffing
10001 Park Run Drive
Las Vegas, NV 89145

14th day of April, 2022

Joseph Z. Gersten
Signature

DISTRICT COURT CIVIL COVER SHEET A-17-753532-C

County, Nevada

Case No. _____

(Assigned by Clerk's Office)

XXVIII

I. Party Information (provide both home and mailing addresses if different)

Plaintiff(s) (name/address/phone): Robert G. Reynolds; Reyco, LLC dba Diamanti Fine Jewelers	Defendant(s) (name/address/phone): Raffi Tufenkjian; Luxury Holdings LV, LLC
Attorney (name/address/phone): Peter L. Chasey, Esq. 3295 N. Fort Apache Road, Suite 110 Las Vegas, NV 89129 (702) 233-0393	Attorney (name/address/phone):

II. Nature of Controversy (please select the one most applicable filing type below)**Civil Case Filing Types**

Real Property Landlord/Tenant <input type="checkbox"/> Unlawful Detainer <input type="checkbox"/> Other Landlord/Tenant Title to Property <input type="checkbox"/> Judicial Foreclosure <input type="checkbox"/> Other Title to Property Other Real Property <input type="checkbox"/> Condemnation/Eminent Domain <input type="checkbox"/> Other Real Property	Negligence <input type="checkbox"/> Auto <input type="checkbox"/> Premises Liability <input type="checkbox"/> Other Negligence Malpractice <input type="checkbox"/> Medical/Dental <input type="checkbox"/> Legal <input type="checkbox"/> Accounting <input type="checkbox"/> Other Malpractice	Torts Other Torts <input type="checkbox"/> Product Liability <input checked="" type="checkbox"/> Intentional Misconduct <input type="checkbox"/> Employment Tort <input type="checkbox"/> Insurance Tort <input type="checkbox"/> Other Tort
Probate Probate (select case type and estate value) <input type="checkbox"/> Summary Administration <input type="checkbox"/> General Administration <input type="checkbox"/> Special Administration <input type="checkbox"/> Set Aside <input type="checkbox"/> Trust/Conservatorship <input type="checkbox"/> Other Probate Estate Value <input type="checkbox"/> Over \$200,000 <input type="checkbox"/> Between \$100,000 and \$200,000 <input type="checkbox"/> Under \$100,000 or Unknown <input type="checkbox"/> Under \$2,500	Construction Defect & Contract Construction Defect <input type="checkbox"/> Chapter 40 <input type="checkbox"/> Other Construction Defect Contract Case <input type="checkbox"/> Uniform Commercial Code <input type="checkbox"/> Building and Construction <input type="checkbox"/> Insurance Carrier <input type="checkbox"/> Commercial Instrument <input type="checkbox"/> Collection of Accounts <input type="checkbox"/> Employment Contract <input type="checkbox"/> Other Contract	Judicial Review/Appeal Judicial Review <input type="checkbox"/> Foreclosure Mediation Case <input type="checkbox"/> Petition to Seal Records <input type="checkbox"/> Mental Competency Nevada State Agency Appeal <input type="checkbox"/> Department of Motor Vehicle <input type="checkbox"/> Worker's Compensation <input type="checkbox"/> Other Nevada State Agency Appeal Other <input type="checkbox"/> Appeal from Lower Court <input type="checkbox"/> Other Judicial Review/Appeal
Civil Writ Civil Writ <input type="checkbox"/> Writ of Habeas Corpus <input type="checkbox"/> Writ of Mandamus <input type="checkbox"/> Writ of Quo Warrant <input type="checkbox"/> Writ of Prohibition <input type="checkbox"/> Other Civil Writ		Other Civil Filing Other Civil Filing <input type="checkbox"/> Compromise of Minor's Claim <input type="checkbox"/> Foreign Judgment <input type="checkbox"/> Other Civil Matters

Business Court filings should be filed using the Business Court civil coversheet.

4/5/17
Date

Signature of initiating party or representative

See other side for family-related case filings.

1 **COMP**

2 PETER L. CHASEY, ESQ.

3 Nevada Bar No. 007650

4 **CHASEY LAW OFFICES**

5 3295 N. Fort Apache Road, Suite 110

6 Las Vegas, Nevada 89129

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

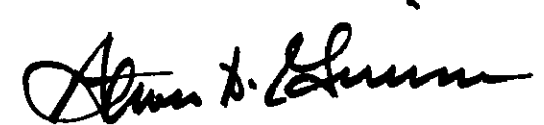
8 email: peter@chaseylaw.com

9 Attorneys for Plaintiffs

10 ROBERT G. REYNOLDS and REYCO, LLC

11 d/b/a DIAMANTI FINE JEWELERS

Electronically Filed
04/05/2017 01:24:57 PM



CLERK OF THE COURT

DISTRICT COURT

CLARK COUNTY, NEVADA

12 ROBERT G. REYNOLDS, an individual, and
13 REYCO, LLC, a Nevada Limited Liability
14 Company d/b/a DIAMANTI FINE JEWELERS,

15 Plaintiff,

16 vs.

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

21 Defendants.

) CASE NO.:
) DEPT NO.:

A-17-753532-C
XXVIII

COMPLAINT

22
23 COME NOW Plaintiffs ROBERT G. REYNOLDS and REYCO, LLC, a Nevada Limited Liability
24 Company d/b/a DIAMANTI FINE JEWELERS, by and through their counsel of record at Chasey Law
25 Offices, to hereby allege and complain as follows:

26 ///

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I.

PARTIES AND JURISDICTION

1. Plaintiff Robert G. Reynolds is an individual residing in Clark County, Nevada. Plaintiff Reynolds is over the age of 60 years old and the Manager of Plaintiff Reyco, LLC.

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

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

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

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

6. Defendant DOES 6-10 and ROE CORPORATIONS 6-10 are fictitious names referring to individuals and entities who caused or contributed to the damages suffered and incurred by Plaintiff Reynolds and/or Plaintiff Reyco at the time of the events set forth in this Complaint. Plaintiffs will request leave of this Court to amend the Complaint to substitute the true names of these unknown parties when their true names and identities become known.

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

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

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II.

COMMON FACTUAL ALLEGATIONS

A. Contingent Offer to Purchase Business and Due Diligence

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

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

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

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

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

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

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1 15. During Plaintiff Reynolds' due diligence, Defendant Tufenkjian provided Plaintiff
2 Reynolds with compilation reports, Nevada Sales Tax Returns, and other documents supporting the
3 valuation of the business represented by Defendant Tufenkjian and Defendant Luxury Holdings.
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5 16. During Plaintiff Reynolds' due diligence, Defendant Tufenkjian refused to provide
6 Plaintiff Reynolds with original financial statements from Defendant Luxury Holdings, but assured
7 Plaintiff Reynolds that the representations concerning the value of the business were true and
8 accurate.
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10 17. During Plaintiff Reynolds' due diligence, Defendant Tufenkjian and Defendant Luxury
11 Holdings represented that, in 2014, the business had taxable revenue of \$496,368.76 from jewelry
12 sales and had non-taxable revenue of \$251,017.96 from jewelry repairs.
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14 18. During Plaintiff Reynolds' due diligence, Defendant Tufenkjian and Defendant Luxury
15 Holdings provided a list of 1122 people represented to be customers of the business.
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17 19. During Plaintiff Reynolds' due diligence, Defendant Tufenkjian and Defendant Luxury
18 Holdings refused to provide Defendant Luxury Holdings' lease, but represented that all fixtures,
19 furniture and equipment (hereinafter "FF&E") were owned by Defendant Luxury Holdings.
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21 20. During Plaintiff Reynolds' due diligence, Defendant Tufenkjian and Defendant Luxury
22 Holdings agreed to sell all inventory to Plaintiff Reynolds at cost and without mark-up.
23

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

25 21. On about March 20, 2015, Plaintiffs purchased the business from Defendants for
26 \$395,000, excluding inventory.
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22. On about March 23, 2015, Plaintiffs purchased the business inventory as follows:

- A. \$ 117,411.79 to 2 of Defendant Luxury Holdings' suppliers,
B. \$ 134,253.44 to Defendant Luxury Holdings, and
C. \$ 50,000.00 to Nazareth Tefenkjian (Defendant Tufenkjian's brother)

23. On about March 24, 2015, Defendant Tufenkjian executed a Bill of Sale confirming that Plaintiffs had acquired title to all of the inventory and FF&E in the business' leased premises.

C. Discovery of Defendants' Misrepresentations

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

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FIRST CAUSE OF ACTION

Fraud / Intentional Misrepresentation

25. Plaintiffs repeat and incorporate paragraphs 1 through 24 of the Complaint herein.

26. Defendant Tufenkjian and Defendant Luxury Holdings both:

- A. knew the business' taxable revenue from jewelry sales in 2014,
- B. knew the business' non-taxable revenue from jewelry repairs in 2014,
- C. knew the business' actual customer list,
- D. knew the business did not own the FF&E, and
- E. knew the business' cost of inventory.

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1 27. Defendant Tufenkjian and Defendant Luxury Holdings both:

- 2 A. intentionally misrepresented the business' taxable revenue from jewelry
- 3 sales in 2014 by overstating the revenue by approximately 2.7 times the
- 4 actual revenue from jewelry sales in the Business Opportunity Summary,
- 5 compilation reports, Nevada Sales Tax Returns, and other documents
- 6 B. intentionally misrepresented the business' non-taxable revenue from jewelry
- 7 repairs in 2014 by overstating the revenue by approximately 19 times the
- 8 actual revenue from jewelry repairs the Business Opportunity Summary,
- 9 compilation reports, Nevada Sales Tax Returns, and other documents,
- 10 C. intentionally misrepresented the number of customers by providing a List of
- 11 Customers, most of whom had never been a customer of the business,
- 12 D. intentionally misrepresented that the business owned the FF&E on the Bill of
- 13 Sale and closing documents for the purchase and sale of the business, and
- 14 E. intentionally misrepresented the cost of inventory by overstating the cost of
- 15 inventory on the Bill of Sale dated March 24, 2015.

16 28. Defendant Tufenkjian and Defendant Luxury Holdings misrepresented these material

17 facts concerning the value of the business and the cost of the inventory to induce Plaintiff Reynolds

18 and Plaintiff Reyco to purchase the business and inventory, to pay substantially more than the true

19 and actual value of the business, and to pay substantially more than the cost of the inventory.

20 29. Plaintiff Reynolds and Plaintiff Reyco reasonably relied on the representations of

21 Defendant Tufenkjian and Defendant Luxury Holdings in deciding to purchase the business.

22 30. As a direct and proximate cause of Defendant Tufenkjian and Defendant Luxury

23 Holdings intentional misrepresentation of the value of the business, Plaintiff Reynolds and Plaintiff

24 Reyco have suffered and continue to suffer damages in an amount to be proved at trial.

25 31. As a direct and proximate cause of Defendant Tufenkjian and Defendant Luxury

26 Holdings intentional misrepresentation of the value of the business, Plaintiff Reynolds and Plaintiff

27 Reyco are entitled to a judgment for damages in an amount to be proved at trial.

28

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

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

IV.

SECOND CAUSE OF ACTION
Negligent Misrepresentation

34. Plaintiffs repeat and incorporate paragraphs 1 through 33 of the Complaint herein.

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

36. Defendant Tufenkjian and Defendant Luxury Holdings both failed to exercise reasonable care in communicating information to Plaintiff Reynolds and Plaintiff Reyco regarding:

- A. the business' taxable revenue from jewelry sales in 2014,
- B. the business' non-taxable revenue from jewelry repairs in 2014,
- C. the business' customer list,
- D. the business' lack of an ownership interest in the FF&E, and
- E. the business' cost of inventory

37. Plaintiff Reynolds and Plaintiff Reyco were justified in relying on Defendant Tufenkjian and Defendant Luxury Holdings' representations of taxable revenue from jewelry sales,

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1 non-taxable revenue from jewelry repairs, the customer list, the ownership of the FF&E, and the
2 cost of inventory.

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4 38. Plaintiff Reynolds and Plaintiff Reyco were induced to purchase the business due to
5 their reasonable reliance on false information presented by Defendant Tufenkjian and Defendant
6 Luxury Holdings' concerning the value of the business.

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

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

15
16 41. As a direct and proximate cause of Defendant Tufenkjian and Defendant Luxury
17 Holdings' negligent misrepresentations, Plaintiff Reynolds and Plaintiff Reyco are entitled to
18 equitable relief rescinding the purchase and sale of the business.

19
20 42. As a direct and proximate cause of Defendant Tufenkjian and Defendant Luxury
21 Holdings' negligent misrepresentation of the value of the business, Plaintiff Reynolds and Plaintiff
22 Reyco are entitled to an award of attorneys' fees and costs incurred in this lawsuit.

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V.

THIRD CAUSE OF ACTION
Breach of Contract

43. Plaintiffs repeat and incorporate paragraphs 1 through 42 of the Complaint herein.

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

45. Plaintiff Reyco performed its obligations under the contract by timely delivering the full purchase price for both the business and the inventory.

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

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

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

49. As a direct and proximate cause of Defendant Luxury Holdings' breaches of contract, Plaintiff Reynolds and Plaintiff Reyco are entitled to a judgment for damages in an amount to be proved at trial.

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50. As a direct and proximate cause of Defendant Luxury Holdings' breaches of contract, Plaintiff Reynolds and Plaintiff Reyco are entitled to a judgment for damages in an amount to be proved at trial.

VI.

FOURTH CAUSE OF ACTION
Exploitation

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

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

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

54. During negotiation of the purchase and sale of the business, Defendant Tufenkjian and Defendant Luxury Holdings refused to provide Defendant Luxury Holdings' lease to prevent Plaintiff Reynolds from learning that the FF&E was not owned, but was leased.

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

56. Plaintiff Reynolds was prevented from learning the actual revenue from jewelry sales, the actual revenue from jewelry repairs, actual customer list, and ownership of the FF&E due to Defendant Tufenkjian's deception and exploitation of Plaintiff Reynolds.

///

57. Defendant Tufenkjian deceived and exploited Plaintiff Reynolds to deprive Plaintiff Reynolds of his money.

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

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

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

VII.

PRAYER FOR RELIEF

Wherefore, Plaintiff Reynolds and Plaintiff Reyco pray for relief and judgment as follows:

- A. An Order rescinding the purchase and sale agreement for the business,
- B. An award of damages sufficient to compensate Plaintiffs for the losses caused by Defendants' intentional misrepresentation,
- C. An award of damages sufficient to compensate Plaintiffs for the losses caused by Defendants' negligent misrepresentation,
- D. An award of economic damages sufficient to compensate Plaintiff Reyco for the damages caused by Defendant Luxury Holdings' breach of contract,
- E. An award of double damages to compensate Plaintiff Reynolds for his losses caused by Defendant Tufenkjian's exploitation,
- F. An award of damages sufficient to punish and make an example of Defendants' oppression, fraud, and malice,

PRAYER FOR RELIEF (continued)

G. An award of attorneys' fees, costs, and interest pursuant to Nevada law, and

H. Such other and further relief as this Court finds just and proper

Dated this 5th day of April, 2017.

CHASEY LAW OFFICES



PETER L. CHASEY, ESQ.

Nevada Bar No. 007650

3295 N. Fort Apache Road, Suite 110

Las Vegas, Nevada 89129

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

email: peter@chaseylaw.com

Attorneys for Plaintiffs

ROBERT G. REYNOLDS and REYCO, LLC

d/b/a DIAMANTI FINE JEWELERS

1 **IAFD**

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

4 **CHASEY LAW OFFICES**

5 3295 N. Fort Apache Road, Suite 110

6 Las Vegas, Nevada 89129

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

8 email: peter@chaseylaw.com

9 Attorney for Plaintiffs

10 ROBERT G. REYNOLDS and REYCO, LLC d/b/a DIAMANTI FINE JEWELERS

11 **DISTRICT COURT**
12 **CLARK COUNTY, NEVADA**

13 A-17-753532-C

14 ROBERT G. REYNOLDS, an individual, and REYCO,
15 LLC, a Nevada Limited Liability Company d/b/a
16 DIAMANTI FINE JEWELERS,

17 Plaintiff,

18 vs.

19 RAFFI TUFENKJIAN, an individual, and LUXURY
20 HOLDINGS LV, LLC, a Nevada Limited Liability
21 Company, DOES 1-10, and ROE CORPORATIONS 1-
22 10 inclusive,

23 Defendants.

) CASE NO.:

) DEPT NO.: XXVIII

) **INITIAL APPEARANCE FEE DISCLOSURE**
) **(NRS CHAPTER 19)**

24 Pursuant to NRS Chapter 19, as amended by Senate Bill 106, filing fees are submitted for parties
25 appearing in the above entitled action as indicated below:

26 Robert G. Reynolds \$270.00
27 Reyco, LLC dba Diamanti Fine Jewelers \$ 30.00
28 **TOTAL REMITTED: \$300.00**

29 Dated this 5th day of April, 2017.

30 CHASEY LAW OFFICES

31 /s/ Peter Chasey

32 PETER L. CHASEY, ESQ.

33 Nevada Bar No. 007650

34 3295 N. Fort Apache Road, Suite 110

35 Las Vegas, Nevada 89129

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

ROBERT G. REYNOLDS and
DIAMANTI FINE JEWELERS, LLC

///

I.

PARTIES AND JURISDICTION

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

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

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

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

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

6. Defendant DOES 6-10 and ROE CORPORATIONS 6-10 are fictitious names referring to individuals and entities who caused or contributed to the damages suffered and incurred by Plaintiffs at the time of the events set forth in this Complaint. Plaintiffs will request leave of this Court to amend the Complaint to substitute the true names of these unknown parties when their true names and identities become known.

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

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

11.

COMMON FACTUAL ALLEGATIONS

A. Contingent Offer to Purchase Business and Due Diligence

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

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

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

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

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

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

///

///

1 15. At all times during Plaintiff Reynolds' due diligence, Defendant Tufenkjian, as the
2 Manager of Defendant Luxury Holdings, had actual knowledge of the business' true and accurate
3 taxable revenue, non-taxable revenue, assets, inventory, and customers.
4

5 16. During Plaintiff Reynolds' due diligence, Defendant Tufenkjian provided Plaintiff
6 Reynolds with compilation reports, Nevada Sales Tax Returns, and other documents supporting the
7 valuation of the business represented by Defendant Tufenkjian and Defendant Luxury Holdings.
8

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

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

19 19. During Plaintiff Reynolds' due diligence, Defendant Tufenkjian and Defendant Luxury
20 Holdings provided a list of 1122 people represented to be customers of the business.
21

22 20. During Plaintiff Reynolds' due diligence, Defendant Tufenkjian and Defendant Luxury
23 Holdings withheld and refused to provide Defendant Luxury Holdings' lease, but represented that
24 all fixtures, furniture and equipment (hereinafter "FF&E") were owned by Defendant Luxury
25 Holdings.
26

27 21. During Plaintiff Reynolds' due diligence, Defendant Tufenkjian and Defendant Luxury
28 Holdings agreed to sell all inventory to Plaintiff Reynolds at cost and without mark-up.

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

2 22. On about March 20, 2015, Plaintiffs purchased the business from Defendants for
3 \$395,000, excluding inventory.
4

5 23. On about March 23, 2015, Defendant Tufenkjian executed a Bill of Sale confirming
6 that Plaintiffs had purchased all of the business' inventory for \$300,691.23 apportioned as follows:
7

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

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

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

11 D. \$ 50,000.00 to Nazareth Tufenkjian (Defendant Tufenkjian's brother)
12

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

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

16 25. On or about March 25, 2015, Defendant Luxury Holdings assigned its rights and
17 obligations under the lease to Plaintiff Diamanti.
18

19 26. On or about March 25, 2015, Plaintiff Reynolds assumed Defendant Tufenkjian's
20 personal guaranty of the lease because the landlord required a new guarantor as a condition of the
21 lease assignment from Defendant Luxury to Plaintiff Diamanti.
22

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

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

FIRST CAUSE OF ACTION
Fraud / Intentional Misrepresentation

28. Plaintiffs repeat and incorporate paragraphs 1 through 27 of the Complaint herein.
29. Defendant Tufenkjian and Defendant Luxury Holdings both:
- A. knew the business' taxable revenue in 2014,
 - B. knew the business' non-taxable revenue in 2014,
 - C. knew the business' actual customer list,
 - D. knew the business did not hold title to the FF&E, and
 - E. knew the business' cost of inventory.
30. Defendant Tufenkjian and Defendant Luxury Holdings both:
- A. intentionally misrepresented the business' taxable revenue in 2014 by overstating the revenue by approximately 2.7 times in the Business Opportunity Summary, compilation reports, Nevada Sales Tax Returns, and other documents,
 - B. intentionally misrepresented the business' non-taxable revenue in 2014 by overstating the revenue by approximately 19 times in the Business Opportunity Summary, compilation reports, Nevada Sales Tax Returns, and other documents,
 - C. intentionally misrepresented the number of customers by providing a List of Customers, most of whom had never been a customer of the business,
 - D. intentionally misrepresented that the business owned the FF&E on the Bill of Sale and closing documents for the purchase and sale of the business, and
 - E. intentionally misrepresented the cost of inventory by overstating the cost of inventory and excluding outstanding sales taxes owed on the consignment inventory on the Bill of Sale dated March 24, 2015.

///

1 31. Defendant Tufenkjian and Defendant Luxury Holdings misrepresented these material
2 facts concerning the value of the business and the cost of the inventory to induce Plaintiff Reynolds
3 and Plaintiff Diamanti to purchase the business and inventory, to pay substantially more than the
4 true and actual value of the business, and to pay substantially more than the cost of the inventory.
5

6 32. Plaintiff Reynolds and Plaintiff Diamanti reasonably relied on the representations of
7 Defendant Tufenkjian and Defendant Luxury Holdings in deciding to purchase the business.
8

9 33. As a direct and proximate cause of Defendant Tufenkjian and Defendant Luxury
10 Holdings intentional misrepresentation of the value of the business, Plaintiff Reynolds and Plaintiff
11 Diamanti have suffered and continue to suffer damages in an amount to be proved at trial.
12

13 34. As a direct and proximate cause of Defendant Tufenkjian and Defendant Luxury
14 Holdings intentional misrepresentation of the value of the business, Plaintiff Reynolds and Plaintiff
15 Diamanti are entitled to a judgment for damages in an amount to be proved at trial.
16

17 35. As a direct and proximate cause of Defendant Tufenkjian and Defendant Luxury
18 Holdings intentional misrepresentation of the value of the business, Plaintiff Reynolds and Plaintiff
19 Diamanti are entitled to equitable relief rescinding the purchase of the business.
20

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

3 **SECOND CAUSE OF ACTION**
4 **Negligent Misrepresentation**

5 37. Plaintiffs repeat and incorporate paragraphs 1 through 36 of the Complaint herein.

6 38. Defendant Tufenkjian and Defendant Luxury Holdings both had a financial interest in
7 selling the business to Plaintiff Reynolds and Plaintiff Diamanti.
8

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

- 11 A. the business' taxable revenue in 2014,
12 B. the business' non-taxable revenue in 2014,
13 C. the business' customer list,
14 D. title to the FF&E, and
15 E. the business' cost of inventory.
16
17

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

20 41. Defendant Tufenkjian and Defendant Luxury Holdings induced Plaintiff Reynolds and
21 Plaintiff Diamanti to purchase the business and inventory due to Defendant Tufenkjian and
22 Defendant Luxury Holdings' representations concerning the value of the business and inventory.
23

24 42. As a direct and proximate cause of Defendant Tufenkjian and Defendant Luxury
25 Holdings' negligent misrepresentations concerning the value of the business and inventory, Plaintiff
26 Reynolds and Plaintiff Diamanti have suffered and continue to suffer damages in an amount to be
27 proved at trial.
28

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

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

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

V.

THIRD CAUSE OF ACTION
Breach of Contract

46. Plaintiffs repeat and incorporate paragraphs 1 through 45 of the Complaint herein.

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

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

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

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

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

VI.
FOURTH CAUSE OF ACTION
Exploitation

52. Plaintiffs repeat and incorporate paragraphs 1 through 51 of the Complaint herein.

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

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

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

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

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

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

59. Defendant Tufenkjian deceived and exploited Plaintiff Reynolds to deprive Plaintiff Reynolds of his money.

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

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

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

VII.

PRAYER FOR RELIEF

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

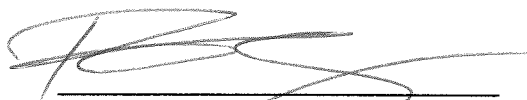
- A. An Order rescinding the purchase and sale agreement for the business,
- B. An award of damages sufficient to compensate Plaintiffs for the losses caused by Defendants' intentional misrepresentations,
- C. An award of damages sufficient to compensate Plaintiffs for the losses caused by Defendants' negligent misrepresentations,
- D. An award of economic damages sufficient to compensate Plaintiff Diamanti for the damages caused by Defendant Luxury Holdings' breaches of contract,

PRAYER FOR RELIEF (continued)

- E. An award of double damages to compensate Plaintiff Reynolds for his losses caused by Defendant Tufenkjian's exploitation,
- F. An award of damages sufficient to punish and make an example of Defendants' oppression, fraud, and malice,
- G. An award of attorneys' fees, costs, and interest pursuant to Nevada law, and
- H. Such other and further relief as this Court finds just and proper.

Dated this 25th day of July, 2017.

CHASEY LAW OFFICES



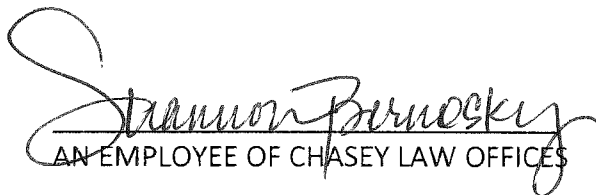
PETER L. CHASEY, ESQ.
Nevada Bar No. 007650
3295 N. Fort Apache Road, Suite 110
Las Vegas, Nevada 89129
Tel: (702) 233-0393 Fax: (702) 233-2107
email: peter@chaseylaw.com
Attorney for Plaintiffs
ROBERT G. REYNOLDS and
DIAMANTI FINE JEWELERS, LLC

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CERTIFICATE OF SERVICE

Pursuant to Rule 5(b) of the Nevada Rules of Civil Procedure, I hereby certify that on the
25th day of July, 2017, I served a true and complete copy of the foregoing **SECOND AMENDED
COMPLAINT** upon those persons designated by the parties in the E-Service Master List for the
above-referenced matter in the Eighth Judicial District Court eFiling System in accordance with the
mandatory electronic service requirements of Administrative Order 14-2 and the Nevada Electronic
Filing and Conversion Rules:

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


AN EMPLOYEE OF CHASEY LAW OFFICES

ROBERT G. REYNOLDS and
DIAMANTI FINE JEWELERS, LLC

///

I.

PARTIES AND JURISDICTION

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

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

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

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

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

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

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

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

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

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

6
7 II.

8 **COMMON FACTUAL ALLEGATIONS**

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

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

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

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

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

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

27 ///

28 ///

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14 **III.**

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

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

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

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

26 ///

27 ///

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

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

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

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

IV.

SECOND CAUSE OF ACTION
Negligent Misrepresentation

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

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

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

A. the business' taxable revenue in 2014.

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

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

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

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

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

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

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

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

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V.

THIRD CAUSE OF ACTION
Breach of Contract

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

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

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

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

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

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

VI.

FOURTH CAUSE OF ACTION
Exploitation

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

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

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

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

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

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

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

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

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

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

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

4 **VII.**

5 **PRAYER FOR RELIEF**

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

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

22 Dated this 1ST day of November, 2017.

23 CHASEY LAW OFFICES

24 

25 PETER L. CHASEY, ESQ.

26 Nevada Bar No. 007650

27 3295 N. Fort Apache Road, Suite 110

28 Las Vegas, Nevada 89129

Attorney for Plaintiffs

ROBERT G. REYNOLDS and

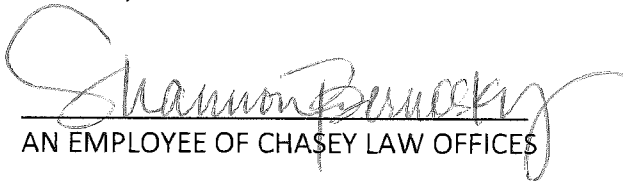
DIAMANTI FINE JEWELERS, LLC

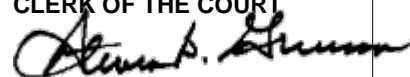
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CERTIFICATE OF SERVICE

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

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


AN EMPLOYEE OF CHASEY LAW OFFICES



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

DISTRICT COURT**CLARK COUNTY, NEVADA**

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

Plaintiff,

vs.

RAFFI TUFENKJIAN, an individual, and
LUXURY HOLDINGS LV, LLC, a Nevada
Limited Liability Company, GREAT WASH
PARK, LLC, a Nevada Limited Liability
Company d/b/a TIVOLI VILLAGE DOES 1-10,
and ROE CORPORATIONS 1-10 inclusive,

Defendant.

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

ANSWER TO THIRD AMENDED COMPLAINT

Defendants Raffi Tufenkjian (hereinafter "Tufenkjian") and Luxury Holdings LV, LLC (hereinafter "Luxury Holdings") by and through their attorneys of record, the law firm of Marquis Aurbach Coffing, hereby answers Plaintiffs' Third Amended Complaint as follows:

1. In answering Paragraph 1 of Plaintiffs' Third Amended Complaint, Tufenkjian and Luxury Holdings hereby admit Paragraph 1 in part as follows. Defendants admit that Robert G. Reynolds is an individual residing in Clark County, Nevada. They are without knowledge or information sufficient to form a belief as to Robert G. Reynolds's age, and thus, the same is denied. Admit that Robert G. Reynolds is the Organizer and Manager of Plaintiff Diamanti Fine Jewelers, LLC.

2. In answering Paragraphs 2, 3 and 4 of Plaintiffs' Third Amended Complaint, Tufenkjian and Luxury Holdings admit the allegations contained therein.

3. In answering Paragraphs 33, 34, 35, 36, 37, 38, 39, 40, 43, 44, 45, 46, 47, 48, 49, 53, 54, 55, 58, 59, 60, 61, 62, 63, 64, 65 and 66 of Plaintiffs' Third Amended Complaint, Tufenkjian and Luxury Holdings deny the allegations contained therein.

4. In answering Paragraphs 5, 6, 7, 8, 9, A, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, B, 23, 24, 25, C, 26, 27, 28, 29, D, 30, 32, 42, 51, 52 and 57 of Plaintiffs' Third Amended Complaint, Tufenkjian and Luxury Holdings are without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein, and therefore, deny the same.

5. In answering Paragraphs 31, 41, 50 and 56 of Plaintiffs' Third Amended Complaint, Tufenkjian and Luxury Holdings repeat and reallege each and every response thereto.

6. As to any remaining allegations not specifically responded to, Tufenkjian and Luxury Holdings deny the same.

AFFIRMATIVE DEFENSES

1. Luxury Holdings did not breach any contract.
2. Luxury Holdings fully performed the contract.
3. The misrepresentation claims, each of them, are barred because it was contractually agreed that plaintiffs did not rely on anything provided by defendants and relied solely upon their own independent investigation.

4. No were no false representations of material facts.
5. There was no intent to defraud.
6. Plaintiffs did not detrimentally rely on any misrepresentations, if any.
7. Plaintiffs have failed to assert claims against necessary and indispensable parties, meaning, no rescission can be granted.

8. No duty to plaintiffs was breached.

9. It was an arm-length transaction.

10. Offset.

11. Reynolds is not a real party in interest.

- 1 12. Reynolds suffered no loss.
- 2 13. Plaintiffs' damages, if any, are proximately caused by themselves and their
3 inability to run a business.
- 4 14. Comparative fault and contribution.
- 5 15. The due diligence period was open and provided Plaintiffs with an opportunity to
6 do due diligence, yet, they failed to make a reasonable inquiry or conduct due diligence.
- 7 16. The purchase contract provides that Plaintiff(s) shall, in the sole and absolute
8 discretion, may determine whether the business is acceptable and subsequently determined it was
9 acceptable and closed the transaction.
- 10 17. Plaintiffs were required to rely exclusively upon their own investigation.
- 11 18. Plaintiffs have failed to state a claim upon which relief may be granted.
- 12 19. Rescission is impossible because Plaintiffs have destroyed and mismanaged the
13 business, have failed to replace stock with quality pieces and have destroyed the reputation of
14 Diamanti Jewelers.
- 15 20. Pursuant to NRCP 11, as amended, all possible affirmative defenses may not have
16 been alleged herein, in so far as sufficient facts were not available after a reasonable inquiry
17 upon the filing of Tufenkjian and Luxury Holdings' Answer to Plaintiffs' Third Amended
18 Complaint; therefore, Defendant reserves the right to amend their answer to allege additional
19 affirmative defenses if subsequent investigations so warrant.
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PRAYER FOR RELIEF

WHEREFORE, Defendants pray for judgment against Plaintiffs as follows:

1. That Plaintiffs take nothing by way of its Third Amended Complaint and that the same be dismissed with prejudice;
2. For an award of reasonable attorney fees and costs of suit;
3. For a determination that Plaintiffs' suit is frivolous and intended to harass;
4. For interest from the date each attorney fee and cost invoice was paid; and
5. For any further relief as the Court deems to be just and proper.

Dated this 26th day of July, 2018.

MARQUIS AURBACH COFFING

By /s/ Christian T. Balducci
Terry A. Moore, Esq.
Nevada Bar No. 7831
Christian T. Balducci, Esq.
Nevada Bar No. 12688
10001 Park Run Drive
Las Vegas, Nevada 89145
Attorneys for Defendants
Tufenkjian and Luxury Holdings

CERTIFICATE OF SERVICE

I hereby certify that the foregoing **ANSWER TO THIRD AMENDED COMPLAINT** was submitted electronically for filing and/or service with the Eighth Judicial District Court on the 26th day of July, 2018. Electronic service of the foregoing document shall be made in accordance with the E-Service List as follows:¹

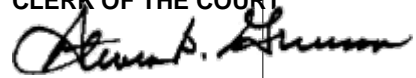
Chasey Law Offices	
Contact	Email
Peter Chasey	peter@chaseylaw.com
Shannon	shannon@chaseylaw.com

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

N/A

/s/ Cheryl Becnel
An employee of Marquis Aurbach Coffing

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



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

DISTRICT COURT

CLARK COUNTY, NEVADA

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

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

Plaintiffs,

vs.

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

Defendants.

DEFENDANTS' MOTION FOR SUMMARY JUDGMENT

MARQUIS AURBACH COFFING

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

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TABLE OF AUTHORITIES**CASES**

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<u>Bank of the West v. Valley Nat. Bank of Arizona,</u> 41 F.3d 471 (9th Cir. 1994)	21, 22
<u>Bank of West v. Valley Nat'l Bank of Ariz.,</u> 41 F.3d 471 (9th Cir. 1994)	20
<u>Barmettler v. Reno Air, Inc.,</u> 114 Nev. 441, 956 P.2d 1382 (1998)	19
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<u>Szilagyi v. Testa,</u> 99 Nev. 834, 673 P.2d 495 (1983)	32

1	<u>Vigortone AG Prods., Inc. v. PM AG Prods., Inc.,</u>	
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3	<u>Warner Theatre Assocs. Ltd. P’ship v. Metro. Life Ins. Co.,</u>	
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5	<u>Wood v. Safeway,</u>	
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1 Defendants Raffi Tufenkjian and Luxury Holdings LV, LLC (collectively
2 “Defendants”) by and through the law firm of Marquis Aurbach Coffing, hereby move for
3 Summary Judgment against each claim asserted by Plaintiffs Robert G. Reynolds and
4 Diamanti Fine Jewelers, LLC. This Motion is made and based upon the attached
5 Memorandum of Points and Authorities, all papers and pleadings on file herein, and any oral
6 argument allowed at the time of the hearing.
7

8 Dated this 10th day of August, 2018.

MARQUIS AURBACH COFFING

9
10 By /s/ Christian T/ Balducci
11 Terry A. Moore, Esq.
12 Nevada Bar No. 7831
13 Christian T. Balducci, Esq.
14 Nevada Bar No. 12688
15 10001 Park Run Drive
16 Las Vegas, Nevada 89145
17 Attorneys for Defendants

18 **NOTICE OF MOTION**

19 You and each of you, will please take notice that the DEFENDANTS’ MOTION
20 FOR SUMMARY JUDGMENT will come on regularly for hearing on the 13 day of
21 **SEPTEMBER**, 2018, at the hour of 9:00A .m., or as soon thereafter as
22 counsel may be heard, in Department XIII in the above-referenced court.

23 Dated this 10th day of August, 2018.

24 MARQUIS AURBACH COFFING

25 By /s/ Christian T. Balducci
26 Terry A. Moore, Esq.
27 Nevada Bar No. 7831
Christian T. Balducci, Esq.
Nevada Bar No. 12688
10001 Park Run Drive
Las Vegas, Nevada 89145
Attorneys for Defendants

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

This is a classic case of buyer's remorse. In March of 2015, Plaintiff Diamanti Fine Jewelers, LLC ("**Diamanti**") purchased the Diamanti jewelry store located in Tivoli Village ("**the Jewelry Store**") from Luxury Holdings LV, LLC ("**Luxury Holdings**"). After operating the business for over two years, Diamanti and its owner – Plaintiff Robert Reynolds ("**Reynolds**") – determined that they regretted the purchase and filed this lawsuit against Luxury Holdings and its manager, Raffi Tufenkjian ("**Raffi**"), in an effort to rescind the years-old transaction based upon fraud.¹

Discovery is now closed and there is no dispute concerning the operative facts. Discovery revealed the facts underlying Reynolds allegations are nothing more than a delusional reality concocted solely to form the basis of this frivolous lawsuit. Indeed the fabricated nature of Reynolds' story became clear during his deposition. Specifically, Reynolds admitted that he takes no issue with the cost of the inventory acquired (even though that is one of his core claims) and readily admitted that he contractually agreed that he relied on his own due diligence investigation (thus eliminating the element of reliance required for his fraud claim). As his case fell apart more and more with each question, Reynolds resorted to *ad hominem* attacks against Raffi and even counsel. Specifically, Reynolds said that the examiner's questions were "BS" and "bullshit," and then unilaterally concluded that Raffi was a "natural-born liar."

Discovery, however, has shown that the only lie in this case has been this lawsuit from its inception. This matter is set for a bench trial, and consequently, the arguments and facts relating to these issues will not be any different than what is set forth within the briefing on this motion. Based on the undisputed facts, Raffi and Luxury Holdings are

¹ Reynolds apparently forgot what company he bought the business with because he originally filed suit in the name of the wrong company.

entitled to judgment as a matter of law. Summary judgment, therefore, should be entered against each of Reynolds and Diamanti's claims, and in favor of Raffi and Luxury Holdings.

II. PROCEDURAL AND FACTUAL OVERVIEW

To provide the Court clarity in considering the undisputed facts and legal arguments discussed in this brief, this factual section is organized as follows: (A) an overview of the claims asserted in the Third Amended Complaint, (B) a narrative of the factual background giving rise to this dispute citing to undisputed documents and (for the most part) Reynolds' deposition testimony, and (C) a summary of the undisputed facts which apply to the claims.

A. OVERVIEW OF THE CLAIMS

<u>Claim/By</u>	<u>Against</u>	<u>For</u>
Intentional Misrepresentation by both Plaintiffs	Raffi & Luxury Holdings	<ul style="list-style-type: none">• The Jewelry Store's revenues did not match the business summary marketing brochure;²• Failing to convey ownership of certain furniture, fixtures, and equipment because the landlord owned such;• Misrepresenting cost of the inventory;• A customer list that included the identity of people that previously had not purchased from the store;• Violation of the non-compete provision in the operative transactional documents.
Negligent Misrepresentation by both Plaintiffs	Raffi & Luxury Holdings	<ul style="list-style-type: none">• The Jewelry Store's revenues did not match the business summary marketing brochure;• Failing to convey ownership of certain furniture, fixtures, and equipment because the landlord owned such;• Misrepresenting cost of the inventory;• A customer list that included the identity of people that previously had not purchased from the store;• Violation of the non-compete provision in the operative transactional documents.

² Each of these allegations are specified in the Third Amended Complaint.

<u>Claim/By</u>	<u>Against</u>	<u>For</u>
Breach of Contract by Diamanti	Luxury Holdings	<ul style="list-style-type: none"> The Jewelry Store's revenues did not match the business summary marketing brochure; Failing to convey ownership of certain furniture, fixtures, and equipment because the landlord owned such; Misrepresenting cost of the inventory; A customer list that included the identity of people that previously had not purchased from the store; Violation of the non-compete provision in the operative transactional documents.
Elder Abuse by Reynolds	Raffi & Luxury Holdings	<ul style="list-style-type: none"> The Jewelry Store's revenues did not match the business summary marketing brochure; Failing to convey ownership of certain furniture, fixtures, and equipment because the landlord owned such; Misrepresenting cost of the inventory; A customer list that included the identity of people that previously had not purchased from the store; Violation of the non-compete provision in the operative transactional documents.

In essence, the claims and arguments supporting each, are duplicative of one another.

B. FACTUAL BACKGROUND

1. The Parties

The essence of this case is that Plaintiffs allege they were defrauded and duped into buying Defendant's business. As such, it is helpful to consider the level of sophistication of the parties, which here, is incredibly high.

a. Plaintiff Robert Reynolds

For much of his career, Robert Reynolds managed multi-million dollar construction projects, the largest of which had a \$300 – \$400 million per month budget. See Reynolds Deposition at pgs. 12 – 13, **Exhibit A**. Upon retiring from construction, Reynolds entered the hotel industry by purchasing a hotel in South Africa. Id. at pgs. 14 – 15. Reynolds

1 purchased that hotel in 1995 for \$3 million, and then he sold it in 2008 for \$18 million. Id.
2 On another occasion, Reynolds built a theater connected to a shopping mall. Id. at pgs. 23 –
3 25. Reynolds sold that theater for \$3 million. Id. at pg. 30, ll. 15 – 19. Presently, Reynolds
4 is presently one of the largest stakeholders in a shopping mall in South Africa, for which he
5 paid \$4 million. Id. at pg. 28.

6 In all of the above transactions, Reynolds engaged in extensive due diligence to
7 determine the viability and profitability of each transaction. “Due Diligence” is a concept
8 Reynolds is intimately familiar with.³

9 Reynolds admitted that he is very familiar with contracts. Id. at pg. 21. Reynolds is
10 also familiar with corporate formation, and the concept that a company is separate and
11 distinct from its individual owners/shareholders. Reynolds repeatedly acknowledged his
12 understanding of the difference between a person and an entity in his deposition:

13 Mr. Balducci: Just trying to understand. Some people don’t realize that
14 an LLC is different than them, but it seems to me you’re
15 familiar with the concept that you are not a corporation.
Would that be a fair statement?

16 Mr. Reynolds: Yes. Yes.

17 Id. at pg. 32, ll. 24 – pg. 33, ll. 3.

18 **b. Plaintiff Diamanti**

19 Diamanti is an entity Reynolds acknowledged he formed for the purpose of acquiring
20 the Jewelry Store in question. Id. at pg. 37, ll. 17 – pg. 38, ll. 20.

21 **c. Defendant Luxury Holdings LV, LLC**

22 Luxury Holdings is the entity that sold the Jewelry Store in question. See
23 Declaration of Raffi ¶¶ 2 – 7, **Exhibit B.**

24
25
26 ³ For example, he hired an independent bookkeeper to review the financial records of the hotel, and
27 physically moved to the jurisdiction where the hotel was located to get a sense of its customers and
operations. Id. at pgs. 16 – 18.

1 Sunbelt Business Brokers served as Luxury Holdings' business broker for the
2 Jewelry Store.

3 **d. Defendant Raffi**

4 Raffi is the manager of Luxury Holdings. Id. ¶ 5.

5 **2. The Underlying Transaction and Its History**

6 **a. Reynolds Looks to Buy a Business**

7 Toward the latter portion of 2014, Reynolds desired to purchase a business here in
8 Las Vegas, Nevada, and specifically was looking to buy a business that was located in Tivoli
9 Village (specifically situated at the northwest corner Rampart Blvd. and Alta Dr). One such
10 business was the Diamanti jewelry store ("**the Jewelry Store**"). After sending an inquiry,
11 Reynolds received an email from Diamanti's business broker (Sunbelt Business Brokers) on
12 January 5, 2015. See Email containing Brochure, **Exhibit Q**. This email included a
13 business summary marketing brochure. Id. The business summary marketing brochure
14 received by Reynolds included the following disclaimers:

15 ○ "During the due diligence process, it is the responsibility of the
16 Buyer, with the aid of an accountant and/or attorney, if necessary, to independently
17 verify all representations which have been made by the Seller, particularly as they
18 relate to the adjustments made to the profit and loss statements[.]" Marketing
19 Brochure at pg 4, **Exhibit N**;

20 ○ "Readers of this report should understand that statements are not
21 guarantees of value or results[.]" id.;

22 ○ "Sunbelt Business Brokers cautions readers not to place undue
23 reliance on any forward-looking statements or projects that may have been used in
24 the analysis of value[.]" id.;

25 ○ "It is the responsibility of the Buyer to verify all representations and
26 to make a final purchase decision based on their own independent investigation[.]"
27 id.;

○ "The books are kept in house using a sophisticated register point of
sale software[.]" id. at pg. 16;

○ "Projection for the Year Ended December 2014[.]" id. at pg. 18;

○ "The Seller's profit/loss statement *projected* out for 2014 was used in
the computation[.]" id. at pg. 22 (emphasis added);

○ "During the due diligence process, it is the responsibility of the
Buyer, with the aid of an accountant and/or attorney, if necessary, to independently
verify all representations which have been made by the Seller, particularly as they
relate to the adjustments made to the profit and loss statements[.]" id. at pg 41;

1 ○ “Readers of this report should understand that statements are not
2 guarantees of value or results[.]” id.;

3 ○ “Sunbelt Business Brokers cautions readers not to place undue
4 reliance on any forward-looking statements or projects that may have been used in
5 the analysis of value[.]” id.;

6 ○ “It is the responsibility of the Buyer to verify all representations and
7 to make a final purchase decision based on their own independent investigation[.]”
8 id.

9 Essentially, the brochure is very clear that any buyer must perform their own independent
10 investigation into the business to determine if they wanted to purchase it, if it made financial
11 sense to do so, and, is very clear that any financial numbers were not to be relied upon by
12 the buyer.⁴

13 3. Reynolds Offers to Purchase the Jewelry Store

14 Reynolds thereafter made an offer to the Jewelry Store on January 12, 2015. See
15 Offer to Purchase and Sale of Business Assets, **Exhibit C**. This was approximately one
16 week after he received the marketing brochure.

17 The offer was extended to the Jewelry Store’s owner, Luxury Holdings. The offer
18 was made on behalf of “Robert G. Reynolds or entity to be formed by purchaser....” Id. at
19 pg. 1. Acknowledging the preliminary nature of the offer, the offer documentation stated
20 that “Except for express warranties made in this Contract, the Closing of this transaction
21 shall supersede this Contract.” Id. ¶ 20 (emphasis added).

22 4. A Contract is Formed

23 Luxury Holdings’ manager, Raffi, submitted a counter-offer that did not materially
24 change the offer’s terms, and that counter-offer was accepted on January 13, 2015. Id.; see
25 also Counter-Offer, **Exhibit D**. This was a true arms-length transaction. See Declaration of
26 Raffi ¶ 34, **Exhibit B**. Raffi did not know Reynolds, and Reynolds did not know Raffi. Id.

27 Luxury Holdings was obligated to pay a 10% commission on the sale of the Jewelry
Store to its business broker, Sunbelt Business Brokers. See id. ¶ 7, **Exhibit B**. This also

⁴ Reynolds acknowledged these disclaimers in his deposition.

1 included a 10% commission on any finished retail jewelry owned by Luxury Holdings LV,
2 LLC that Reynolds opted to purchase in addition to the business itself. Id.

3
4 **5. Reynolds Forms and Confirms that Diamanti is the Purchaser of**
the Jewelry Store

5 In furtherance of the acquisition of the Jewelry Store, Reynolds formed a limited
6 liability company named Diamanti Fine Jewelers, LLC. See Secretary of State Print-Out for
7 Diamanti Fine Jewelers LLC, **Exhibit E**. Reynolds was, and still is, the manager of
8 Diamanti. Id. As part of the purchase transaction, Diamanti executed a certificate of limited
9 liability company status and authority. This document confirmed that Diamanti – and no
10 one else – was purchasing the Jewelry Store, and that Reynolds had authority to execute
11 documents on behalf of the LLC. See Certificate of Authority, **Exhibit F**. In the Certificate
12 of Authority, Reynolds confirmed that he was also the 100% owner of Diamanti. Id.

13 Notably, in executing that document, Reynolds admitted that Diamanti – and only
14 Diamanti – was the buyer in the transaction:

15 Mr. Balducci: All right, we will go on to the next one. This is the
16 Certificate of Limited Liability Company Status and
Authority of Diamanti Fine Jewelers, LLC. Is that a
correct statement?

17 Mr. Reynolds: Yes.

18 Mr. Balducci: And you'll see on the second page this is signed by you
as the member of that LLC?

19 Mr. Reynolds: Yes.

20 Mr. Balducci: And this document, you're verifying that you are acting
21 on behalf of the company, and everything in relation to
this transaction is for the company Diamanti Fine
Jewelers, LLC?

22 Mr. Reynolds: Yes.

23 See Deposition of Mr. Reynolds at pg. 139, ll. 20 – pg. 140, ll. 7, **Exhibit A**.

24 **6. Due Diligence**

25 During discovery, and particularly during Reynolds' deposition, the Defendants
26 attempted to learn what sort of due diligence (if any) Plaintiffs engaged in and whether there
27 were any conversations between Reynolds and any of the Defendants that formed a part of

1 his due diligence or his decision to purchase the Jewelry Store. For the most part, Reynolds'
2 answers were less than illuminating and consisted of *ad hominem* attacks on Raffi:

3 Mr. Balducci: Prior to submitting this offer, how many conversations
4 had you had with Raffi?

5 Mr. Reynolds: If I had one, it was too damn many. I don't know.

6 See Deposition of Mr. Reynolds at pg. 130, ll. 9 – 11, **Exhibit A**.

7 Although Reynolds had ample opportunity to do whatever due diligence he wanted,
8 he refused to ever specifically identify any due diligence that he did prior to closing the
9 transaction. Instead, he just kept saying that Raffi "is a natural-born liar" without ever pin-
10 pointing anything specific that Raffi ever did or failed to do. Id. at pg. 72, ll. 9 – 17. When
11 asked about specific conversations he may have had with the Defendants, Reynolds
12 obfuscated by arguing "anything your client [Raffi and Luxury Holdings] did was false." Id.
13 at pg. 80, ll. 1. When Defendants asked about the revenues of the business today to
14 determine whether the company was making a profit or sustaining a loss, Reynolds said the
15 question was a "bunch of BS...." Id. at pg. 78, ll. 18 – 24.

16 This pattern of refusing to answer even rudimentary questions while resorting to
17 expletives was the norm for Reynolds. For example, a number of emails produced in this
18 case from the due diligence period included Reynolds' son on the cc line. Reynolds' son
19 was an attorney here in Las Vegas. Reynolds claimed that the emails (which his son was
20 cc'ed on) were "false" and that the line of questioning was "bullshit." Id. at pg. 75, ll. 14 –
21 pg. 77, ll. 6. When asked about his son's involvement, Reynolds testified that his lawyer
22 son did not write up any of the transactional documents and did not assist him during due
23 diligence:

24 Mr. Balducci: Did your son assist you, the lawyer son in this
25 transaction, in any way, shape, or form?

26 Mr. Reynolds: No.

27 Mr. Balducci: He didn't write up any of the documents or review them
previously?

1 Mr. Reynolds: No.

2 See id. at pg. 74, ll. 19 – ll. 24.

3 Reynolds then testified to the exact opposite when presented with a Bill of Sale that
4 his son prepared and wrote:

5 Mr. Balducci: So tell me about this document. It's an inventory. Who
wrote it up?

6 Mr. Reynolds: My son.

7 Mr. Balducci: The lawyer?

8 Mr. Reynolds: Yes.

9 See id. at pg. 74, ll. 19 – ll. 24.

10 After putting Reynolds indiscernible testimony aside, the undisputed fact remains
11 that Reynolds had access to *everything* he could have ever wanted prior to electing to
12 consummate his purchase of the business. Whenever he went to the Jewelry Store,
13 Reynolds was provided access to the Jewelry Store's computer, which stored all of the
14 financials *specific* to the Jewelry Store on its point-of-sale system. See Declaration of Raffi
15 ¶¶ 12 – 17, **Exhibit B**. Reynolds was allowed limitless amounts of time with the computer
16 and the information stored on it. Id. ¶ 17. He also had full and complete access to all
17 physical sales receipts. Id. ¶ 13. Reynolds was provided with unfettered access to this
18 information as part of his due diligence.

19 More importantly, Reynolds testified that he had a full opportunity to review the
20 financials of the Jewelry Store, and in fact, that he did review the financials of the Jewelry
21 Store and even compared them to the general sales and use tax forms. See Deposition of
22 Reynolds at pg. 112, ll. 1 – 21, **Exhibit A**. In his review, he realized that the general sales
23 and use tax forms reported different figures than the Computer:

24 Mr. Balducci: And did you do anything to independently verify the
information on the sales and use reports?

25 Mr. Reynolds: Yeah, I tried. I tried to cross-reference them with the
point of sales.

26 Mr. Balducci: Was this during due diligence that you're doing this or
27 after?

1 Mr. Reynolds: All during. All during. Before, after, still.

2 Mr. Balducci: What did you learn when you reviewed these during the
3 due diligence by comparing the sales and use to the point
4 of sale?

5 Mr. Reynolds: That the numbers are everywhere.

6 Mr. Balducci: So during the due diligence period, you understood that
7 the numbers were everywhere?

8 Mr. Reynolds: Yes.

9 Mr. Balducci: And did that raise an alarm?

10 Mr. Reynolds: Yes.

11 Mr. Balducci: But you decided to proceed forward and close the
12 transaction anyway?

13 Mr. Reynolds: Yes. Because the - -

14 Mr. Balducci: Why don't we proceed to DEFTS-815 in that particular
15 business summary.

16 See Deposition of Reynolds at pg. 112, ll. 1 – 21, **Exhibit A**.

17 This was completely true. The Computer had financial information *specific* to the
18 Jewelry Store, whereas the sales and use forms included any and all sales run under Luxury
19 Holdings, regardless of whether they were made at the Jewelry Store or at a different
20 location elsewhere. Regardless, Reynolds did not rely on the sales and use general forms at
21 all and was fully aware of the differences in the joint forms and the Jewelry Store's sales and
22 revenues. Indeed, the end of the day, Reynolds was ultimately comfortable and satisfied
23 enough with the results of his due diligence that he proceeded to close the transaction.⁵

24 **7. The Transaction Closes on March 24, 2015**

25 The transaction for the Jewelry Store closed. It is undisputed that the parties to the
26 escrow and closing document ("the Closing Agreement") were Diamanti and Luxury
27 Holdings. See Closing Agreement, **Exhibit I**. Reynolds signed as manager of Diamanti,
and Raffi signed as manager of Luxury Holdings. Id. at pg. 1. Reynolds testified that he

⁵ There was one 30-day extension of escrow. The additional time was needed because Reynolds was wiring money from out of the country.

1 was satisfied with everything and ultimately chose to close the transaction (while at the
2 same time still resorting to *ad hominem* attacks):

3 Mr. Balducci: That's fine. So you owned a hotel; you've got an
4 ownership interest in a shopping mall; you owned a
5 theater; you sold the hotel for \$18 million. You
6 understand this stuff.

7 If you were dissatisfied with what you say, isn't it true
8 that you could have cancelled the transaction at any time
9 prior to February 24th and got your \$10,000 deposit
10 back?

11 Mr. Reynolds: Yes.

12 Mr. Balducci: You were satisfied with what you had seen, and you
13 entered the amendment allowing the \$10,000 to be
14 released in exchange for a 30-day extension on escrow?

15 Mr. Reynolds: Yes.

16 Mr. Balducci: And if you were dissatisfied with anything that you had
17 seen and asked for and didn't get it prior to closing, you
18 could have cancelled. You just would have lost your
19 \$10,000?

20 Mr. Reynolds: At that time.

21 Mr. Balducci: So on the day of closing, you were completely satisfied
22 with everything you had seen and heard?

23 Mr. Reynolds: At that time.

24 Mr. Balducci: So now the only time you're not happy about it is after
25 the fact when the company is not making money?

26 Mr. Chasey: Objection, misstates his testimony.

27 Mr. Reynolds: I don't understand that, no. The - - what I'm objecting to
is that your client is a natural-born liar

28 See Deposition of Reynolds at pg. 71, ll. 17 – pg. 72, ll. 14, **Exhibit A.**

29 **a. The Contract's Assignment Provision**

30 Paragraph 14 of the Closing Agreement takes into account the fact that Diamanti was
31 not formed at the time of the offer. To account for this, ¶ 14 is a ratification and assignment
32 provision, which states:

33 This transaction is subject to the Purchase Agreement dated January 13, 2015
34 including all amendments, attachments, exhibits, and addendums
35 respectively, attached hereto and made a part hereof. Purchase Agreement is
36 hereby ratified to indicate Diamanti Jewelers LLC a Nevada Limited
37 Liability Company, as Buyer, with all rights, privileges, responsibilities and

1 duties, including but not limited to any deposited funds, all of which are
2 hereby assigned and such assignment all of which are hereby accepted by
Buyer.

3 Id. ¶ 14.

4 To further confirm the assignment to Diamanti, Reynolds executed the Closing
5 Agreement on a signature block which confirmed it was done “As to Section 14,
6 Assignment.” Id. at pg. 6. In his deposition, Reynolds admitted to the assignment and
7 agreed that he did not have a personal right to any of the proceeds held in escrow:

8 Mr. Balducci: And so what this is - - just trying to get - - you would
9 agree with me that you did not have a right personally to
any of that once you signed this agreement with this
paragraph 14?

10 Mr. Reynolds: Yes.

11
12 See Declaration of Reynolds at pg. 138, ll. 22 – pg. 139, ll. 1, **Exhibit A**; see also id. at pg.
13 137, ll. 18 – pg. 139, ll. 1.

14 **b. The Inventory**

15 Diamanti purchased all of Luxury Holdings’ inventory. See Declaration of Raffi ¶
16 18, **Exhibit B**. In his deposition, Reynolds admitted that he takes no issue with the
17 “\$134,253.44 paid for the jewelry products, rings, watches, diamonds, and other fine jewelry
18 products.” See Deposition of Reynolds at pg. 158, ll. 17 – ll. 23, **Exhibit A**; see also id. pgs.
19 157 – 158. In his words, “We counted it, I paid for it. End of story.” Id. at pg. 158, ll. 2 –
20 4; see also Bill of Sale, **Exhibit J**. The Bill of Sale identifies how the inventory sales price
21 was calculated as between goods actually owned by Luxury Holdings and goods actually
22 owned by vendors that provided the product on consignment (which Diamanti chose to buy
23 outright). Id.

24 **c. The Contractual Non-Reliance Provisions**

25 In two separate contractual documents, the purchaser of the Jewelry Store – first
26 Reynolds and then Diamanti – agreed that they would solely rely upon their own
27 investigation in proceeding forward with the purchase and closing of the Jewelry Store.

1 (1) Non-Reliance Provisions in the Offer to Purchase

2 First, in the initial offer to purchase: "... PURCHASER has relied solely upon their
3 personal examination of the business in making this Offer" See Offer to Purchase and
4 Sale of Business Assets ¶ 12, **Exhibit C**. Paragraph 15 of that Offer further states it
5 "supersedes and replaces any and all prior negotiations, *representations*, warranties,
6 understandings or contracts between the parties." Id. (emphasis added).

7 (2) Non-Reliance Provisions in the Closing Contract

8 The Contract at Closing also included a very specific non-reliance, no-representation
9 provision:

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

15 See Closing Agreement at bates DEFTS 226 (last paragraph above bold font), **Exhibit I**.
16 (emphasis added).

17 (3) Reynolds' Admission

18 Reynolds admitted that he relied solely on his own investigation, and nothing else:

19 Mr. Balducci: Thank you.

20 Turn to DEFTS 226. All right. There is - - one of the
21 final paragraphs right above the bold one says, "The
22 parties hereto agree that no representations have been
made by either party, or agent/broker if any, other than
those specifically set forth in this agreement and the
same agreements."

23 Do you agree with me that's what that first sentence says
in that particular paragraph.

24 Mr. Reynolds: Yes.

25 Mr. Balducci: And you signed and agreed to that in this contract?

26 Mr. Reynolds: Yes.

27 Mr. Balducci: And then the same would hold true with the next
sentence in that paragraph?

1 Mr. Reynolds: Yes.

2 See Deposition of Reynolds at pg. 139, ll. 2 – 17, **Exhibit A**.

3 Other documents were signed at closing. On each and every document, Diamanti
4 signed as the Buyer. See Other Closing Documents, **Exhibit K**. Thus, it's undisputed that
5 Diamanti was the Buyer.

6 **d. The Lease Assignment and the Landlord's**
7 **Acknowledgment of the Assignment of the Furniture,**
8 **Fixtures, and Equipment**

9 As part of closing, the lease with Tivoli Village was assigned from Luxury Holdings
10 to Diamanti. See Lease and Guaranty Assignment, **Exhibit L**. As part of that assignment,
11 Raffi held a contingent liability under a personal guaranty for one additional year, and
12 Reynolds became an assignee guarantor. Id. Moreover, the assignment confirmed the
13 transfer all of the furniture, fixtures, and equipment in the leased premises from Luxury
14 Holdings to Diamanti. Id. at Recital ¶ 5. The landlord executed this assignment, thus
15 confirming the accuracy of the statements contained within ¶ 5.

16 **e. Raffi Does Not Compete**

17 After selling the Jewelry Store, Raffi got out of the jewelry business entirely. See
18 Declaration of Raffi ¶ 26, **Exhibit B**. Discovery has closed and there has been nothing
19 produced in this case to contradict this fact.

20 **f. The Customer List is Provided**

21 During its time operating the Jewelry Store, Luxury Holdings maintained a customer
22 list, which included contact information for each person that had purchased a good,
23 expressed interest in jewelry, or left a business card or contact information. Id. ¶ 32 – 33.
24 The Customer List was maintained on the Computer, which Diamanti owned after Closing.

25 **C. THIS LAWSUIT**

26 This lawsuit was ultimately filed in or around April of 2017, more than two years
27 after the transaction's closing. Prior to serving their lawsuit, Plaintiffs did not raise any of
the issues they now complain about and never even sent a demand. Initially, Plaintiffs even

1 forgot what company purchased the Jewelry Store as the case was incorrectly filed in the
2 name of Reyco, LLC. See Original Complaint, **Exhibit M**. The Complaint was then subject
3 to a number of motions to dismiss that addressed standing and Plaintiffs failure to include
4 the landlord.

5 Notably, despite the Court's prior admonitions (and court order) to Plaintiffs that
6 they needed to bring the landlord into the case, Plaintiffs have never required the landlord to
7 file an answer or otherwise appear in the case.

8 **D. SUMMARY OF UNDISPUTED FACTS**

9 Given the volume of facts, this section is a summary of the salient, undisputed facts
10 that apply to each of the claims asserted by Plaintiffs:

11 • The business summary marketing brochure informed the reader that it was
12 based on forward looking financial projections, informed the reader to do its own due
13 diligence, and disclaimed reliance upon any of its contents. Marketing Brochure at pgs. 4,
14 16, 18, 22, 41, **Exhibit N**.

15 • Reynolds testified that he read and understood the disclaimers. See
16 Deposition of Reynolds at pgs. 101 – 119, **Exhibit A**.

17 • When Reynolds made the initial offer to purchase the business in either his
18 personal name or the name of an assignee, he contractually agreed that he relied solely on
19 his own examination of the business, and nothing else: "... PURCHASER has relied solely
20 upon their personal examination of the business in making this Offer" See Offer to
21 Purchase and Sale of Business Assets ¶ 12, **Exhibit C**.

22 • Plaintiffs also agreed that the Closing of the transactions would supersede the
23 Offer, with the exception of express warranties, such as the non-reliance provision: "Except
24 for express warranties made in this Contract, the Closing of this transaction shall supersede
25 this Contract." Id. ¶ 20 (emphasis added).

26 • It is unclear how, or even if, Plaintiffs can obtain any rescission related relief
27 due to their failure to actually bring the landlord into the lawsuit.

1 • Reynolds engaged in due diligence, which involved his review of the Jewelry
2 Store's financials on the Computer's point of sale system that he had unfettered access to.
3 See Declaration of Raffi at ¶¶ 12 – 17; see also Declaration of David Tufenkjian, **Exhibit H**.

4 • Reynolds was aware he could have cancelled the deal at any time. See
5 Deposition of Reynolds at pg. 71, ll. 17 – pg. 72, ll. 14, **Exhibit A**.

6 • In reviewing the financials, Reynolds was aware that the Jewelry Store's
7 numbers did not match the Sale and Use tax forms, which were larger because they were
8 joint tax submittals. See id. at pg. 112, ll. 1 – 21, **Exhibit A**.

9 • However, Reynolds was satisfied with the information on the Computer and
10 his own due diligence, and chose to close the transaction. Id.

11 • Before closing, Reynolds assigned the entire transaction to his entity,
12 Diamante. Closing Agreement ¶ 14, **Exhibit I**.

13 • At closing, Diamanti contractually agreed that (i) it performed its own
14 investigation, (ii) that no representations were made, (iii) that the business' future
15 performance would be based on its own resources and labors, and thus, (iv) it relied on
16 nothing from the Seller. See Closing Agreement at bates DEFTS 226 (last paragraph above
17 bold font), id.

18 • Reynolds agreed that he takes no issue with the price he paid for the
19 inventory, and in fact did agree to that price. See Deposition of Reynolds at pg. 158, ll. 17 –
20 ll. 23, **Exhibit A**; see also id. pgs. 157 – 158; id. at pg. 158, ll. 2 – 4.

21 • There is no evidence that Raffi ever re-entered the Jewelry Business in Las
22 Vegas, Nevada after closing. See Declaration of Raffi ¶ 26, **Exhibit B**.

23 • The landlord confirmed that the furniture, fixtures, and equipment within the
24 leased premises transferred from Luxury Holdings to Diamanti, precisely as agreed to in the
25 Purchase Agreement. See Lease and Guaranty Assignment at Recital ¶ 5, **Exhibit L**.

26 • No provision of the any of the transactional documents was breached –
27 Diamanti received a fully functioning business.

- Reynolds waited more than two years before filing this suit.

III. LEGAL STANDARD FOR MOTION FOR SUMMARY JUDGMENT

Summary judgment is appropriate where no genuine issue of material fact remains and the moving party is entitled to judgment as a matter of law. Wood v. Safeway, 121 Nev. 724, 729, 121 P.3d 1026, 1029 (2005). The ultimate purpose of summary judgment “is to avoid a needless trial....” McDonald v. Alexander, 121 Nev. 812, 815, 123 P.3d 748, 750 (2005) (internal citations and quotations omitted). To overcome this motion, Plaintiffs cannot rest on “the gossamer threads of whimsy, speculation, and conjecture[;]” and must instead set forth evidence by “affidavit or otherwise” that creates a genuine dispute as to the material facts of this matter. Id. at 732, 121 P.3d at 1031.

IV. LEGAL ARGUMENT

The undisputed facts in this case require judgment as a matter of law. The misrepresentation claims fail for a host of reasons, including the undisputed fact that the buyer contractually agreed it did not rely on anything except for its own investigation, thereby eviscerating the necessary element of reliance. Even looking past that, the undisputed facts demonstrate the lack of merit falsity of the allegations lodged by Plaintiffs.

Next, the breach of contract claim fails because there was and is no breach. Diamanti received the business and its inventory, and then operated the business without complaint for 25 months before filing this frivolous suit.

Last, and as a broader issue, Reynolds is not a proper party to this case. Any and all rights he possessed were admittedly assigned to his company, Diamanti. For that reason, the breach of contract,⁶ misrepresentation, and fraud claims alleged by him are subject to summary judgment as a matter of law. The elder abuse claim likewise fails as Reynolds cannot establish the elements necessary to sustain that claim.

⁶ While it is believed that Reynolds is not asserting a claim for breach of contract, ¶ 54 of the Third Amended Complaint refers to “Reynolds’ due diligence....”

1 **A. SUMMARY JUDGMENT IS REQUIRED AGAINST THE**
2 **MISREPRESENTATION CLAIMS**

3 Claims for intentional and negligence misrepresentation both require that the
4 plaintiff plead and prove he or she justifiably relied on the misrepresentation in question.
5 Lubbe v. Barba, 91 Nev. 596, 540 P.2d 115 (1975) (outlining elements of intentional
6 misrepresentation); Barmettler v. Reno Air, Inc., 114 Nev. 441, 449, 956 P.2d 1382, 1387
7 (1998) (providing that one who, without exercising reasonable care or competence,
8 “supplies false information for the guidance of others in their business transactions” is liable
9 for “pecuniary loss caused to them by their *justifiable reliance* upon the information”
10 (emphasis added)). “Circumstances of mere suspicion will not warrant the court in coming
11 to the conclusion that a fraud has been committed.” Gruber v. Baker, 20 Nev. 453, 23 P.
12 858, 865 (1990). When one element of a claim fails, so, too, does the entire claim.

13 According to Reynolds and Diamanti, both Luxury Holdings and Raffi made
14 intentional and negligent misrepresentations concerning the following:

- 15 • The Jewelry Store’s revenues did not match the business summary marketing
- 16 brochure;
- 17 • Ownership of the furniture fixtures, and equipment;
- 18 • The cost of the inventory;
- 19 • A customer list;
- 20 • The non-compete provision in the operative transactional documents.

21 According to Reynolds, he relied on the business summary marketing brochure:

22 Mr. Balducci: And this [the business summary marketing brochure] is
23 the summary that you’re saying in this case you relied
24 on?

25 Mr. Reynolds: Yes.

26 See Deposition of Reynolds at pg. 117, ll. 18 – 20, **Exhibit A**.
27

1 Here, these claims fail because (1) it was contractually agreed that the parties would
2 not rely upon any representations of the other, and instead, would rely solely upon their own
3 investigation thereby eliminating the reliance element required for misrepresentations
4 claims, and (2) each of the above allegations are refuted by the undisputed evidence adduced
5 during discovery.

6 **1. The Non-Reliance Provisions Bar Claims for Misrepresentation**

7 The element of justifiable reliance does not exist here because Plaintiffs
8 contractually agreed that the parties would not rely upon each other, and would instead rely
9 upon their own investigation in determining whether to proceed with the transaction.

10 Notably, extra-contractual claims for fraud are barred when a contract includes a
11 non-reliance clause. “[P]arties to contracts who do want to head off the possibility of a
12 fraud suit will sometimes insert a ‘no-reliance’ clause into their contract, stating that neither
13 party has relied on any representations made by the other.” FMC Technologies, Inc. v.
14 Edwards, 2007 WL 1725098 at *4 (9th Cir. June 12, 2007) (quoting Vigortone AG Prods.,
15 Inc. v. PM AG Prods., Inc., 316 F.3d 641, 644 (7th Cir. 2003)). This rule is consistently
16 reaffirmed in the 9th Circuit. See Bank of West v. Valley Nat’l Bank of Ariz., 41 F.3d 471,
17 477 – 78 (9th Cir. 1994); see also Paracor Finance, Inc. v. General Capital Corp., 96 F.3d
18 1151, 1155, 1159 – 60 (9th Cir. 1996).

19 In case after case, courts have held that a sophisticated buyer who enters into an
20 agreement containing a clause that includes a specific disclaimer of prior representations
21 cannot base a claim of fraud on such representations. For example, in Consolidated Edison
22 v. Northeast Utilities, 249 F. Supp. 2d 387, 408 (S.D.N.Y. 2003), the court granted summary
23 judgment as the parties’ agreement contained a clause that barred reliance on any
24 representations or information not specifically covered by the representations, warranties
25 and covenants in the contract. In granting summary judgment with respect to the plaintiff’s
26 fraudulent inducement claim, the court explained that “the sophistication of the parties, the
27

1 arms-length nature of the transaction, and the inclusion of numerous representations and
2 warranties covering other aspects of the merger all support this conclusion.” Id.

3 The Third Circuit reached a similar conclusion in MBIA v. Royal Indemnity, 426
4 F.3d 204 (3rd Cir. 2005), holding that when sophisticated parties have included clear anti-
5 reliance language in their negotiated agreement, and when the language, though broad,
6 unambiguously covers representations allegedly made, such an agreement bars claims for
7 fraud. Id. at 218. As the Third Circuit observed, the danger of not enforcing the clause is
8 that not binding the party to his written representation will, in itself, sanction a fraud. The
9 Third Circuit concluded that “given the potential for misrepresentation from each side of the
10 agreement, the safer route is to leave parties that can protect themselves to their own
11 devices, enforcing the agreement they actually fashion.” Id. at 218.

12 Non-reliance clauses must be enforced. If they are not, then it would “excuse a lie
13 made by one contracting party in writing.” Abry Partners V, L.P. v. F & W Acq. LLC, 891
14 A.2d 1032, 1058-59 (Del. Ch. 2006). Even broad non-reliance claims are enforced. See In
15 re IBP, Inc. Shareholders Litigation, 789 A.2d 14, 32 (Del. Ch. 2001) (applying New York
16 law). When the contract contains clear and explicit language, the contractual obligation that
17 Buyer will make its own independent assessment prevents justifiable reliance. See Bank of
18 the West v. Valley Nat. Bank of Arizona, 41 F.3d 471, 477 (9th Cir. 1994) (“In this case, the
19 clear and explicit language of the contract prevented justifiable reliance.”).

20 **a. Diamanti and Reynolds Contractually Agreed That They**
21 **Did Not Rely on Defendants and Contractually Agreed**
that No Representations Were Made by Defendants

22 Here, Diamanti admittedly executed the Closing Agreement, which clearly and
23 unambiguously stated:

24 The *parties hereto agree that no representations have been made* by either
25 party, or agent/broker if any, *other than those specifically set forth in this*
26 *agreement and the sale agreement(s)*. It is further understood and agreed
27 that *Buyer has made his own independent investigation of the subject*
business and has satisfied himself with his ability to conduct the same, and
is now purchasing the said business with the clear and distinct understanding

1 and agreement that all profits are future, to be arrived at from his own
2 resources and labors.

3 See Closing Agreement at bates DEFTS 226 (last paragraph above bold font), **Exhibit I**
4 (emphasis added). Thus, just as in Consolidated Edison, the parties agreed that the only
5 representations made to one another are those specifically identified in the pertinent
6 transactional documents.

7 And just like in Bank of the West, Diamanti agreed that it conducted, engaged in,
8 and moved forward solely based upon its own investigation, and did not rely on anything or
9 any statement from any other party. Plaintiffs also admitted that at the transaction's
10 inception, "Robert G. Reynolds or entity to be formed by purchaser...." made the express
11 warranty that he has relied solely upon their personal examination of the business in making
12 this Offer" See Offer to Purchase and Sale of Business Assets at pg.1 and ¶ 12, **Exhibit**
13 **C**. As an express warranty, this survived closing: "Except for express warranties made in
14 this Contract, the Closing of this transaction shall supersede this Contract." See Offer and
15 Acceptance Agreement ¶ 20, **Exhibit C** (emphasis added).

16 The particular contractual provisions in this case are even stronger than the majority
17 of non-reliance provisions in the cases cited above. As such, allowing the misrepresentation
18 claims to proceed in contravention of the express language of the operative agreements
19 would serve to "greatly lessen the useful role disclaimers play in negotiation agreements."
20 Warner Theatre Assocs. Ltd. P'ship v. Metro. Life Ins. Co., 149 F.3d 134, 137 (2nd. Cir.
21 1998). This is particularly true with respect to this transaction, where the agreements not
22 only disclaim reliance, but they also affirm that no representations were made, both are
23 which are material provisions Reynolds specifically signed and agreed to:

24 Mr. Balducci: Turn to DEFTS 226. All right. There is - - one of the
25 final paragraphs above the bold ones says, "The parties
26 hereto agree that no representations have been made by
27 other party, or agent/broker if any, other than those
specifically set forth in this agreement and sale
agreements."

1 Do you agree with me that's what that first sentence
2 says in that particular paragraph?

3 Mr. Reynolds: Yes.

4 Mr. Balducci: And you signed and agreed to that in this contract?

5 Mr. Reynolds: Yes.

6 Mr. Balducci: And then the same would hold true with the next
7 sentence in that paragraph?

8 Mr. Reynolds: Yes.

9 See Deposition of Reynolds at pg. 139, ll. 2 – 17, **Exhibit A.**

10 In summation, the parties contractually agreed no representations were made and
11 agreed they did not rely upon any representations made by the other party. Reynolds, being
12 the sophisticated and experienced businessman that he is, did his own independent
13 investigation for two months, and then after extending the due diligence period an additional
14 30 days (thus bringing due diligence to three months), consciously chose to proceed forward
15 and close the subject transaction. The Court, therefore, should hold Plaintiffs accountable
16 for the agreements and representations they made and should enter summary judgment
17 against the misrepresentation claims.

18 **2. Even Without the Contractual Non-Reliance Provisions Aside,**
19 **There Still is No Justifiable Reliance and No Misrepresentations**
20 **Were Made**

21 Even putting the dispositive provisions aside, Plaintiffs cannot establish the requisite
22 element of justifiable reliance to support their misrepresentation claims. In Blanchard v.
23 Blanchard, the Nevada Supreme Court defined the element of justifiable reliance:

24 In order to establish justifiable reliance, the plaintiff is required to show the
25 following: the false representation must have played a material and
26 substantial part in leading the plaintiff to adopt his particular course; and
27 when he was unaware of it at the time that he acted, or it is clear that he was
not in any way influenced by it, and would have done the same thing without
it for other reasons, his loss is not attributed to the defendant.

**Generally, a plaintiff making an independent investigation will be
charged with knowledge of facts which reasonable diligence would have
disclosed. Such a plaintiff is deemed to have relied on his own judgment
and not on the defendant's representations.**

Blanchard v. Blanchard, 108 Nev. 908, 911 – 912, 839 P.3d 1320 (1992) (emphasis added).

1 **a. The Level of Sophistication Matters**

2 Courts have also held that a sophisticated party is never entitled to rely on a
3 representation when that party can protect itself by conducting its own investigation. As the
4 court explained in Emergent Capital Inv. Mgmt., LLC v. Stonepath Grp., Inc., 165 F. Supp.
5 2d 615, 623 (S.D.N.Y. 2001):

6 In evaluating justifiable reliance, the plaintiffs sophistication and expertise is
7 a principal consideration. Moreover, the sophisticated investor such an
8 Emergent must show that he or she has made an independent inquiry into all
9 available information. As the Second Circuit has noted on this point: put
10 another way, if the plaintiff “has the means of knowing, by the exercise of
ordinary intelligence, the truth, or the real quality of the subject of the
representation, he must make use of those means, or he will not be heard to
complain that he was induced to enter into the transaction by
misrepresentations.”

11 Id. at 623.

12 Here, Reynolds is a sophisticated businessman. In his 50+ year career, he has spent
13 millions of dollars acquiring hotels, theaters, and a shopping mall. He has managed
14 construction projects with budgets totaling \$300 – \$400 million/month. He is admittedly
15 completely familiar with the separate and distinct differences between natural persons and
16 corporate entities. The man is sophisticated and, pursuant to common law and the
17 provisions of the operative contracts, was charged with performing his own independent
18 investigation.

19 **b. Reliance Must Actually Be Justifiable**

20 The Nevada Supreme Court case of Collins v. Burns, 103 Nev. 394, 741 P.2d 819
21 (1987), is illustrative on this point. In that case, the Nevada Supreme Court held that the
22 lack of justifiable reliance bars recovery in an action for damages for the tort of fraud and
23 deceit. However, this principle does not impose a duty to investigate upon the plaintiff
24 absent any facts to alert the defrauded party that his reliance is unreasonable. As the
25 Supreme Court pointed out, the test is whether the recipient has information which would
26 serve as a “red light” to any normal person of his intelligence and experience. “It has long
27 been the rule in this jurisdiction that the maxim of caveat emptor only applies when the

1 defect is patent and obvious, and when the buyer and seller have equal opportunities of
2 knowledge.” Collins v. Burns, 103 Nev. 394, 397, 741 P.2d 819, 821 (1987).

3
4 (1) **There is No Justifiable Reliance on the Alleged
Incorrect Revenues**

5 Part of the misrepresentation claim is that the Jewelry Store’s revenues were
6 misrepresented in a business summary marketing brochure which preceded the Offer and
7 Closing Agreements. That business summary marketing brochure is attached hereto as
8 **Exhibit N**. According to Plaintiffs, that brochure told them that the Jewelry Store would
9 have revenue around \$800,000, profit in excess of \$222,000 each year, and various other
10 things. Reliance upon this document is not justifiable for two primary reasons.

11
12 (a) **The Marketing Brochure Includes a Panoply
of Disclaimers**

13 Plaintiffs’ claim that they relied on the business marketing brochure is pure
14 poppycock. By its very terms, the business summary marketing brochure told Plaintiffs (and
15 everyone else) that they could **not** rely on it, as it contained a slew of disclaimers as to the
16 accuracy of its information, repeatedly informs the reader that they are obligated to perform
17 their own investigation, and proceeds further to disclaim the contents of the document. The
18 document is also abundantly clear that any financial numbers are simply forecasted
19 projections; meaning, they are not actual figures, they are estimates. It was precisely
20 because of that fact that the brochure contained all of the disclaimers.

21 During his deposition, Reynolds was presented with, reviewed, and acknowledged
22 his understanding of each of the written disclaimers contained within the business summary
23 marketing brochure. See Deposition of Reynolds at pgs. 109 – 119, **Exhibit A**. Although
24 Reynolds attempt to obfuscate is evident in those pages, he cannot change the fact that (i)
25 the disclaimers are there and (ii) he understood what they meant. See, e.g., id. at pg. 109, ll.
26 23 – pg. 110, ll. 2 (Q: “But would you agree with me that this document does disclaim all
27

1 the financial records in here and tells you, the buyer, to do your own independent
2 verification?" A: "Yes.").

3 (b) **Reynolds was Aware of the Discrepancy in**
4 **the Sales Figures and Chose to Proceed With**
5 **the Closing**

6 As part of the due diligence, Reynolds received the sales and use reports from
7 Luxury Holdings, which specifically identified sales made by Luxury Holdings at the
8 Jewelry Store and elsewhere which were reported to the State of Nevada for tax purposes.
9 Reynolds then reviewed the point of sale system's sales numbers and realized there was a
10 discrepancy between the figures as the Jewelry Store's sales were lower than Luxury
11 Holdings' total sales. Additionally, Reynolds was aware that the figures in the contractually
12 disclaimed business summary marketing brochure, did not align with the sales and use
13 reports. See Deposition of Reynolds at pg. 112, ll. 1 – 21, **Exhibit A**. Reynolds, however,
14 elected to proceed forward to close the transaction anyway despite his knowledge of these
15 discrepancies.

16 Due to his knowledge, justifiable reliance does not exist pursuant to Blanchard.
17 There, the Nevada Supreme Court held:

18 In order to establish justifiable reliance, the plaintiff is required to show the
19 following: the false representation must have played a material and
20 substantial part in leading the plaintiff to adopt his particular course; *and*
21 *when he was unaware of it at the time that he acted*, or it is clear that he was
22 not in any way influenced by it, and would have done the same thing without
23 it for other reasons, *his loss is not attributed to the defendant*.

24 Blanchard v. Blanchard, 108 Nev. 908, 911 – 912, 839 P.3d 1320 (1992) (emphasis added).

25 Here, Reynolds' awareness bars the element of justifiable reliance. Summary
26 judgment, therefore, should be entered in favor of Defendants.

27 c. **There Was No Justifiable Reliance with Respect to the**
Furniture, Fixtures, and Equipment AND No
Misrepresentations Regarding the FF&E

Reynolds and Diamanti also claim that the Defendants misrepresented their
ownership of certain furniture, fixtures, and equipment conveyed to Diamanti at closing.

1 Specifically, Plaintiffs allege that items 1 – 9 listed on the FF&E Bill of Sale were not
2 owned by Defendants, thus equating to fraud. See FF&E Bill of Sale, **Exhibit O**. A review
3 of that list reveals that items 1 – 9 are some cabinets, whereas the remainder of the inventory
4 (which Diamanti admits it has clear title to) includes jewelry safes, a security system, a
5 diamond tester, and other equipment necessary for the jewelry business.

6 Nearly a year of discovery in this case confirmed that the evidence in support of
7 Reynolds’ furniture, fixtures, and equipment claim is non-existent. According to Reynolds,
8 the lease says that the landlord owns items 1 – 9 on the FF&E bill of sale. In support of this
9 position, Reynolds pointed to an “Exhibit I” to the lease, which simply identified certain
10 items within the leased premises. See Reynolds Deposition at pg. 58, ll. 7 – 18, **Exhibit A**.

11 When pressed as to “Exhibit I,” Reynolds said the following:

12 Mr. Balducci: Other than Exhibit I to the lease, is there anything else
13 from Tivoli saying you don’t own the FF&E?

14 Mr. Reynolds: I don’t know. I don’t understand the question. I don’t
15 even know what Exhibit I is.

16 See id. at pg. 59, ll. 1 – 4.

17 Reynolds then admitted he had nothing in writing from Tivoli supporting his
18 baseless position:

19 Mr. Balducci: Do you have something in writing from Tivoli telling
20 you - -

21 Mr. Reynolds: Yes.

22 Mr. Balducci: - - You do not own the FF&E [furniture, fixtures, and
23 equipment]?

24 Mr. Reynolds: In those words, no.

25 See Deposition of Reynolds at pg. 57, ll. 21 – 25, **Exhibit A**.

26 In addition to Reynolds not having any evidence to support his position, his
27 unfounded position is also at odds with the lease itself, and with the Assignment and
Assumption of the retail lease in which the landlord signed off on the assignment of all of
Luxury Holdings’ “right, title and interest to any furniture, figures and equipment in the
leased premises as of the date of this Assumption [] to Assignee [Diamanti]” See

1 Assignment at Recital ¶ 5, **Exhibit L**. When presented with the copy of the Lease
2 Assignment and Assumption that he had signed, Reynolds refused to acknowledge the
3 signature of the landlord despite paying rent to that landlord for years because by that point
4 he realized the document hurt his case. See Deposition of Reynolds at pgs. 153 – 154,
5 **Exhibit A**.

6 In summation, the undisputed documentary evidence in this case confirms that there
7 is no justifiable reliance by Plaintiffs on any alleged misrepresentation concerning the
8 furniture, fixtures, and equipment. More important, there is absolutely no admissible
9 evidence creating a genuine issue of fact in dispute that any statement made by Defendants
10 about the furniture, fixtures, and equipment were false.

11 **d. No Justifiable Reliance with Respect to the Cost of**
12 **Inventory AND No Misrepresentations**

13 **(1) Reynolds Admits He Takes No Issue with the Cost**
14 **Paid for Inventory**

15 In his complaint, Reynolds complains about the cost of the inventory. Yet in his
16 deposition, Reynolds specifically admitted that he does not take issue with what he paid:

17 Mr. Reynolds: I don't know, but why are you asking me that? I'm not
18 arguing about this. We counted it; I paid for it. End of
19 story.

20 . . .

21 Mr. Balducci: Yes. You just told me you don't have a problem with
22 that, so I just want you to agree with what you already
23 said. You'd agree with me you don't take any issue with
24 the \$134,253.44 paid for the jewelry products, rings,
25 watches, diamonds, and other fine jewelry products?

26 Mr. Chasey: I'm going to object that it's vague. I'm not sure what - -
27 what are you fine with? I mean - -

Mr. Reynolds: I don't have a problem with it.

24 See Deposition of Reynolds at pg. 157, ll. 16 – pg. 158, ll. 23, **Exhibit A**.

25 In addition with not having “a problem” with the price paid for inventory, Reynolds
26 also readily admitted he had a full and fair opportunity to inspect all of the inventory of the
27

1 business, and in fact did so with the assistance of a third party. Id. at pgs. 156 – 157. The
2 individual that went to inspect the inventory with Reynolds was his lawyer son:

3 Mr. Balducci: All right. Did he - - when did he [lawyer son] write this
4 [Bill of Sale] up? Was it in front of you? Was it at the
store? Was it in his law office?

5 Mr. Reynolds: Yes.

6 Mr. Balducci: At the store?

7 Mr. Reynolds: Yes.

8 Mr. Balducci: The day you and Raffi met to go over the inventory?

9 Mr. Reynolds: Yes.

10 Mr. Balducci: He was there?

11 Mr. Reynolds: Yes.

12 Mr. Balducci: And he had an opportunity to inspect the various items
13 [the inventory] that are delineated in this document [the
inventory bill of sale]?

14 Mr. Reynolds: Yes.

15 Mr. Balducci: And so did you?

16 Mr. Reynolds: Yes.

17 See id. at pg. 156, ll. 25 – pg. 157, ll. 15.

18 Thus, with respect to the inventory, Plaintiffs have admitted there was and is no
19 justifiable reliance, nor was there a misrepresentation. The meritless allegations regarding
20 inventory cost in the complaint should, therefore, be rejected and summary judgment
21 entered in favor of Defendants on this issue.

22 (2) The Inventory was Sold Below Cost

23 As explained in the declaration of Raffi, certain items that were subject to Sunbelt's
24 10% commission had a 10% mark-up to make up for the commission cost. See Declaration
25 of Raffi ¶¶ 18 – 24, **Exhibit B**. This ultimately resulted in a loss to Luxury Holding because
26 Sunbelt took 10% off the adjusted price, which ultimately resulted in an 11% reduction. Id.⁷

27 Regardless, the Closing Agreement specifically **requires** adjustment for cost: "If
inventory is purchased, it will be at cost and the price adjusted accordingly. Inventory to be

⁷ For example, a 10% markup on \$10 equate to a total of \$11. 10% commission on \$11 is \$1.10, thus leaving a net take of \$9.90, which is below \$10.

1 counted, priced and extended by Purchaser and Seller unless otherwise agreed.” See
2 Closing Agreement ¶ 5, **Exhibit I**. And here, that is precisely what happened – the parties
3 went over the inventory, Reynolds had his attorney son present to draw up the Bill of Sale,
4 and the parties agreed on the price after Reynolds ok months of due diligence and a full and
5 fair opportunity to review everything present. See Deposition of Reynolds at pgs. 157 –
6 159, **Exhibit A**.

7 **e. The Customer List Argument is Non-Sensical**

8 One of Reynolds’ other claims is that some of the individuals identified on a
9 Customer List have not actually purchased jewelry at the store. This allegation is the
10 definition of grasping for straws.

11 The Jewelry Store has always maintained a list of customers that included actual and
12 prospective customers. See Declaration of Raffi ¶ 32, **Exhibit B**. The Customer List
13 included individuals that had purchased, individuals that were interested, and individuals
14 that had attended events at Diamanti. At no point during this transaction was it ever
15 represented to Plaintiffs that the customer list was solely comprised of customers that had
16 bought jewelry.

17 Indeed, no evidence capable of admission at trial has ever been produced in support
18 of this theory. Instead, during his deposition, Reynolds admitted that he had no personal
19 knowledge of this, and that the sole basis for this allegation is that he simply heard from
20 “someone else” that some of the individuals listed on the customer list were not familiar
21 with the Jewelry Store. See Deposition of Reynolds at pgs. 80 – 81, **Exhibit A**. Based upon
22 (i) Reynold’s admission, (ii) his lack of knowledge on this issue, and (iii) the lack of any
23 actual evidence supporting this claim, summary judgment should be entered in favor of
24 Defendants as it relates to the Customer List.

25 **f. The Non-Compete Argument Makes Even Less Sense**

26 The final basis for Plaintiffs’ misrepresentation claims related to an alleged non-
27 compete provision. Specifically, Reynolds contends that Raffi defrauded him by violating

1 the non-compete provision. This particular argument truly demonstrates how ludicrous this
2 lawsuit is.

3 After selling the Jewelry Store, Luxury Holdings LV, LLC opened a semi-custom
4 cabinet showroom that sold cabinets from an Italian cabinet designer. See Declaration of
5 Raffi ¶¶ 27 – 30, **Exhibit B**. That venture was unprofitable, short-lived, and basically was
6 sold for a loss. Id. When asked whether the operation of that business affected the Jewelry
7 Store’s sales, Reynolds answered “How would I know?” See Deposition of Reynolds at pg.
8 49, ll. 20 – 23, **Exhibit A**. Reynolds has never asked this Court for an injunction based
9 upon the non-compete, presumably because he is fully aware that his contention lacks any
10 merit.

11 Regardless, Reynolds admitted that this ludicrous argument was not part of his
12 claim, and said “The only thing I know is that he made an agreement that he was not to
13 operate a business within 50 miles of Diamanti.” Id. at pgs. 50 – 51. Discovery has closed
14 and Plaintiffs have neither produced nor presented any admissible evidence to support this
15 absurd claim. Therefore, summary judgment should be entered in favor of the Defendants
16 on the misrepresentation claims brought by Plaintiffs.

17 **B. BREACH OF CONTRACT**

18 To establish a claim for breach of contract, the plaintiff must prove a valid contract, a
19 material breach by the defendant, and damages caused by that breach. See Saini v. Int’l
20 Game Tech., 434 F. Supp. 2d 913, 919 – 20 (D. Nev. 2006). Throughout this lawsuit, the
21 only effort Plaintiffs have made to identify the contractual breach is within their third
22 Amended Complaint. Therein, Plaintiffs basically reiterate their fraud allegations while
23 ignoring the non-reliance, non-misrepresentation, and cost adjustment provisions in the
24 actual contract between the parties. It is particularly fatal to Plaintiffs’ breach of claim that,
25 none of their allegations are based upon express contract terms. After four interactions of
26 their Complaint and a year of discovery, Plaintiffs have still never identified the specific
27

1 provisions they contend were breached. Nevertheless, Plaintiffs have not and cannot present
2 admissible evidence to establish any breach of contract between the parties.

3 As it relates to any claim that the contract was breached because the inventory was
4 not sold at cost, that argument ignores the express contractual provisions. Under the Closing
5 Agreement, which supersedes the Offer Agreement, “If inventory is purchased, it will be at
6 cost and the price adjusted accordingly. Inventory to be counted, priced and extended by
7 Purchaser and Seller unless otherwise agreed.” See Closing Agreement ¶ 5, **Exhibit I**.

8 Here, the parties met, itemized the inventory, and agreed at the cost which Plaintiffs
9 admittedly take no issue with. See Deposition of Reynolds at pg. 157, ll. 16 – pg. 158, ll.
10 23, **Exhibit A**; Declaration of Raffi ¶¶ 18 – 24, **Exhibit B**. Summary judgment, therefore,
11 should be entered on this claim.

12 **C. REYNOLDS’ INDIVIDUAL CLAIMS FAIL**

13 **1. Reynolds Lacks Standing**

14 Judgment must be entered against Reynolds’ claims because he lacks standing.
15 “Every action shall be prosecuted in the name of the real party in interest.” NRCP 17(a). A
16 real party in interest “is one who possesses the right to enforce the claim and has a
17 significant interest in the litigation.” Szilagyi v. Testa, 99 Nev. 834, 838, 673 P.2d 495, 498
18 (1983). Determining whether the plaintiff is a real party in interest requires courts to focus
19 on the party seeking adjudication. Id.

20 Determining who has standing in the context of transactions involving LLC’s in
21 Nevada is easy: “A member of a limited-liability company is not a property party to
22 proceedings by or against the company....” NRS 86.381. An LLC may “[s]ue and be sued,
23 complain and defend, in its name.” NRS 86.281(1). An LLC may also “[p]urchase, take,
24 receive, lease or otherwise acquire, own, hold, improve, use and otherwise deal in and with
25 real or personal property, or an interest in it, wherever situated.” NRS 86.281(2).

26 Here, discovery has now closed and it is undisputed that Reynolds assigned all right,
27 title, and interest in the transaction to Diamanti in paragraph 14 of the Closing Contract:

1 This transaction is subject to the Purchase Agreement dated January 13, 2015
2 including all amendments, attachments, exhibits, and addendums
3 respectively, attached hereto and made a part hereof. Purchase Agreement is
4 hereby ratified to indicate Diamanti Jewelers LLC a Nevada Limited
Liability Company, as Buyer, with all rights privileges, responsibilities and
duties, including but not limited to any deposited funds, all of which hereby
assigned and such assignment all of which are hereby accepted by Buyer.

5 See Closing Agreement ¶ 14, Exhibit I.

6 Here, Reynolds and Diamanti have asserted duplicative claims based upon identical
7 facts and circumstances; namely, Diamanti's acquisition of the Jewelry Store and the
8 purported misrepresentations Diamanti relied on in closing the transaction. Diamanti – not
9 Reynolds – closed the transaction and acquired the Jewelry Store. Reynolds acquired
10 nothing, closed nothing, and bought nothing. The undisputed documents in this case
11 demonstrate that any interest Reynolds had was expressly assigned to Diamanti, which
12 Reynolds acknowledged in writing in the Closing Agreement, and which undisputedly
13 superseded all prior documents. Reynolds also did not pay anything as the Closing
14 Agreement clearly states that “The Transferee (Buyer), Diamanti Fine Jewelers LLC, will
15 hand you funds and/or documents set forth below ... \$395,000.00” See Closing Agreement
16 at Consideration Recital, Exhibit I. Reynolds is the manager and sole member of Diamanti.
17 Any interest in the claims is held solely by Diamanti, not its manager or member. Nevada's
18 statutes are absolutely clear on this point.

19 In light of the foregoing, Reynolds cannot, as a matter of law, assert claims for
20 breach of a contract he was not a party to, nor for alleged misrepresentations to an entity he
21 was a manager of. Reynolds simply has no interest in this litigation and he has no claims
22 against Raffi or Luxury Holdings. Reynolds lacks standing, and, therefore, summary
23 judgment should be entered against his claims for misrepresentation.

24 **2. The Elder Abuse Statute is a Red Herring with No Application**

25 Nevada's elder abuse statute is limited to the following circumstances:

- 26 • If an older person or a vulnerable person suffers a personal injury or death
27 caused by abuse or neglect (not applicable here);

1 • If an older person or vulnerable person suffers a loss of money or property
2 caused by exploitation.

3 See NRS 41.1395(1). In Nevada, an older person is defined as anyone over 60 years of age.
4 NRS 41.1395(4)(d).

5 Arguably the only portion of the elder abuse statute that might apply (although it
6 does not) is if an older person suffers a loss of money or property caused by exploitation.

7 **a. Reynolds Did Not Suffer a Loss.**

8 Here, Reynolds has admitted (as he must) that the only parties to the Closing
9 Agreement were Diamanti and Luxury Holdings. By virtue of that contract's terms and
10 conditions, the entire agreement was assigned to Diamanti, and all rights relating to any
11 funds in escrow belonged to Diamanti – *not Reynolds*. Reynolds agreed to this when he
12 signed off on the assignment provision of the Closing Agreement.

13 Indeed, after more than a year of discovery, Reynolds has produced no evidence to
14 prove that he, personally suffered a loss. What has been produced is ample documentation
15 and evidence that a sophisticated businessman performed all of the due diligence he felt was
16 necessary and appropriate before deciding to buy a jewelry business. That businessman
17 formed an LLC to limit his liability which then operated that jewelry business for 25 months
18 before concocting this hybrid, delusional version of reality to try and claim he was somehow
19 duped, regardless of all of the numerous contractual provisions he signed to the contrary. If
20 anyone has perpetuated a fraud or a lie, it is the Plaintiffs and the Court should not condone
21 this sort of conduct or allow such frivolous claims to go to trial. Reynolds suffered no loss
22 and summary judgment is appropriate on this claim.

23 **b. There was No Exploitation.**

24 Nevada's elder abuse statute defines "exploitation" as "any act taken by a person
25 who has the trust and confidence of an older person or a vulnerable person ... to ..." either
26 (1) obtain control over money through deception, intimidation or undue influence, or
27

1 (2) convert money, assets, or property of the older person with the intention of permanently
2 depriving them of such asset. NRS 41.1395(4)(b).

3 Here, the predicate element of trust and confidence does not exist. This was an
4 arms-length transaction between two companies – Diamanti and Luxury Holdings. Prior to
5 the transaction, Raffi and Reynolds had never met one another and they had no pre-existing
6 relationship. As such, there was no “trust and confidence” as required by the elder abuse
7 statute, which was enacted to prevent family members, care-takers, and other fiduciaries of
8 those that cannot care for themselves from being taken advantage of. Undisputedly, none of
9 the Defendants had any fiduciary duty to Reynolds.

10 In the most simple of terms, the elder abuse statute has zero application to this arms
11 length commercial transaction. Reynolds cannot, as a matter of law, establish the elements
12 necessary to prove this cause of action. Summary judgment, therefore, should be entered.

13 **V. CONCLUSION**

14 For the foregoing reasons, the Court should enter summary judgment against each of
15 Plaintiffs’ claims in favor of Defendants.

16 Dated this 10th day of August, 2018.

17 MARQUIS AURBACH COFFING

18
19 By /s/ Christian T. Balducci
20 Terry A. Moore, Esq.
21 Nevada Bar No. 7831
22 Christian T. Balducci, Esq.
23 Nevada Bar No. 12688
24 10001 Park Run Drive
25 Las Vegas, Nevada 89145
26 *Attorneys for Defendants*
27

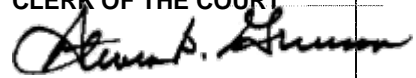
CERTIFICATE OF SERVICE

I hereby certify that the foregoing **DEFENDANTS' MOTION FOR SUMMARY JUDGMENT** was submitted electronically for filing and/or service with the Eighth Judicial District Court on the 10th day of August, 2018. Electronic service of the foregoing document shall be made in accordance with the E-Service List as follows:⁸

Chasey Law Offices	
Contact	Email
Peter Chasey	peter@chaseylaw.com
Shannon	shannon@chaseylaw.com

/s/ Cheryl Becnel
An employee of Marquis Aurbach Coffing

⁸ Pursuant to EDCR 8.05(a), each party who submits an E-Filed document through the E-Filing System consents to electronic service in accordance with NRCP 5(b)(2)(D).



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

DISTRICT COURT
CLARK COUNTY, NEVADA

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

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

Plaintiffs,

vs.

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

Defendants.

ORDER GRANTING SUMMARY JUDGMENT

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

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

Page 1 of 7

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

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

FINDINGS OF FACT

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

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

3. In 2014, Reynolds began researching businesses in Las Vegas, Nevada, with the intent of purchasing a business in this jurisdiction, specifically in Tivoli Village. One such business was the Diamanti Fine Jewelry store, owned by Defendant Luxury Holdings. Reynolds expressed his interest to Diamanti's business broker, Sunbelt Business Brokers, who provided a "business summary marketing brochure" ("the Brochure") which contained extensive information relevant to a potential buyer, on January 5, 2015.¹

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

5. Specifically, the Brochure contained the following disclaimers:

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

¹ See Ex. N to Defendants' Motion.

² See generally *id.*

³ *Id.* at 4

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

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

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

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

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

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

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

⁴ *Id.*

⁵ *Id.*

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

⁷ *Id.* at § 7 (emphasis in original)

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

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

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

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

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

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

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

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

¹⁰ Ex. I to Defendant's Motion.

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

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

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

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

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

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

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

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

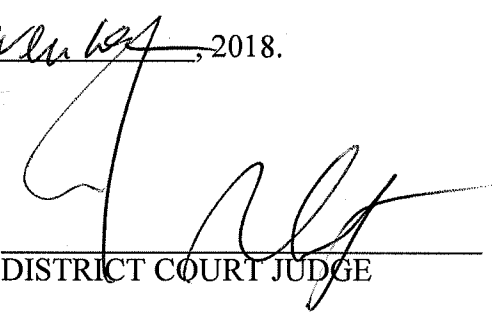
ORDER

IT IS HEREBY ORDERED, ADJUDGED AND DECREED

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

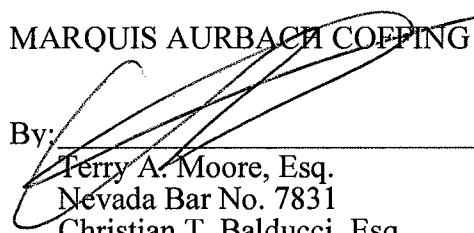
2. As such, summary judgment is hereby ENTERED in favor of the Defendants and against Plaintiffs' claims alleged against the Defendants.

IT IS SO ORDERED this 13th day of November, 2018.


DISTRICT COURT JUDGE

Respectfully Submitted By:

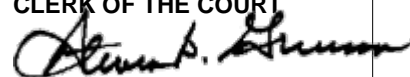
MARQUIS AURBACH COFFING

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

Approved as to form, only.

CHASEY LAW OFFICES

By: Refused
Peter L. Chasey, Esq.
Nevada Bar No. 7650
3295 N. Fort Apache Road, Ste. 110
Las Vegas, Nevada 89129
Attorneys for Plaintiffs



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

DISTRICT COURT**CLARK COUNTY, NEVADA**

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

Plaintiff,

vs.

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

Defendant.

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

NOTICE OF ENTRY OF ORDER

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

Dated this 16th day of November, 2018.

MARQUIS AURBACH COFFING

By /s/ Christian T. Balducci

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

CERTIFICATE OF SERVICE

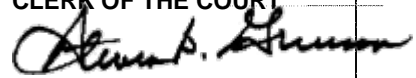
I hereby certify that the foregoing **NOTICE OF ENTRY OF ORDER** was submitted electronically for filing and/or service with the Eighth Judicial District Court on the 16th day of November, 2018. Electronic service of the foregoing document shall be made in accordance with the E-Service List as follows:¹

Chasey Law Offices	
Contact	Email
Peter Chasey	peter@chaseylaw.com
Shannon	shannon@chaseylaw.com

/s/ Cheryl Becnel

An employee of Marquis Aurbach Coffing

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



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

DISTRICT COURT
CLARK COUNTY, NEVADA

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

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

Plaintiffs,

vs.

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

Defendants.

ORDER GRANTING SUMMARY JUDGMENT

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

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

Page 1 of 7

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

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

FINDINGS OF FACT

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

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

3. In 2014, Reynolds began researching businesses in Las Vegas, Nevada, with the intent of purchasing a business in this jurisdiction, specifically in Tivoli Village. One such business was the Diamanti Fine Jewelry store, owned by Defendant Luxury Holdings. Reynolds expressed his interest to Diamanti's business broker, Sunbelt Business Brokers, who provided a "business summary marketing brochure" ("the Brochure") which contained extensive information relevant to a potential buyer, on January 5, 2015.¹

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

5. Specifically, the Brochure contained the following disclaimers:

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

¹ See Ex. N to Defendants' Motion.

² See generally *id.*

³ *Id.* at 4

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

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

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

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

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

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

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

⁴ *Id.*

⁵ *Id.*

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

⁷ *Id.* at § 7 (emphasis in original)

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

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

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

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

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

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

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

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

¹⁰ Ex. I to Defendant's Motion.

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

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

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

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

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

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

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

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

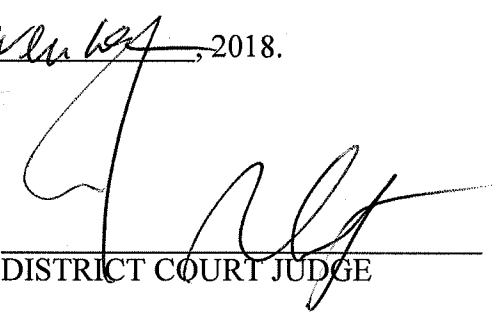
ORDER

IT IS HEREBY ORDERED, ADJUDGED AND DECREED

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

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

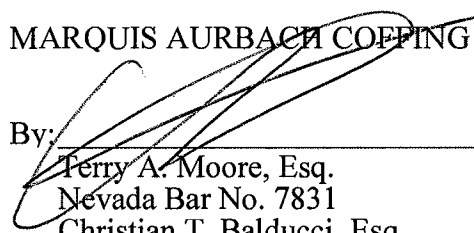
IT IS SO ORDERED this 13th day of November, 2018.


DISTRICT COURT JUDGE

Respectfully Submitted By:

MARQUIS AURBACH COFFING

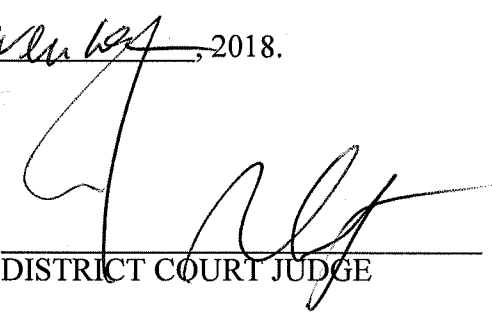
By:


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

Approved as to form, only.

CHASEY LAW OFFICES

By: *Refused*


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

IN THE SUPREME COURT OF THE STATE OF NEVADA

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

Supreme Court No. 78187
District Court Case No. A753532

FILED

MAR 18 2021

Elizabeth A. Brown
CLERK OF COURT

CLERK'S CERTIFICATE

STATE OF NEVADA, ss.

I, Elizabeth A. Brown, the duly appointed and qualified Clerk of the Supreme Court of the State of Nevada, do hereby certify that the following is a full, true and correct copy of the Judgment in this matter.

JUDGMENT

The court being fully advised in the premises and the law, it is now ordered, adjudged and decreed, as follows:

"ORDER the judgment of the district court AFFIRMED IN PART AND REVERSED IN PART AND REMAND this matter to the district court for proceedings consistent with this order."

Judgment, as quoted above, entered this 23 day of November, 2020.

JUDGMENT

The court being fully advised in the premises and the law, it is now ordered, adjudged and decreed, as follows:

"Rehearing Denied."

Judgment, as quoted above, entered this 13 day of January, 2021.

JUDGMENT

The court being fully advised in the premises and the law, it is now ordered, adjudged and decreed, as follows:

"ORDER the petition DENIED."

A-17-753532-B
CCJAR
NV Supreme Court Clerks Certificate/Judg
4947826



Judgment, as quoted above, entered this 19 day of February, 2021.

IN WITNESS WHEREOF, I have subscribed
my name and affixed the seal of the Supreme
Court at my Office in Carson City, Nevada this
March 17, 2021.

Elizabeth A. Brown, Supreme Court Clerk

By: Kaitlin Meetze
Administrative Assistant

IN THE SUPREME COURT OF THE STATE OF NEVADA

ROBERT G. REYNOLDS, AN
INDIVIDUAL; AND DIAMANTI FINE
JEWELERS, LLC, A NEVADA LIMITED
LIABILITY COMPANY,

Appellants,

vs.

RAFFI TUFENKJIAN, AN
INDIVIDUAL; AND LUXURY
HOLDINGS LV, LLC, A NEVADA
LIMITED LIABILITY COMPANY,

Respondents.

No. 78187

FILED

NOV 23 2020

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

***ORDER AFFIRMING IN PART, REVERSING IN PART AND
REMANDING***

This appeal challenges a district court summary judgment in a breach of contract and tort matter. Eighth Judicial District Court, Clark County; Mark R. Denton, Judge.

Appellant Robert Reynolds purchased Diamanti Fine Jewelers (the jewelry store) through his limited liability company, Diamanti Fine Jewelers, LLC (Diamanti LLC). Diamanti LLC purchased the jewelry store from respondent Raffi Tufenkjian through Tufenkjian's limited liability company, Luxury Holdings LV, LLC (Luxury LLC). Applicable here, Reynolds and Diamanti LLC (collectively, Reynolds) later sued Tufenkjian and Luxury LLC (collectively, Tufenkjian) for intentional misrepresentation and elder abuse.¹ The district court granted summary

¹We dismissed this appeal as to Reynolds' negligent misrepresentation and breach of contract claims in *Reynolds v. Tufenkjian*, 136 Nev., Adv. Op. 19, 461 P.3d 147, 154 (2020), and, therefore, we do not address those claims here.

judgment in favor of Tufenkjian, finding that non-reliance clauses within the parties' contract barred Reynolds' intentional misrepresentation claims as a matter of law. The district court also found that the lack of any "actionable misrepresentations" caused Reynolds' elder abuse claim to fail. Reynolds now appeals that decision.

We review a district court's order granting summary judgment de novo. *Wood v. Safeway, Inc.*, 121 Nev. 724, 729, 121 P.3d 1026, 1029 (2005). Summary judgment is proper if the pleadings and all other evidence on file demonstrate that no genuine issue of material fact exists and that the moving party is entitled to judgment as a matter of law. *Id.* When deciding a summary judgment motion, all evidence must be viewed in a light most favorable to the nonmoving party. *Id.* The interpretation of an unambiguous contract's language is a question of law we review de novo. *See Galardi v. Naples Polaris, LLC*, 129 Nev. 306, 309, 301 P.3d 364, 366 (2013).

Reynolds first argues that non-reliance clauses cannot bar intentional misrepresentation claims as a matter of law under *Blanchard v. Blanchard*, 108 Nev. 908, 839 P.2d 1320 (1992). Tufenkjian disagrees, arguing that *Blanchard* only addresses integration and waiver clauses, not non-reliance clauses. We conclude that we need not reach the merits of Reynolds' argument here because the contract does not contain a non-reliance clause.

The relevant clause² states:

²In support of his arguments, Tufenkjian identifies two other clauses, contained in the offer to purchase rather than the contract at issue, but we conclude that these other clauses are irrelevant. The first pertains to representations made by the broker, rather than Tufenkjian, and the second had already expired by its plain language.

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

The clause is not titled, and we conclude it is an integration clause. Notably, the first sentence is substantially similar to the integration clause we addressed in *Blanchard*, which, in pertinent part, stated: "Each of the parties expressly certifies that . . . no representations of fact have been made by either party to the other except as herein expressly set forth" 108 Nev. at 912 n.1, 839 P.2d at 1322 n.1. The words "rely" or "reliance" appear nowhere in the clause, and we conclude it lacks the hallmark language of a non-reliance clause. See *Slack v. James*, 614 S.E.2d 636, 640 (S.C. 2005) (noting that non-reliance clauses generally include one of these words). And, as we stated in *Blanchard*, "integration clauses do not bar claims for [intentional] misrepresentation." 108 Nev. at 912, 839 P.2d at 1322-23; see also *Epperson v. Roloff*, 102 Nev. 206, 211, 719 P.2d 799, 802 (1986) (rejecting the argument that an integration clause barred a misrepresentation claim). Accordingly, the district court erred by finding this clause barred Reynolds' misrepresentation claims.

We will still affirm, however, if the district court reached the correct result, see *Saavedra-Sandoval v. Wal-Mart Stores, Inc.*, 126 Nev. 592, 599, 245 P.3d 1198, 1202 (2010), and we therefore consider whether summary judgment was nevertheless appropriate. To prove intentional misrepresentation, Reynolds must show that Tufenkjian made a false

representation, knew the representation was false, and intended to induce Reynolds to act based on the representation. See *Blanchard*, 108 Nev. at 910-11, 839 P.2d at 1322. Reynolds must also show that he justifiably relied on Tufenkjian's representation and that he was damaged as a result of that reliance.³ *Id.* at 911, 839 P.2d at 1322. To show justifiable reliance, Reynolds must show that the false representation "*played a material and substantial part in leading [him] to adopt his particular course.*" *Id.* (emphasis in original) (quoting *Lubbe v. Barba*, 91 Nev. 596, 600, 540 P.2d 115, 118 (1975)).

Reynolds admits that he conducted an independent investigation. "Generally, a plaintiff making 'an independent investigation will be charged with knowledge of facts which reasonable diligence would have disclosed. Such a plaintiff is deemed to have relied on his own judgment and not on the defendant's representations.'" *Blanchard*, 108 Nev. at 912, 839 P.2d at 1323 (quoting *Epperson*, 102 Nev. at 211, 719 P.2d at 803). However, an independent investigation does not preclude finding justifiable reliance "*where the falsity of the defendant's statements is not apparent from the inspection, where the plaintiff is not competent to judge the facts without expert assistance, or where the defendant has superior knowledge about the matter in issue.*" *Id.* (emphasis in original) (quoting *Epperson*, 102 Nev. at 211-12, 719 P.2d at 803). And, whether the alleged misrepresentations should have been discovered during a party's independent investigation is a question of fact. See *id.* (recognizing that such a determination "may not be dispensed with as a matter of law").


³The parties do not address the damages element on appeal.

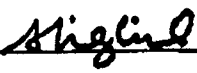
We have carefully reviewed the record and conclude that genuine issues of material fact remain regarding Reynolds' misrepresentation claims. Reynolds first alleged that Tufenkjian misrepresented the amount of revenue the jewelry store earned each year and presented tax returns, internal store records, and deposition testimony tending to show that the store earned less than Tufenkjian claimed. Reynolds next alleged that Tufenkjian misrepresented the price of the jewelry store's inventory "at cost" and presented emails from the sale broker and internal store records suggesting that Tufenkjian inflated the "at cost" price to cover his brokerage fees. Reynolds next alleged that Tufenkjian misrepresented that various store fixtures were included in the sale and presented the store's lease which appears to show that the fixtures belong to the building's lessor and Tufenkjian therefore could not sell them to Reynolds. Reynolds finally alleged that Tufenkjian misrepresented the number of unique customers the jewelry store had and presented internal store records and deposition testimony suggesting the store had far fewer customers than Tufenkjian claimed. Viewed in the light most favorable to Reynolds, *see Wood*, 121 Nev. at 729, 121 P.3d at 1029, these allegations are sufficient to generate a triable question of fact on his misrepresentation claims.

And, while Reynolds conducted an independent investigation, whether he should have discovered Tufenkjian's alleged misrepresentations during that investigation is a question for the trier of fact. *See Blanchard*, 108 Nev. at 912, 839 P.2d at 1323. Therefore, genuine issues of material fact remain as to whether Reynolds justifiably relied on Tufenkjian's representations. As such, we reverse and remand for further proceedings on the intentional misrepresentation claims.

We also conclude, however, that the district court properly granted summary judgment to Tufenkjian on the elder abuse claim. As pertinent here, NRS 41.1395 protects an "older person" against monetary loss "caused by exploitation" by "a person who has the trust and confidence" of the elderly person. See NRS 41.1395(1), (4)(b). The undisputed facts here show that Reynolds was purchasing a business from Tufenkjian at arms' length—not that Tufenkjian had a relationship of "trust and confidence" with Reynolds. Cf. *Powers v. United Servs. Auto. Ass'n*, 114 Nev. 690, 701, 962 P.2d 596, 603 (1998) (explaining that a fiduciary has a relationship of trust and confidence); *Greenberg's Estate v. Skurski*, 95 Nev. 736, 739, 602 P.2d 178, 179 (1979) (observing that agency relationships are grounded on the trust and confidence of the principal); *Rush v. Rush*, 85 Nev. 623, 626, 460 P.2d 844, 845 (1969) (noting the relationship of trust and confidence between a husband and wife). Accordingly, we affirm summary judgment as to this claim. Based on the foregoing, we

ORDER the judgment of the district court AFFIRMED IN PART AND REVERSED IN PART AND REMAND this matter to the district court for proceedings consistent with this order.

 J.
Gibbons

 J.
Stiglich

 J.
Silver

cc: Hon. Mark R. Denton, District Judge
Lansford W. Levitt, Settlement Judge
Marx Law Firm, PLLC
Marquis Aurbach Coffing
Eighth District Court Clerk



IN THE SUPREME COURT OF THE STATE OF NEVADA

ROBERT G. REYNOLDS, AN
INDIVIDUAL; AND DIAMANTI FINE
JEWELERS, LLC, A NEVADA LIMITED
LIABILITY COMPANY,

Appellants,

vs.

RAFFI TUFENKJIAN, AN
INDIVIDUAL; AND LUXURY
HOLDINGS LV, LLC, A NEVADA
LIMITED LIABILITY COMPANY,
Respondents.

No. 78187

FILED


JAN 13 2021


ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER DENYING REHEARING

Rehearing denied. NRAP 40(c).

It is so ORDERED.


Stiglich J.


Silver J.

cc: Hon. Mark R. Denton, District Judge
Marx Law Firm, PLLC
Marquis Aurbach Coffing
Eighth District Court Clerk

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LIMITED LIABILITY COMPANY,
Respondents.

No. 78187

FILED

FEB 19 2021

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

ORDER DENYING EN BANC RECONSIDERATION

Having considered the petition on file herein, we have
concluded that en banc reconsideration is not warranted. NRAP 40A.
Accordingly, we

ORDER the petition DENIED.

Hardesty C.J.
Hardesty

Parraguirre J.
Parraguirre

Stiglich J.
Stiglich

Cadish J.
Cadish

Silver J.
Silver

Pickering J.
Pickering

Herndon J.
Herndon

cc: Hon. Mark R. Denton, District Judge
Marx Law Firm, PLLC
Marquis Aurbach Coffing
Eighth District Court Clerk

IN THE SUPREME COURT OF THE STATE OF NEVADA

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

Supreme Court No. 78187
District Court Case No. A753532

REMITTITUR

TO: Steven D. Grierson, Eighth District Court Clerk

Pursuant to the rules of this court, enclosed are the following:

Certified copy of Judgment and Opinion/Order.
Receipt for Remittitur.

DATE: March 17, 2021

Elizabeth A. Brown, Clerk of Court

By: Kaitlin Meetze
Administrative Assistant

cc (without enclosures):

Hon. Mark R. Denton, District Judge
Marx Law Firm, PLLC \ Bradley M. Marx
Marquis Aurbach Coffing

RECEIPT FOR REMITTITUR

Received of Elizabeth A. Brown, Clerk of the Supreme Court of the State of Nevada, the
REMITTITUR issued in the above-entitled cause, on MAR 18 2021.

HEATHER UNGERMANN

Deputy District Court Clerk

**RECEIVED
APPEALS**

MAR 18 2021

CLERK OF THE COURT

1 FFCL

2 **DISTRICT COURT**

3 **CLARK COUNTY, NEVADA**

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

7 Plaintiffs,

8 vs.

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

13 Defendants.

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

14 **FINDINGS OF FACT, CONCLUSIONS OF LAW, AND JUDGMENT**

15 The above-captioned matter, having come on for bench trial before this Court on
16 September 21, 22, and October 6, 2021 on Plaintiffs Robert G. Reynolds and Diamanti Fine
17 Jewelers, LLC's claim for intentional misrepresentation against Defendants Raffi Tufenkjian
18 and Luxury Holdings, LV, LLC. Christian T. Balducci, Esq. appeared on behalf of
19 Defendants Raffi Tufenkjian and Luxury Holdings, LV, LLC and Brad Marx, Esq. appeared
20 on behalf of Plaintiff Robert G. Reynolds and Diamanti Fine Jewelers, LLC. ("Plaintiff").

21 The Court having admitted various exhibits into evidence (Exhibits J1 – J38),
22 entertained testimony from Robert Reynolds, Raffi Tufenkjian, and Aldo Aguirre, the
23 pleadings, together with opening statements and closing arguments presented at the trial on
24 this matter, and good cause appearing therefor, makes the following Findings of Fact,
25 Conclusions of Law, and Judgment:

26 **FINDINGS OF FACT**

27 **A. PLAINTIFFS**

28 1. The plaintiffs in this case are Robert G. Reynolds ("Mr. Reynolds") and
Diamanti Fine Jewelers, LLC ("Diamanti").

1 2. Diamanti and Mr. Reynolds are sometimes collectively referred to herein as
2 “Plaintiffs.”

3 3. Mr. Reynolds is the manager of Diamanti.

4 4. Mr. Reynolds has years of experience supervising entire construction projects
5 in the millions of dollars, with one project being \$1.2 Billion.

6 5. He previously purchased a hotel that he expanded to 100 hotel rooms, which
7 grossed roughly \$3 Million to \$4 Million per year.

8 6. That hotel had 50 employees.

9 7. Mr. Reynolds previously invested \$4 Million into a portion of a shopping mall.

10 8. The Court finds that Mr. Reynolds is highly experienced in purchasing
11 businesses and other assets.

12 9. The Court finds that Mr. Reynolds also has experience in contracts, having
13 utilized contracts previously, including during his acquisition of the hotel.

14 10. However, Mr. Reynolds testified that he is not somewhat sophisticated with
15 contracts. (RT, 79, ll. 21 – 25)

16 11. The Court does not find Mr. Reynolds’ testimony on this topic to be credible,
17 and finds him to be sophisticated as it relates to contracts.

18 12. When confronted with his deposition testimony, wherein Mr. Reynolds
19 testified that he is somewhat sophisticated with contracts and graded himself as a 6 or 7 out of
20 10, Mr. Reynolds responded to this impeachment by testifying during the trial he would not
21 let defense counsel take him off to “la-la land of fairy,” and asked that one of defense
22 counsel’s “alternate lawyers” come in and ask questions because he and defense counsel were
23 “not going to get along.” (RT, 84, l. 18 – 85 – l. 5).

24 13. This sort of conduct permeated throughout the bulk of Mr. Reynolds cross-
25 examination.

26 14. On cross-examination, Mr. Reynolds rarely answered the question posed.

27 15. When confronted with the first few pages of his deposition where it was
28 volunteered that the deposition was being conducted on his birthday, Mr. Reynolds began

1 resorting to attacks on defense counsel, such as “I can remember you very well from the time
2 that we’d done the deposition together, and I wasn’t struck with your intelligence or your
3 demeanor then, and you’re certainly not doing anything to change my mind.” (RT 82, ll. 21-
4 25) This exchange came up in probably the first few minutes of defense counsel’s cross-
5 examination of Mr. Reynolds.

6 16. Shortly after, Mr. Reynolds went on to tell defense counsel that he didn’t see
7 defense counsel “nearly as attractive as you [defense counsel] think you [defense counsel]
8 are.” (RT 87, ll. 24-25)

9 17. These are just a few examples of Mr. Reynolds’ behavior on cross-
10 examination.

11 18. The Court finds that Mr. Reynolds understands the distinction between doing
12 business as a company, or limited liability company, as opposed to doing business as a natural
13 person.

14 19. Diamanti is a limited liability company that was formed for purposes of
15 acquiring the jewelry store that forms the foundation of this lawsuit.

16 20. Mr. Reynolds is the primary owner of Diamanti.

17 **B. DEFENDANTS**

18 21. The Defendants in this matter are Raffi Tufenkjian (“**Mr. Tufenkjian**”) and
19 Luxury Holdings LV, LLC (“**Luxury Holdings**”).

20 22. Mr. Tufenkjian and Luxury Holdings are sometimes collectively referred to
21 herein as “**Defendants**.”

22 23. Mr. Tufenkjian has been in the jewelry business for the bulk of his life,
23 beginning when he was a teenager in the 1980’s/1990’s.

24 24. Mr. Tufenkjian’s father was in the jewelry business.

25 25. Mr. Tufenkjian’s uncle was, and still is, in the jewelry business.

26 26. Mr. Tufenkjian’s brother, Nazareth Tufenkjian (“**Nazareth**”), was and still is
27 in the jewelry business.

28 27. Mr. Tufenkjian owns, and is manager of, Luxury Holdings.

1 28. Mr. Tufenkjian is also involved in commercial real estate, having owned the
2 Lynden Square shopping center where DW Bistro once was located through another
3 company.

4 29. Through other companies, Mr. Tufenkjian owns a number of commercial
5 properties throughout the Southwestern United States.

6 **C. THE JEWELRY STORE**

7 30. In or around August of 2013, Luxury Holdings opened a jewelry store in the
8 Tivoli Village Shopping Center located in Las Vegas ("**Tivoli**").

9 31. That jewelry store was named Diamanti Fine Jewelers ("**the Jewelry Store**").

10 32. The Jewelry Store was a high-end jewelry store catering to wealthier clientele.

11 33. In connection with the Jewelry Store, Mr. Tufenkjian caused Luxury Holdings
12 to enter into a lease agreement with the owner/landlord of Tivoli, Great Wash Park LLC.

13 34. The space for the Jewelry Store at Tivoli had some pre-existing cabinetry.

14 35. As part of opening the Jewelry Store, Luxury Holdings acquired all of the
15 equipment one would need to operate a fully functioning jewelry store, such as a security
16 system, phones, display cases, a large safe capable of resisting fire and theft attempts for a
17 period of time, a computer with an attendant point of sale system ("**POS System**"), diamond
18 testers, and other pieces of equipment as evidenced in Exhibit J8.

19 36. A significant amount of testimony was devoted to the POS System. The most
20 helpful, however, was the testimony from Mr. Aguirre regarding the POS System.

21 37. The POS System tracked all of the finished inventory within the Jewelry Store
22 (meaning completed rings, bracelets, pendants, etc.).

23 38. Loose stones such as diamonds and rubies were not identified within the POS
24 System.

25 39. The POS System tracked all sales within the Jewelry Store.

26 40. The POS System included inventory cost, mark up, sales, write downs,
27 discounts etc.

28 41. Cost, price, and mark up could be changed within the POS System.

- 1 42. It was a very robust system.
- 2 43. Mr. Tufenkjian worked at the Jewelry Store and operated it.
- 3 44. Mr. Tufenkjian's uncle, Zaven Tufenkjian ("**Zaven**"), also worked at the
- 4 Jewelry Store.
- 5 45. Aldo Aguirre ("**Mr. Aguirre**") was also employed at the Jewelry Store since it
- 6 opened.
- 7 46. Mr. Tufenkjian stocked the Jewelry Store with jewelry from a number of
- 8 sources, including consignment inventory and jewelry that Mr. Tufenkjian accumulated over
- 9 decades of working in the jewelry industry.
- 10 47. As evidenced in the exhibits submitted during trial, the Jewelry Store's
- 11 business steadily increased over time since it opened.

12 **D. THE GALLERIA MALL LOCATION**

- 13 48. In roughly October of 2014, Nazareth approached Mr. Tufenkjian about
- 14 opening a jewelry store location in the Galleria Mall in Henderson, Nevada.
- 15 49. For convenience, Luxury Holdings entered into the license agreement for the
- 16 location at the Galleria Mall, and Luxury Holdings Sale and Use Tax Form submittals
- 17 included sales generated at the Galleria Mall, which were hand tracked as shown in Exhibit
- 18 J31.
- 19 50. The POS System, however, did not include or track any inventory or sales
- 20 from the Galleria Mall location.

- 21 51. No inventory from the Galleria Mall location came from the Jewelry Store.

- 22 52. As testified to by Mr. Aguirre, no inventory at the Jewelry Store was
- 23 transferred from the Jewelry Store to the Galleria Mall location.

24 **E. THE JEWELRY STORE IS LISTED FOR SALE**

- 25 53. In November of 2014, Mr. Tufenkjian decided to sell the Jewelry Store to
- 26 move onto another business venture; specifically, getting out of the jewelry business entirely
- 27 and opening a Scavolini Cabinet Showroom.

- 28 54. Mr. Tufenkjian utilized Sunbelt Business Brokers to market the Jewelry Store.

1 55. As its fee for marketing the business, Sunbelt Business Brokers took a 10%
2 commission of the purchase price of the Jewelry Store and any inventory it may sell in or
3 outside escrow.

4 56. In connection with the proposed sale of the Jewelry Store, Sunbelt Business
5 Brokers prepared a business summary brochure which was admitted into evidence as Exhibit
6 J4 (“**the Marketing Brochure**”).

7 57. The Marketing Brochure was generated utilizing information from
8 Mr. Tufenkjian.

9 58. Mr. Tufenkjian participated in the production of the Marketing Brochure.

10 59. For example, as shown in Exhibit J.33 he told the business broker to “back
11 down” the revenue projection within the Marketing Brochure to \$800,000.00.

12 60. At the time the Marketing Brochure was finalized, Mr. Tufenkjian believed all
13 of the information within it was accurate and correct.

14 61. Because the Jewelry Store was not open for a full calendar year as of the time
15 the Marketing Brochure was prepared, Mr. Tufenkjian utilized estimates based upon his
16 experience in the jewelry industry in arriving at certain sales and revenue projections.

17 62. In particular, Mr. Tufenkjian utilized the sales and use forms from January of
18 2014 through October of 2014, monthly reports from the POS System, prior year tax returns,
19 financial statements, and then using estimations based upon his experience, estimated that the
20 total revenue for the Jewelry Store for the full year of 2014 would be \$800,000.00.

21 63. Mr. Tufenkjian also utilized information from his accountant, Mark Sherman,
22 CPA, in calculating profit/loss projections.

23 64. The Marketing Brochure includes a panoply of disclaimers informing potential
24 buyers that they bear the burden of doing due diligence into the Jewelry Store:

25 a. “During the due diligence process, it is the responsibility of the Buyer,
26 with the aid of an accountant and/or attorney, if necessary, to independently verify all
27 representations which have been made by the Seller, particularly as they relate to the
28 adjustments made to the profit and loss statements[.]”;

1 b. “Readers of this report should understand that statements are not
2 guarantees of value or results[.]”;

3 c. “Sunbelt Business Brokers cautions readers not to place undue reliance
4 on any forward-looking statements or projects that may have been used in the analysis
5 of value[.]”;

6 d. “It is the responsibility of the Buyer to verify all representations and to
7 make a final purchase decision based on their own independent investigation[.]”;

8 e. “The books are kept in house using a sophisticated register point of sale
9 software[.]”;

10 f. “Projection for the Year Ended December 2014[.]”;

11 g. “The Seller’s profit/loss statement projected out for 2014 was used in
12 the computation[.]”

13 65. The Marketing Brochure was completed prior to the conclusion of calendar
14 year 2014, and thus end of year financials were unavailable.

15 **F. MR. REYNOLDS MAKES AN OFFER AND A CONTRACT IS**
16 **FORMED**

17 66. As shown in Exhibit J15, on January 5, 2015, Mr. Reynolds contacted Sunbelt
18 Business Brokers for information regarding the Jewelry Store.

19 67. In response, Sunbelt Business Brokers provided Mr. Reynolds with the
20 Marketing Brochure.

21 68. On January 12, 2015, Mr. Reynolds submitted an offer to purchase the
22 business, which was accepted and signed by Mr. Tufenkjian on behalf of Luxury Holdings the
23 following day as shown in Exhibit J1 (“**Offer Agreement**”).

24 69. In connection with the Offer Agreement, Mr. Reynolds placed a \$10,000.00
25 earnest money deposit to be applied to the purchase price, which was \$395,000.00
26 (“**Purchase Price**”) for the Jewelry Store exclusive of inventory.

27 70. Inclusive in the purchase price were various items of furniture, fixtures, and
28 equipment (“**FF&E**”) which the Marketing Brochure identified as being worth \$270,000.00.

1 71. \$100,000.00 of the total Purchase Price was allocated to the FF&E.

2 72. The Offer Agreement states it is made on behalf of “Robert G. Reynolds or
3 entity to be formed by purchaser....”

4 73. ¶20 of the Offer Agreement states “Except for express warranties made in this
5 Contract, the Closing of this transaction shall supersede this Contract.”

6 74. ¶15 of the Offer Agreement states “This instrument together with its addenda
7 and disclosures constitutes the entire contract between the parties and supersedes and replaces
8 any and all prior negotiations, representations, warranties, understandings, or contracts
9 between the parties.”

10 75. In bold font at the bottom, the Offer Agreement tells all of the parties to it that
11 if they “do not understand it, consult an attorney.”

12 76. Pursuant to the Offer Agreement, the closing date for the sale of the Jewelry
13 Store was originally set for March 1, 2015.

14 77. Pursuant to the Offer Agreement, the period of time for Mr. Reynolds to
15 conduct due diligence began once accepted, and his earnest money deposit was refundable for
16 a period of 14 days.

17 78. During trial, Mr. Reynolds testified he had roughly six conversations with
18 Mr. Tufenkjian prior to submitting an offer, having testified in his deposition that he could not
19 recall how many conversations he had with Mr. Tufenkjian before making an offer, but if he
20 “had one, it was too damn many.” (RT 105, l. 9)

21 **G. DUE DILIGENCE AND WHAT MR. REYNOLDS LEARNED**

22 79. Mr. Reynolds began performing due diligence into the Jewelry Store almost
23 immediately upon the Offer Agreement being counter-signed by Luxury Holdings.

24 80. Mr. Reynolds did not utilize the services of an accountant or bookkeeper to
25 assist in his due diligence.

26 81. Nor did he utilize the services of an attorney.

27 82. At the time, one of Mr. Reynolds’ sons was an attorney.

28

1 83. According to Mr. Reynolds, he would from time to time ask Mr. Tufenkjian
2 questions about the Jewelry Store's financial viability, and on each occasion, Mr. Tufenkjian
3 would direct Mr. Reynolds to review the Marketing Brochure.

4 84. This is the same Marketing Brochure which specifically stated "During the due
5 diligence process, it is the responsibility of the buyer, with the aid of an accountant and/or
6 attorney, if necessary, to independently verify all representations which have been made by
7 the seller, particularly as they relate to the adjustments made to the Profit and loss
8 Statements."

9 85. Mr. Reynolds, Mr. Tufenkjian, and Mr. Aguirre all testified that Mr. Reynolds
10 would come to the store during the due diligence period, and had an opportunity to monitor
11 foot traffic, look at all of the inventory, and had full and complete access to the POS System.

12 86. During the due diligence period Mr. Reynolds became aware of the existence
13 of the Galleria Mall location, and had full and complete access to everything in the Jewelry
14 Store, including the drawers and cabinets where the document admitted into evidence as
15 Exhibit J31 was located (which is the sales at the Galleria Mall location on Galleria Mall
16 stenciling).

17 87. Mr. Reynolds (and his wife) also spent a significant amount of time utilizing
18 the POS System during the due diligence period.

19 88. Mr. Tufenkjian testified that the hand-written revenue numbers for the Galleria
20 Mall location were located in a filing cabinet in the Jewelry Store that Mr. Reynolds had
21 access to and reviewed as a part of due diligence.

22 89. When asked about Mr. Tufenkjian's testimony concerning this filing cabinet,
23 Mr. Reynolds testified that the Jewelry Store did not have a filing cabinet, thus insinuating
24 that Mr. Tufenkjian was being untruthful.

25 90. Mr. Reynolds was then confronted with the pictures of the Jewelry Store in the
26 Marketing Brochure which showed cabinets, including a filing cabinet, at which point he
27 testified "you can't put files in there."
28

1 91. On the issue of the Galleria Mall location and not knowing about its revenues,
2 the Court finds that Mr. Reynolds was not credible.

3 92. The Court finds that Mr. Reynolds knew about the Galleria Mall location, and
4 knew the sales and use forms included sales from the Galleria Mall location.

5 93. When questioned about the contents of the Marketing Brochure, Mr. Reynolds
6 attempted to speak with his counsel on the record, and said "I'd like to say something to Brad
7 [counsel for Mr. Reynolds and Diamanti]. I'd like for you to kind of listen good to what he's
8 [counsel for the defense] putting on the screen and what he's saying, and if any of that stuff is
9 legally out of bounds, say something, because he keeps fishing for something, and I'm not
10 sure exactly what, and I don't trust him. And I don't - - [] I don't want him to get me to say
11 something that's going to come back to bite us later on." (RT 98, l. 24 – 99, l. 8)

12 94. Mr. Reynolds testified that he could have utilized any consultant to assist him
13 during the due diligence period, and said he could have even used an "iron worker" as a
14 consultant if he wanted too. (RT, 100, l. 25 – 101, l. 11)

15 95. Mr. Reynolds testified that he asked for tax returns, profit and loss statements,
16 and sales and use forms during due diligence, and that he only received the sales and use
17 forms.

18 96. Mr. Reynolds testified that he asked for these documents early on in the
19 process, but was impeached with his deposition wherein he provided the following response
20 when asked whether he asked for those documents before or after February 27, 2015: "Oh
21 hell. I wouldn't know" and "I wouldn't have a clue." (RT, 111, ll. 6 – 11)

22 97. The February 27, 2015 date has significance because that is the date the parties
23 entered into an amendment continuing the closing date for the sale of the Jewelry Store to on
24 or before April 15, 2015 in exchange for a release of a portion of the earnest money.

25 98. Regardless of what Mr. Reynolds said about the time in which he asked for
26 certain documents, every witness agreed Mr. Reynolds had full and unfettered access to the
27 POS System and absolutely anything and everything within the Jewelry Store, and the Court
28 finds that Mr. Reynolds was unobstructed during due diligence and was able to review

1 anything located in the Jewelry Store (which included all of its financial information from the
2 POS System, its inventory, sales, revenues, profits, costs, and all other pertinent information
3 the buyer of a business would want to review).

4 99. When examined about the inconsistency as to his testimony concerning when
5 he asked for documents in due diligence, Mr. Reynolds said his memory was not as good as it
6 once was.

7 100. When asked for an explanation as to how his recollection of things was clear
8 during direct examination as opposed to “murky” (at best) during cross, Mr. Reynolds
9 testimony was “I forget.” (RT, 112, l. 3)

10 101. During due diligence, Mr. Reynolds came to the conclusion that
11 Mr. Tufenkjian was lying, that he could not “believe him,” “[t]he numbers aren’t right[,]” and
12 they “don’t balance.” (RT, 117, 15-18)

13 102. According to Mr. Reynolds, the seller of a business “will lie about 10 or 20
14 percent [,]” but he presumed Mr. Tufenkjian lied “50%[,]” and felt he could meet his
15 “commitment, if he [Mr. Tufenkjian] had lied 100 percent.” (RT 118, ll. 5-10)

16 103. In other words, Mr. Reynolds believed the figures in the Marketing Brochure
17 were incorrect, and did not believe that any statements from Mr. Tufenkjian regarding the
18 financial health of the Jewelry Store were true.

19 104. Mr. Reynolds testified that he was provided with a customer list during due
20 diligence that was admitted into evidence as Exhibit J24.

21 **H. CLOSING OF THE SALE OF THE JEWELRY STORE**

22 105. Ultimately, the sale of the Jewelry Store closed on or around March 25, 2015
23 (“Closing Date”).

24 106. At some time prior to the Closing Date, Mr. Reynolds and Mr. Tufenkjian
25 came to an agreement whereby Mr. Reynolds (through his company) would purchase all of
26 the Jewelry Store’s inventory “at cost.”

27 107. No one was particularly certain as to the date oral agreement was reached.
28

1 108. However, on or around February 22, 2015, Mr. Tufenkjian went into the POS
2 System and raised the cost of all finished inventory actually owned outright by Luxury
3 Holdings roughly 10% (the bulk of the jewelry inventory was on consignment).

4 109. According to Mr. Tufenkjian, he did this to account for the 10% commission
5 Sunbelt Business Brokers required as its fee to handle the transaction.

6 110. Mr. Reynolds knew that at any time prior to the Closing Date, he could have
7 backed out.

8 111. Mr. Reynolds had “alarms” going off in his head based upon the
9 inconsistencies in the financial records he reviewed, and had said to himself, “the guy is
10 trying to do something.” (RT 126, ll. 2-3)

11 112. Mr. Reynolds attempted to retreat from this position, and during trial testified
12 that the alarms were going off in his head during discovery. However, he was impeached with
13 his deposition, wherein he testified that during the due diligence period he understood that the
14 numbers were “everywhere” and they raised an “alarm” in his head. (RT 125, l. 25 – 128, l.
15 9)

16 113. When given an opportunity to explain his inconsistent testimony,
17 Mr. Reynolds said it is because he is “three years older.” (RT, 128, l. 11)

18 114. Despite the alarms and what he found as inconsistent and unreliable financial
19 records (in his mind), Mr. Reynolds decided to close on the sale of the Jewelry Store anyway.

20 115. The closing of the transaction culminated in, and is documented by, the
21 business sale closing instructions (“**Closing Agreement**”) admitted into evidence as Exhibit
22 J6.

23 116. Mr. Reynolds signed the Closing Agreement in his personal capacity in order
24 to assign the contractual obligations from the Offer Agreement to his company, Diamanti.

25 117. Mr. Reynolds also signed the Closing Agreement on behalf of the company he
26 formed for purposes of purchasing the Jewelry Store, that being, Diamanti.

1 118. The Closing Agreement, which is signed by Mr. Reynolds in his individual
2 capacity and on behalf of Diamanti, states that “[t]he parties hereto agree that no
3 representations have been made by either party.”

4 **I. THE JEWELRY INVENTORY**

5 119. On or about the Closing Date, Mr. Reynolds met Mr. Tufenkjian at the Jewelry
6 Store to go through the inventory.

7 120. Mr. Reynolds brought his son, the lawyer, with him.

8 121. While Mr. Reynolds took issue with the “cost” of the inventory on direct
9 examination, he testified to the opposite during his deposition, which in pertinent part was
10 read.

11 122. Mr. Reynolds had every opportunity to inspect all of the finished jewelry
12 inventory.

13 123. The portion of the finished jewelry inventory that belonged to Luxury
14 Holdings was sold for \$134,253.44, which was the cost shown in the point of sale.

15 124. However, in addition to finished jewelry inventory, Luxury Holdings also
16 included loose stones, such as diamonds, amethyst, rubies, sapphires, emeralds, findings
17 (which are pieces that are necessary to create and fix jewelry), batteries, etc. in the inventory
18 it provided to Mr. Reynolds and Diamanti.

19 125. When confronted with the \$134,253.44 price paid for inventory owned outright
20 by Luxury Holdings, Mr. Reynolds testified in his deposition (portion of which was read)
21 “I’m not arguing about this. We counted - - I paid for it. End of story.” (RT 152, ll. 5-6)

22 126. When asked whether he agreed with that \$134,253.55 price, Mr. Reynolds
23 testified in his deposition “Yes.” (RT 152, l. 8)

24 127. Mr. Reynolds ultimately paid \$300,691.23 for all of the inventory in the
25 Jewelry Store, including the inventory owned by Luxury Holdings outright, consignment
26 inventory from each of the consignors as shown on Exhibit J7 (Nazareth, G. Panther, Inc., and
27 National Gold & Diamond Centre, Inc.), and loose stones, findings, etc.

28 128. The retail price of the finished inventory, alone, was \$655,045.074.

1 **J. THE FF&E**

2 129. Included in the sale of the Jewelry Store was certain FF&E included on a bill
3 of sale admitted into evidence as Exhibit J8.

4 130. There are approximately 81 categories of FF&E listed in the bill of sale which
5 were conveyed from Luxury Holdings to Diamanti on the Closing Date, and within that
6 document Luxury Holdings represented and warranted that it was the true and actual owner of
7 each item of FF&E listed therein.

8 131. In connection with the closing for the sale of the Jewelry Store, the lease with
9 Tivoli was assigned from Luxury Holdings to Diamanti.

10 132. The assignment was admitted into evidence as Exhibit J14 (“**the**
11 **Assignment**”).

12 133. According to Paragraph 5 of the Assignment (wherein “Tenant” is defined as
13 Luxury Holdings), the Tenant/Luxury Holdings assigned all of its “right, title and interest to
14 any furniture, fixtures and equipment in the leased premises” to the “Assignee,” which was
15 defined in the Assignment as Diamanti.

16 134. Great Wash Park LLC, the landlord/owner of Tivoli, signed off on the
17 Assignment and thus agreed to the assignment of all of Luxury Holdings’ rights in and to the
18 Jewelry Store’s furniture, fixtures, and equipment to Diamanti.

19 135. Sometime after the Closing Date, a manager of Tivoli told Mr. Reynolds that
20 he (the manager) was unsure as to “who” owned certain cabinets in the Jewelry Store, and that
21 he “would have to go look in the files” to determine whether such cabinets (items 1 – 9 in
22 Exhibit J8) were owned by Diamanti/Mr. Reynolds or Tivoli.

23 136. This manager never followed up with Mr. Reynolds, and Mr. Reynolds never
24 followed up with the manager.

25 137. Tivoli never sent a letter or correspondence to Mr. Reynolds articulating
26 whether Tivoli believed it owned the cabinets/items of FF&E.

27 138. The issue never came up again.
28

1 **K. THE CUSTOMER LIST**

2 139. Sometime after the Closing Date, Mr. Reynolds desired to determine which
3 individuals on the customer list, Exhibit J24, were still alive, which had passed away and
4 which had moved away.

5 140. Mr. Reynolds testified that he hired someone to call everyone on the list, and
6 that this person reported back that most of the individuals were not customers.

7 141. Mr. Reynolds testified that he has no personal knowledge about this subject
8 matter, and any information he has was relayed to him by this third-party who did not testify
9 at trial.

10 **L. MR. REYNOLDS CLOSES THE JEWELRY STORE**

11 142. After the Closing Date, Mr. Reynolds operated the Jewelry Store.

12 143. He sold much of the finished jewelry inventory he purchased from Luxury
13 Holdings, although he could not approximate how much of the inventory he sold.

14 144. At some point in time, Mr. Reynolds closed the Jewelry Store. He did not
15 attempt to take any of the FF&E with him and testified that much of it was stolen.

16 If any of the foregoing Findings of Fact are more appropriately to be deemed to be
17 Conclusions of Law, they shall be so deemed.

18 FROM the foregoing Findings of Fact, the Court makes the following

19 **CONCLUSIONS OF LAW**

20 **A. PROCEDURAL HISTORY**

21 1. This action was initiated on April 5, 2017.

22 2. Various iterations of amended complaints were filed, ultimately culminating in
23 a Third Amended Complaint filed November 1, 2017, by Diamanti and Mr. Reynolds against
24 Luxury Holdings, Mr. Tufenkjian, and Great Wash Park LLC.

25 3. The Third Amended Complaint asserted fraud/intentional misrepresentation,
26 negligent misrepresentation, and elder abuse against Luxury Holdings and Mr. Tufenkjian,
27 breach of contract against Luxury Holdings, and no affirmative claims against Great Wash
28

1 Park LLC (which was named to support the request for rescission in order to unwind the lease
2 and attendant personal guaranty of Mr. Reynolds).

3 4. On October 12, 2018, this Court entered its Decision granting Luxury
4 Holdings and Mr. Tufenkjian's motion for summary judgment, written Order for which was
5 entered on November 14, 2018.

6 5. Notice of entry of that order was filed and served on November 16, 2018.

7 6. Following post-judgment tolling motions, Diamanti and Mr. Reynolds filed a
8 timely notice of appeal on February 19, 2019.

9 7. Diamanti and Mr. Reynolds entered into a Stipulation with Great Wash Park
10 LLC for purposes of dismissing Great Wash Park LLC, which was reduced to an Order
11 entered on April 25, 2019, notice of entry of which was filed and served on May 13, 2019.

12 8. An Appeal of the claims for breach of contract and negligent misrepresentation
13 was dismissed. *See Reynolds v. Tufenkjian*, 136 Nev. Adv. Op. 19, 475 P.3d 777 (2020).

14 9. Summary judgment against the elder abuse claim was affirmed on the basis
15 that the underlying transaction was at arms' length, and thus there could not be a relationship
16 of "trust and confidence" between Mr. Reynolds and Mr. Tufenkjian.

17 10. Summary judgment against the intentional misrepresentation was reversed,
18 leading to the instant trial and these Findings of Fact, Conclusions of Law, and Judgment.

19 **B. BURDENS OF PROOF**

20 **1. Burden of Production**

21 11. A plaintiff has the burden of production.

22 12. The party that carries the burden of production must establish a *prima facie*
23 case; burden of production entails only the presentation of evidence and a *prima facie*
24 showing is one sufficient to support the position of the party in question. *Rivera v. Philip*
25 *Morris, Inc.*, 125 Nev. 185, 209 P.3d 271 (2009) (citing *Aguilar v. Atl. Richfield Co.*, 25 Cal.
26 4th 826, 24 P.3d 493 (2001)).

27 **2. Burden of Persuasion**

28 13. Plaintiffs also have the burden of persuasion in this matter.

1 14. The party with the burden of persuasion must demonstrate that each element of
2 the cause of action has been proved.

3 15. The burden of persuasion rests with one party throughout the case and
4 “determines which party must produce sufficient evidence to convince a judge that a fact has
5 been established.” *Rivera*, 125 Nev. at 191, 209 P.3d at 275 (citations omitted).

6 **3. Clear and Convincing Evidence is Required for Fraud Claims**

7 16. Because the only claim that went to trial was for intentional misrepresentation,
8 it is necessary to establish the heightened standard for such claims.

9 17. Nevada law utilizes the clear and convincing standard for fraud. *See Lubbe v.*
10 *Barba*, 91 Nev. 596, 598, 540 P.2d 115, 117 (1975).

11 18. The Nevada Supreme Court has upheld the heightened standard for fraud time
12 and time again. *See Bulbman, Inc. v. Nevada Bell*, 108 Nev. 105, 111, 825 P.2d 588, 592
13 (1992); *see also J.A. Jones Const. Co. v. Lehrer McGovern Bovis, Inc.*, 120 Nev. 277, 290, 89
14 P.3d 1009, 1018 (2004).

15 19. Clear and convincing evidence has been defined as “evidence establishing
16 every factual element to be highly probable,” or as “evidence [which] must be so clear as to
17 leave no substantial doubt[.]” *In re Discipline of Drakulich*, 111 Nev. 1556, 1567, 908 P.2d
18 709, 715 (1995).

19 20. Consequently, if Plaintiffs do not present such clear and convincing evidence
20 for each and every element of fraud, then a defense ruling must be entered by the Court.

21 21. A determination of fraud based on anything less than clear and convincing
22 proof is reversible error. *Hindenesh v. Whitney by Vogelheim*, 101 Nev. 175, 178, 697 P.2d
23 932, 934 (1985).

24 22. “A party alleging fraud must clearly and distinctly prove the fraud as alleged,
25 or as has been said, fraud must be established by clear and convincing proof.” *Miller v. Lewis*,
26 80 Nev. 402, 403, 395 P.2d 386, 387 (1964).

1 23. "Circumstances of mere suspicion will not warrant the court in coming to the
2 conclusion that a fraud has been committed." *Gruber v. Baker*, 20 Nev. 453, 23 P. 858, 865
3 (1890).

4 24. In *Miller, supra*, the Nevada Supreme Court dealt with a situation where the
5 only fraud allegations were based on the testimony of plaintiff:

6 The occasions at which the fraudulent and deceitful statements of defendants
7 are alleged to have been made were four meetings between the parties, one at
8 the office of appellant Redelius, one at the Holiday Hotel, one at the offices of
9 the Sno-Lite Co., and one at the offices of attorney Emerson Wilson at the
Nevada Title Guaranty Company, all in Reno, Nevada. The testimony of the
plaintiffs in support of the allegations of fraud and deceit were all categorically
denied by the testimony of the defendants.

10 The court in its findings and conclusions said: 'The burden of proof in
11 establishing fraud is upon plaintiffs. A party alleging fraud must clearly and
12 distinctly prove the fraud as alleged, or as has been said, fraud must be
established by clear and convincing proof. *Gruber v. Baker*, 20 Nev. 453 [23 P.
13 858, 9 L.R.A. 302]; *Tallman v. First National Bank of Nevada* [66 Nev. 248],
208 P.2d 302.

14 'The only testimony as to the making of the alleged promises and
15 representations upon which plaintiffs' case is predicated is that of plaintiffs
themselves. The other non-party witnesses, Catron and Wilson, did not testify
that such representations were made in their presence.

16 'Plaintiffs have not sustained the burden of proof in establishing their claim of
17 fraud.

18 *Id.*

19 25. Thus, the uncorroborated testimony of a plaintiff was not enough.

20 **C. REQUIRED ELEMENTS FOR FRAUD/INTENTIONAL
MISREPRESENTATION**

21 26. In Nevada, it is well established that the elements of fraud / intentional
22 misrepresentation are as follows:

- 23 a. A false representation made by the Defendant;
- 24 b. Defendants' knowledge or belief that the representation is false, or that
25 the Defendants does not have a sufficient basis of information to make such
26 representation;
- 27 c. The Defendants' intention to induce Plaintiff to act or to refrain from
28 acting in reliance upon the misrepresentation;

- 1 d. Plaintiff's justifiable reliance upon the misrepresentation; and
2 e. Damage to Plaintiff resulting from such reliance.

3 *Lubbe, supra*, 91 Nev. 596, 540 P.2d 115.

4 27. It is also well established that it is essential for a plaintiff claiming fraud to
5 prove each and every element by clear and convincing evidence. *Id.* at 598, 540 P.2d at 117.

6 28. A cause of action for fraudulent concealment must be alleged with
7 particularity. *Golden Nugget, Inc. v. Ham*, 98 Nev. 311, 646 P.2d 1221 (1982).

8 29. There is no concealment claim to address here.

9 30. At the inception of this trial in opening statement, Mr. Reynolds and Diamanti
10 laid out four categories of misrepresentations they contended support their claim for
11 intentional misrepresentation:

12 a. That Luxury Holdings and Mr. Tufenkjian misrepresented the revenues
13 of the business in the Marketing Brochure, and provided financial information (sales
14 and use forms) during due diligence which included sales from the Galleria Mall
15 location (which was not being purchased as part of the transaction);

16 b. That Luxury Holdings and Mr. Tufenkjian misrepresented the cost of
17 the inventory sold to Diamanti and Mr. Reynolds when some of it was inflated roughly
18 10%;

19 c. That Luxury Holdings and Mr. Tufenkjian misrepresented their
20 ownership of certain items of the FF&E, and, in particular, the cabinets and items 1 –
21 9 on Exhibit J8; and

22 d. That the customer list provided during due diligence constituted a
23 misrepresentation because the individuals identified in that list were not customers.

24 31. In closing arguments, Diamanti and Mr. Reynolds abandoned the customer list
25 issue.

26 **D. THE REPRESENTATIONS AT ISSUE**

27 32. "Circumstances of mere suspicion will not warrant the court in coming to the
28 conclusion that a fraud has been committed." *Gruber, supra*, 20 Nev. 453, 23 P. at 865.

1 **1. The Revenue Figures Contained in the Marketing Brochure and Sales**
2 **and Use Forms**

3 33. The primary representation pursued at trial were the revenues contained in the
4 Marketing Brochure, Exhibit J4, and Sales and Use Forms, Exhibit J30.

5 34. According to Mr. Reynolds, he was informed by Mr. Tufenkjian that the
6 Marketing Brochure and Sales and Use Forms accurately portrayed the revenues, profits,
7 losses, and sales of the Jewelry Store and that these documents included false information.

8 35. According to Mr. Reynolds, on each occasion where he inquired about the
9 Jewelry Store's financial figures, he was directed to the Marketing Brochure, which included
10 false information.

11 36. In particular, Mr. Reynolds testified that the Marketing Brochure represents the
12 Jewelry Store as having revenues totaling \$800,000.00 a year and profits of roughly
13 \$110,000.00, both of which Mr. Reynolds contended were false and were inflated by the
14 Galleria Mall location.

15 37. Mr. Reynolds also testified that the Sales and Use Forms he received during
16 due diligence were inaccurate portrayals of the Jewelry Store because they included sales
17 from the Jewelry Store and the Galleria Mall location.

18 38. Mr. Tufenkjian testified that he did not utilize Galleria Mall location figures in
19 computing the numbers set forth in the Marketing Brochure.

20 39. Mr. Tufenkjian testified that he referred to prior sales figures that excluded the
21 Galleria Mall location, and then, using his experience in the market, came up with projections
22 and figures in order to create revenue and profit and loss projections.

23 40. Mr. Tufenkjian also testified that he informed Mr. Reynolds of the Galleria
24 Mall location and its existence.

25 41. In closing, it was acknowledged that Diamanti and Mr. Reynolds were aware
26 of the Galleria Mall location during due diligence.

27 42. As it relates to the revenue and profit/loss figures set forth in the Marketing
28 Brochure, the document explicitly states in multiple locations that "Readers of this report

1 should understand that statements are not guarantees of value or results[,]” that the financial
2 information set forth is a “Projection for the Year Ended December 2014[,]” that “[t]he
3 Seller’s profit/loss statement projected out for 2014 was used in the computation[,]” and it
4 “cautions readers not to place undue reliance on any forward-looking statements or projects
5 that may have been used in the analysis of value.”

6 43. Given that the Marketing Brochure was generated in year 2014, before the
7 2014 financial year ended, it was impossible to provide accurate financial figures; hence why
8 the Market Brochure stated in multiple locations that they were projections.

9 44. In light of the foregoing, the Court does not find that the projections were
10 false. They were just that – projections.

11 45. Moreover, the Court has previously stated it questions Mr. Reynolds’
12 credibility as it relates to how many conversations Mr. Reynolds did or did not have with
13 Mr. Tufenkjian, and consequently, this Court cannot and does not rely upon any conversation
14 Mr. Reynolds claimed to have with Mr. Tufenkjian.

15 46. As it relates to the Sales and Use forms, Mr. Reynolds and Diamanti conceded
16 they were aware of the Galleria Mall location and its existence.

17 47. Other than Mr. Reynolds’ own testimony, there is no evidence that
18 Mr. Tufenkjian told Mr. Reynolds that the Sale and Use forms are only for the Jewelry Store.

19 48. Mr. Tufenkjian testified contrary to Mr. Reynolds, and specifically testified
20 that Mr. Reynolds was informed that the Sales and Use included sales from both locations.

21 49. Moreover, the sales numbers from the Galleria Mall location were on site at
22 the Jewelry Store on Galleria Mall stencil paper, readily available to Mr. Reynolds during one
23 of his many visits to the Jewelry Store during the due diligence period.

24 50. In addition, other than his own testimony, Mr. Reynolds did not present any
25 financial records during the trial establishing the financial performance of the Jewelry Store in
26 2015, 2016, 2017, or after.

27 51. In other words, there was no evidence presented at trial of the Jewelry Store’s
28 financial performance (for better or worse) after the Closing Date.

1 52. Consequently, the evidence adduced at trial does not establish to the level of
2 clear and convincing evidence that either Luxury Holdings or Mr. Tufenkjian intentionally
3 made a false representation with respect to the financial performance of the Jewelry Store.

4 53. Equally as dispositive is the fact that the Closing Statement, which was signed
5 and agreed to by both Diamanti and Mr. Reynolds, states that “[t]he parties hereto agree that
6 no representations have been made by either party.”

7 54. Thus, to find a misrepresentation occurred, this Court must first disregard the
8 contractual agreement between the parties, which this Court will not do.

9 **2. The FF&E**

10 55. As it relates to the FF&E, at trial, Diamanti and Mr. Reynolds contended that
11 Luxury Holdings and Mr. Tufenkjian falsely stated they owned (and could convey) ownership
12 of items 1 – 9 of the FF&E identified in Exhibit J8 (that being some mirrors, display cases,
13 counters).

14 56. In particular, Diamanti and Mr. Reynolds contended that Tivoli owned those
15 pieces.

16 57. Diamanti and Mr. Reynolds relied on statements from a manager (named
17 “Fickenstein”) and the lease agreement.

18 58. As for the statements from Fickenstein, this is information Mr. Reynolds heard
19 that he testified about.

20 59. Mr. Reynolds did not present Fickenstein as a witness.

21 60. As for the lease, the lease agreement does not specifically address the FF&E
22 items 1 – 9 in Exhibit J8.

23 61. The Assignment, however, provides that the “Tenant” (Luxury Holdings) is
24 assigning any and all of its interest in and to any FF&E located within the leased premises of
25 the Jewelry Store from itself to the Assignee (Diamanti).

26 62. Tivoli never sent a letter claiming it owned FF&E items 1 – 9 within Exhibit
27 J8, and Mr. Reynolds made no effort to determine if he could take those items with him when
28 he closed the Jewelry Store.

63. Based upon the foregoing, Diamanti and Mr. Reynolds did not meet their burden to establish that the statements made regarding FF&E items 1 – 9 within Exhibit J8 are false.

3. Cost of the Inventory

64. The final representation Diamanti and Mr. Reynolds claim to be false is that the finished jewelry inventory was not sold at “cost” because it was the subject of a 10% markup.

65. Exhibit J7 lists the various inventory which was sold:

- a. Jewelry from consignor G. Panther, Inc., for \$28,352.00;
- b. Jewelry from consignor National Gold & Diamond Centre, Inc., for \$88,085.79;
- c. Jewelry from Nazareth for \$50,000.00; and
- d. Jewelry from Luxury Holdings for \$134,253.44.

66. Diamanti and Mr. Reynolds did not present any evidence capable of showing, or even intimating, that the G. Panther, National Gold & Diamond Centre, Inc., or Nazareth jewelry pieces were marked up.

67. The only pieces of inventory that Diamanti and Mr. Reynolds presented evidence of a mark-up were those owned by Luxury Holdings.

68. According to Mr. Reynolds, the Luxury Holdings items were marked up roughly 10% as shown in the spreadsheet generated by the POS System and admitted into evidence as Exhibit J27.

69. Mr. Tufenkjian testified that he marked up the Luxury Holdings finished jewelry pieces because he had to pay his broker 10% commission, meaning, if he sold the pieces at their original cost he would have lost money by selling them for under cost.

70. Mr. Tufenkjian testified that he informed Mr. Reynolds of this markup, and that Mr. Reynolds agreed to it.

71. Mr. Reynolds, on the other hand, testified that he was never informed of the mark up.

1 72. Ultimately, Mr. Reynolds testified in his deposition (with which he was
2 impeached) that he took no issue with the price he paid for the finished inventory from
3 Luxury Holdings.

4 73. The Court concludes Mr. Reynolds is not credible.

5 74. Consequently, this Court does not find that Diamanti and Mr. Reynolds
6 sustained their burden of establishing the false nature of the “cost” representation.

7 75. The \$134,253.44 is the dollar figure for “cost” of the finished inventory in the
8 POS System.

9 76. Moreover, Diamanti and Mr. Reynolds ignore the fact that they also received
10 loose diamonds, rubies, emeralds, sapphires, findings, gold, silver, etc., and that none of these
11 items were within the POS System despite having a value exceeding \$20,000.00 according to
12 the testimony of Mr. Tufenkjian (which was undisputed on that issue).

13 77. Thus, assuming the 10% markup which would total roughly \$14,000.00,
14 Diamanti and Mr. Reynolds still come out ahead and acquired the finished inventory and
15 loose stones for less than cost.

16 4. The Customer List

17 78. Although it was abandoned in closing, it is worth the time to address the
18 customer list since it was raised in opening and raised by Mr. Reynolds during his testimony.

19 79. The specific representation Mr. Reynolds takes issue with as it relates to the
20 customer list is that most, if not all, of the individuals identified on the customer list submitted
21 into evidence as Exhibit J24 were never customers of the Jewelry Store.

22 80. The only evidence Mr. Reynolds presented in furtherance of this contention
23 was his testimony regarding information told to him by a woman he had hired (namely, that
24 many were not customers).

25 81. Mr. Reynolds did not call this woman to testify, and, consequently, the
26 information relayed to him regarding the customers about which he testified is hearsay which
27 this Court cannot rely upon for the truth of the matter asserted.

1 82. Aside from this hearsay statement, neither Diamanti nor Mr. Reynolds
2 presented any evidence that the customer list contained inaccurate information.

3 83. Mr. Reynolds specifically testified that he did not have “personal knowledge”
4 as to whether the customers on the customer list were customers of the Jewelry Store or not.

5 84. As such, no admissible evidence was presented to demonstrate whether the
6 representations regarding the customer list were false.

7 85. The Court, therefore, finds that Diamanti and Mr. Reynolds did not meet their
8 burden to show that a misrepresentation was made regarding the customer list.

9 86. Moreover, Mr. Reynolds testified that there was a customer of the Jewelry
10 Store named Robert Reynolds, and the customer list specifically identifies a customer named
11 Robert Reynolds.

12 87. Consequently, the Court does not find Mr. Reynolds testimony regarding the
13 customer list to be credible.

14 **E. WHETHER DEFENDANTS KNEW THE REPRESENTATIONS WERE**
15 **FALSE, OR LACKED A SUFFICIENT BASIS TO MAKE SUCH**
16 **REPRESENTATIONS**

17 **1. The Revenue Figures**

18 88. In compiling the revenue figures set forth in the Marketing Brochure,
19 Mr. Tufenkjian testified that he relied on prior sales in 2014 (which were limited because the
20 Jewelry Store was fairly new), prior year tax returns, financial statements, and monthly
21 reports from the POS System, and then utilizing his experience in the industry, reached the
22 projections which are laid out.

23 89. Mr. Tufenkjian testified that he believes the figures set forth within the
24 Marketing Brochure were true at the time he made them, and testified at trial he believes those
25 projections are still true today.

26 90. Mr. Tufenkjian testified that at the time he compiled the projections, he did not
27 take into account the sales from the Galleria Mall location.

28 91. At the time the Marketing Brochure was generated, the Galleria Mall location
had been open two weeks, at most.

1 92. Mr. Tufenkjian testified that he utilized his accountant, Mark Sherman, CPA in
2 coming up with the figures, as well.

3 93. Other than innuendo regarding the Galleria Mall location, no evidence was
4 presented indicating that Luxury Holdings or Mr. Tufenkjian believed or knew that the figures
5 set forth in the Market Brochure were false.

6 94. Likewise, through using historical sales, referring to the accountant, and
7 relying upon experience, Luxury Holdings and Mr. Tufenkjian did not lack a justifiable basis
8 for making such representations.

9 95. As for the Sale and Use forms, the figures within them are true, and, other than
10 Mr. Reynolds' testimony (which the Court does not find credible), there is no evidence to
11 suggest that Mr. Tufenkjian ever stated that the Sales and Use forms are for the Jewelry Store,
12 only.

13 96. Diamanti and Mr. Reynolds failed to meet their burden on this issue.

14 **2. FF&E**

15 97. There was a lack of evidence tending to show that either Luxury Holdings or
16 Mr. Tufenkjian believed items 1 – 9 of the FF&E were not their property.

17 98. Mr. Tufenkjian consistently testified that those items were included as the
18 landlord's contribution to tenant improvements.

19 99. Moreover, given the plain language of the Assignment Luxury Holdings,
20 Diamanti, and Tivoli signed, Luxury Holdings and Mr. Tufenkjian had every reason to
21 believe those items were their property.

22 100. Indeed, the Assignment has Luxury Holdings assigning all of its right, title,
23 and interest in all of the FF&E to the Diamanti, and the landlord Tivoli signed off on that
24 document.

25 101. While it is true the lease agreement does not expressly say that Luxury
26 Holdings owns those items of FF&E, it equally does not say the opposite (that Luxury
27 Holding does not own those items).

1 102. And, Diamanti and Mr. Reynolds did not call any witness from or on behalf of
2 the landlord Tivoli.

3 103. Diamanti and Mr. Reynolds did not sustain their burden on this issue.

4 **3. Cost of the Inventory**

5 104. Mr. Tufenkjian ultimately testified that he sold the Luxury Holdings jewelry
6 inventory not just at cost, but actually below cost because he included (and did not charge for)
7 loose diamonds, rubies, sapphires, emeralds, findings, and other items.

8 105. According to Mr. Tufenkjian, the finished jewelry in conjunction with the
9 loose stones were valued at far more than the \$134,253.44 they were sold for.

10 106. Neither Diamanti nor Mr. Reynolds presented any testimony to counter this.

11 107. Instead, they steadfastly maintained the 10% markup increased the Luxury
12 Holdings inventory over cost without ever addressing the loose stones and other items.

13 108. Moreover, Luxury Holdings and/or Mr. Tufenkjian did in fact pay a
14 commission on the inventory.

15 109. Consequently, the Court concludes that Luxury Holdings and Mr. Tufenkjian
16 believed their representations were true and they had sufficient basis to make such
17 representations.

18 **4. The Customer List**

19 110. Diamanti and Mr. Reynolds did not present any evidence tending to show that
20 Luxury Holdings or Mr. Tufenkjian knew or believed that the customers on the customer list
21 were not in fact customers of the Jewelry Store.

22 111. Therefore, they did not sustain their burden on this issue.

23 **F. INTENTION TO INDUCE**

24 112. Based upon the lack of false statements and the Defendants' knowledge and/or
25 belief that each statement they made was true, the Court concludes that Diamanti and
26 Mr. Reynolds did not sustain their burden to a degree of clear and convincing evidence as to
27 the element of inducement.

1 **G. JUSTIFIABLE RELIANCE**

2 113. The element of justifiable reliance is well developed in Nevada.

3 114. It requires that the plaintiff plead and prove he or she justifiably relied on the
4 misrepresentation in question. *Lubbe, supra*, 91 Nev. 596, 540 P.2d 115 (outlining elements
5 of intentional misrepresentation); *Barmettler v. Reno Air, Inc.*, 114 Nev. 441, 449, 956 P.2d
6 1382, 1387 (1998) (providing that one who, without exercising reasonable care or
7 competence, “supplies false information for the guidance of others in their business
8 transactions” is liable for “pecuniary loss caused to them by their justifiable reliance upon the
9 information” (emphasis added)).

10 115. “Circumstances of mere suspicion will not warrant the court in coming to the
11 conclusion that a fraud has been committed.” *Gruber, supra*, 20 Nev. at 453, 23 P. at 865.

12 **1. Sophisticated Parties**

13 116. Courts have also held that a sophisticated party is not entitled to rely on a
14 representation when that party can protect itself by conducting its own investigation. As the
15 court explained in *Emergent Capital Inv. Mgmt., LLC v. Stonepath Grp., Inc.*, 165 F. Supp. 2d
16 615, 623 (S.D.N.Y. 2001):

17 In evaluating justifiable reliance, the plaintiffs sophistication and expertise is a
18 principal consideration. Moreover, the sophisticated investor such an Emergent
19 must show that he or she has made an independent inquiry into all available
20 information. As the Second Circuit has noted on this point: put another way, if
21 the plaintiff “has the means of knowing, by the exercise of ordinary
22 intelligence, the truth, or the real quality of the subject of the representation, he
23 must make use of those means, or he will not be heard to complain that he was
24 induced to enter into the transaction by misrepresentations.”

25 *Id.* at 623.

26 117. In other words, a sophisticated party is deemed to be able to protect himself
27 and thus not just rely upon anything presented by the opposing side in an arms-length
28 transaction.

2. Reliance Must Actually be Justifiable

 118. The Nevada Supreme Court case of *Collins v. Burns*, 103 Nev. 394, 741 P.2d
819 (1987), is illustrative on this element.

1 119. In that case, the Nevada Supreme Court held that the lack of justifiable reliance
2 bars recovery in an action for damages for the tort of fraud and deceit.

3 120. However, this principle does not impose a duty to investigate upon the plaintiff
4 absent any facts to alert the defrauded party that his reliance is unreasonable.

5 121. As the Supreme Court pointed out, the test is whether the recipient has
6 information which would serve as a “red light” to any normal person of his intelligence and
7 experience.

8 122. Justifiable reliance is such an intricate issue in fraud claims, that it has
9 elements in and of itself. It requires:

10 In order to establish justifiable reliance, the plaintiff is required to show the
11 following: the false representation must have played a material and substantial
12 part in leading the plaintiff to adopt his particular course; and when he was
13 unaware of it at the time that he acted, or it is clear that he was not in any way
14 influenced by it, and would have done the same thing without it for other
15 reasons, his loss is not attributed to the defendant.

16 *Blanchard v. Blanchard*, 108 Nev. 908, 911 – 912, 839 P.3d 1320 (1992).

17 123. A plaintiff who undertakes his own investigation which should have alerted
18 him to misrepresentation is charged with relying on himself, and no one else:

19 Generally, a plaintiff making an independent investigation will be charged with
20 knowledge of facts which reasonable diligence would have disclosed. Such a
21 plaintiff is deemed to have relied on his own judgment and not on the
22 defendant's representations.

23 *Id.*

24 **3. Diamanti and Reynolds Contentions**

25 124. Mr. Reynolds is savvy businessman with years of experience in buying and
26 selling companies, assets, and running large projects worth over a billion dollars.

27 125. He has purchased, and sold, a hotel, an investment in a mall, and operated a
28 theater.

 126. He paid for the Jewelry Store in cash.

 127. The Court finds that Mr. Reynolds is a sophisticated businessman that is more
than capable of protecting himself in an arms’ length transaction such as the one at issue here.

1 128. He testified he could have utilized a lawyer, accountant, bookkeeper, and even
2 an “iron worker” if he so desired during due diligence.

3 129. Mr. Reynolds also undertook his own investigation, visiting the Jewelry Store
4 frequently during due diligence, spending as much time as he wanted on the POS System and
5 elsewhere throughout the Jewelry Store.

6 130. Mr. Reynolds is charged with having to perform his own investigation, and
7 relying exclusively upon himself and the results of his investigation.

8 **a. The Revenues**

9 131. To prove fraud as it relates to the revenue aspect of their claim, Diamanti and
10 Mr. Reynolds were obligated to prove they justifiably relied upon the figures in the Marketing
11 Brochure and the figures in the Sales and Use forms.

12 132. The Marketing Brochure cannot be relied upon as a matter of law.

13 133. It includes a panoply of disclaimers informing prospective buyers:

14 a. “During the due diligence process, it is the responsibility of the Buyer,
15 with the aid of an accountant and/or attorney, if necessary, to independently verify all
16 representations which have been made by the Seller, particularly as they relate to the
17 adjustments made to the profit and loss statements[.]”;

18 b. “Readers of this report should understand that statements are not
19 guarantees of value or results[.]”;

20 c. “Sunbelt Business Brokers cautions readers not to place undue reliance
21 on any forward-looking statements or projects that may have been used in the analysis
22 of value[.]”;

23 d. “It is the responsibility of the Buyer to verify all representations and to
24 make a final purchase decision based on their own independent investigation[.]”;

25 e. “The books are kept in house using a sophisticated register point of sale
26 software[.]”;

27 f. “Projection for the Year Ended December 2014[.]”;

1 g. "The Seller's profit/loss statement projected out for 2014 was used in
2 the computation[.]"

3 134. The Ninth Circuit observed that an individual could not rely on an insurance
4 booklet when it said the insurance contract is the controlling document:

5 This booklet describes provisions of the group insurance program contained in
6 the contract between the company and the insurance company. The contract
shall be the controlling document.

7 *Pisciotta v. Teledyne Industries, Inc.*, 91 F.3d 1326, 1330 – 1331 (9th Cir. 1996).

8 135. As set forth above, the disclaimers in the Market Brochure go much farther
9 than the disclaimer in *Pisciotta*.

10 136. It is not justifiable to rely on a Marketing Brochure that is designed as an
11 advertisement that disclaims all of its contents, expressly states the figures are "projections,"
12 and tells prospective buyers they must perform their own due diligence.

13 137. The Court finds it is not justifiable to rely upon the Marketing Brochure in
14 light of its panoply of disclaimers.

15 138. As it relates to the Sales and Use forms, Mr. Reynolds testified that he knew
16 the financial figures did not reconcile after comparing them to the POS System, which
17 contained the sales and revenue figures for the Jewelry Store.

18 139. Mr. Reynolds agreed that the irreconcilable financial figures caused "alarms,"
19 and said to himself, "the guy is trying to do something." (FOF 111, *supra*)

20 140. He was impeached with his deposition, wherein he testified that during the due
21 diligence period he understood that the numbers were "everywhere" and they raised an
22 "alarm" in his head. (FOF 112, *supra*)

23 141. It is not justifiable to rely upon financial figures one knows are inconsistent
24 and do not reconcile.

25 142. As Mr. Reynolds said, the numbers were everywhere.

26 143. Despite having these facts, Mr. Reynolds closed the transaction anyway.

1 144. Diamanti and Mr. Reynolds were not justified in relying upon the Sales and
2 Use forms that they were fully aware did not reconcile with the information in the POS
3 System.

4 145. In addition, the Court finds that Mr. Reynolds was fully aware of the Galleria
5 Mall location, and that Mr. Tufenkjian told Mr. Reynolds that the Galleria Mall location's
6 figures were on those forms.

7 146. Moreover, the document that listed the Galleria Mall locations figures were at
8 the Jewelry Store for Mr. Reynolds' inspection.

9 147. In fact, Mr. Reynolds testified that he independently learned about the Galleria
10 mall location during due diligence while comparing the figures from the Sales and Use form
11 to the POS System's figures.

12 148. These facts further support this Court's finding that Diamanti and
13 Mr. Reynolds were not justified in relying upon the Sales and Use forms (and were equally
14 not justified in relying upon the Marketing Brochure).

15 149. And, during due diligence, Mr. Reynolds came to the conclusion that
16 Mr. Tufenkjian was lying, that he could not "believe him," "[t]he numbers aren't right[,]" and
17 they "don't balance." (FOF 101, *supra*)

18 150. According to Mr. Reynolds, the seller of a business "will lie about 10 or 20
19 percent." (FOF 102, *supra*)

20 151. Mr. Reynolds also presumed Mr. Tufenkjian lied "50%[,]" and felt he could
21 meet his "commitment, if he [Mr. Tufenkjian] had lied 100 percent." (FOF 102, *supra*)

22 152. It is never justifiable to rely upon what you believe is a lie.

23 153. In other words, Mr. Reynolds knew the figures in the Marketing Brochure
24 were incorrect, and did not believe that any statements from Mr. Tufenkjian regarding the
25 financial health of the Jewelry Store were true.

26 154. The Court concludes that any reliance Diamanti and Mr. Reynolds had was not
27 justified based upon the foregoing facts.

28 155. It is never justified to rely information that you believe is a lie.

b. The FF&E

156. As it relates to the FF&E, Diamanti and Mr. Reynolds argue they justifiably relied upon Luxury Holdings and/or Mr. Tufenkjian's ownership of items 1 – 9 on Exhibit J8 in proceeding forward with the transaction.

157. Items 1 – 9, generally, are display cases and mirrors.

158. This contention by Diamanti and Mr. Reynolds ignores the 70+ other items (10 – 81) to which they concede they received good title, including a special jewelry safe, an alarm system, jewelry making equipment, etc.; basically, everything one would need to operate a fully functioning jewelry store which has the capabilities to make custom jewelry.

159. In the grand scheme of things, the display cases and mirrors identified as items 1 – 9 on Exhibit J8 are the most insignificant items of FF&E in the context of acquiring and operating a jewelry store such as the Jewelry Store.

160. The Court concludes that reliance upon valid ownership of items 1 – 9 on Exhibit J8 in terms of making the decision to proceed forward with the acquisition of the Jewelry Store is not justifiable in light of the fact that Diamanti and Mr. Reynolds concede they received good title to items 10 – 81 and concede they acquired the Jewelry Store.

161. To conclude otherwise would mean that items 1 – 9 on Exhibit J8 were the most important considerations in acquiring the Jewelry Store, a contention which is preposterous.

c. The Inventory

162. As it relates to the inventory, Diamanti and Mr. Reynolds are obligated to prove they justifiably relied upon representations from Luxury Holdings and/or Mr. Tufenkjian that the inventory was being sold at cost.

163. Here, Mr. Reynolds is a sophisticated businessman.

164. He had the abilities, and the means, to review the inventory himself and determine that the price he was about to pay was "cost."

1 165. The term cost, in and of itself, is a difficult term in the jewelry business given
2 the ever-fluctuating price of gold, silver, precious metals, and precious stones (as was testified
3 to by Mr. Tufenkjian, and not refuted by any other witness).

4 166. Mr. Reynolds also had access to the POS System, which specifically
5 articulated item cost at the date it was entered into the POS System.

6 167. As testified to by Mr. Reynolds, he reviewed the inventory, went through all of
7 it, and then took no issue with the price and paid it.

8 168. He fully satisfied himself that the price he was paying was cost.

9 169. As admitted to at trial, Mr. Tufenkjian was not representing Mr. Reynolds –
10 this was an arm's length transaction.

11 170. Consequently, to the extent Diamanti and Mr. Reynolds claim they rely upon
12 any representations that the Luxury Holdings inventory was being sold at "cost," such
13 reliance was not justified given that they did their own investigation and review of the jewelry
14 and satisfied themselves of the price.

15 171. As testified too, Mr. Reynolds took "no issue" with the price paid for the
16 Luxury Holdings jewelry.

17 **d. The Customer List**

18 172. Even though Diamanti and Mr. Reynolds abandoned the customer list issue
19 during closing, the Court addresses it for the sake of thoroughness.

20 173. While Diamanti/Mr. Reynolds testified that he in part relied upon the customer
21 list in purchasing the Jewelry Store, Mr. Reynolds acknowledged that the Jewelry Store and
22 its business does not have a monthly membership and testified that "customers are people"
23 that "come and [] go where they want to." (RT 131, ll. 6-8)

24 174. Consequently, Diamanti and Mr. Reynolds were not justified in relying upon
25 the customer list in deciding to proceed forward and close the transaction.

26 175. Moreover, Mr. Reynolds performed his own investigation, wherein he
27 concluded the Jewelry Store had low foot traffic.

1 **H. DAMAGES**

2 176. Last, Diamanti and Mr. Reynolds are obligated to prove damages.

3 177. “The measure of damages for fraudulent misrepresentation can be determined
4 in one of two ways.” *Randono v. Turk*, 86 Nev. 123, 130, 466 P.2d 218, 222–23 (1970).

5 178. “The first allows the defrauded party to recover the ‘benefit-of-his-bargain,’
6 that is, the value of what he would have if the representations were true, less what he had
7 received.” *Id.*

8 179. “The second allows the defrauded party to recover only what he has lost ‘out-
9 of-pocket,’ that is, the difference between what he gave and what he actually received.”
10 *Randano*, 86 Nev. at 130, 466 P.2d at 222 – 223.

11 180. The Restatement (Second) of Torts, which our Supreme Court often follows,
12 breaks down the calculation of damages in plain terms:

13 (1) The recipient of a fraudulent misrepresentation is entitled to recover as
14 damages in an action of deceit against the maker the pecuniary loss to him of
which the misrepresentation is a legal cause, including

15 (a) the difference between the value of what he has received in the
16 transaction and its purchase price or other value given for it; and

17 (b) pecuniary loss suffered otherwise as a consequence of the
recipient's reliance upon the misrepresentation.

18 (2) The recipient of a fraudulent misrepresentation in a business transaction is
19 also entitled to recover additional damages sufficient to give him the benefit of
his contract with the maker, if these damages are proved with reasonable
20 certainty.

21 RESTATEMENT (SECOND) OF TORTS § 549 (1977).

22 181. As it relates to purchase of the Jewelry Store, Diamanti and Mr. Reynolds did
23 not present any evidence of the Jewelry Store’s financial performance post-closing other than
24 Mr. Reynolds testifying that it performed poorly.

25 182. Mr. Reynolds never specifically testified as to the difference between what he
26 paid for the Jewelry Store, and what the value should have been; nor is he qualified to do so.

1 183. However, even assuming Mr. Reynolds is correct, Mr. Reynolds received the
2 benefit of owning the Jewelry Store and receiving a pay check up and until he decided to
3 close the Jewelry Store.

4 184. To award Mr. Reynolds the entire purchase price after allowing him to run the
5 store for years without there being any documented evidence of how the Jewelry Store
6 actually fared would be entirely speculative, lacking in foundation, and unfair.

7 185. This is particularly true in this case, where Mr. Reynolds testified that he had
8 never lost money on a business before, the Jewelry Store is the first business he has lost
9 money on, and he blames someone other than himself for its failure.

10 186. Moreover, such an award would be tantamount to rescission, which this Court
11 cannot grant because (a) there is no Jewelry Store to return, (b) the landlord is not a party to
12 this action, and (c) intentional misrepresentation does not provide for the relief of rescission.

13 187. The Court finds that Diamanti and Mr. Reynolds did not present any evidence
14 of benefit-of-the-bargain monetary damages proximately caused by the alleged
15 misrepresentations.

16 188. In addition, Diamanti and Mr. Reynolds failed to established that any monetary
17 loss was due to a reason other than general market conditions.

18 189. Perhaps the business brokers were correct in their statements set forth in the
19 email admitted as Exhibit J35: "That old man can't operate that business."

20 190. In terms of the FF&E, an alternative request of Diamanti and Mr. Reynolds is
21 that they be awarded all \$100,000.00 of the purchase price of the Jewelry Store that was
22 allocated to the FF&E.

23 191. The primary issue here is that Diamanti and Mr. Reynolds do not dispute all of
24 the FF&E within Exhibit J8; they only dispute the first nine of the eighty-one items.

25 192. No competent evidence was presented as to the value of these nine particular
26 items, and no competent evidence was presented to depreciation.

1 193. Moreover, it is impossible to come up with even an approximation as Diamanti
2 and Mr. Reynolds did not publish or admit pictures of what these nine categories of FF&E
3 look like.

4 194. Thus, it would be purely speculative to even guess what these items are, how
5 big they are, etc.

6 195. Because there is no evidence as to what these items look like, what their value
7 is, etc., assuming, *arguendo* only, liability, the Court cannot award damages for these nine
8 categories of FF&E.

9 196. Similarly, Mr. Reynolds acknowledged that he did not attempt to take those
10 particular items with him when he closed the Jewelry Store. He abandoned them.

11 197. As for the inventory of jewelry, Diamanti and Mr. Reynolds requested that the
12 entire purchase price for all of the jewelry (\$300,691.23) be awarded.

13 198. However, Diamanti and Mr. Reynolds only presented testimonial and
14 documentary evidence of a 10% markup which was limited to the Luxury Holdings finished
15 inventory, which was acquired for \$134,253.44.

16 199. That mark up, however, applied only to the finished inventory.

17 200. Also included in the sale were loose diamonds, rubies, sapphires, emeralds,
18 findings, gold, etc., which Mr. Tufenkjian – an individual that has been in the jewelry
19 business all of his life – values at far more than \$20,000.00.

20 201. Thus, by Mr. Reynolds' own logic, he purchased the Luxury Holdings
21 inventory at less than cost; meaning, he did not suffer any damage.

22 202. And regardless, the brokers emailed Mr. Reynolds and told him if
23 Mr. Tufenkjian didn't pay the commission, then he would be responsible for it as outlined in
24 Exhibit J37: "It also says in the confidentiality agreement in section 3 of the document
25 attached that you as the buyer have some financial responsibility to ensure we are paid
26 correctly by the seller."

27 203. Consequently, whether the commission was paid as a mark up or directly from
28 the buyer (Diamanti) reaches the same result – cost includes commission.

204. Equally problematic is that the retail price of all of the jewelry exceeded \$655,000.00, and Mr. Reynolds knew who sold a fair amount of the jewelry, but could not approximate how many pieces or how much in revenue or cost.

205. Consequently, Diamanti and Mr. Reynolds did not present any evidence regarding the amount of damages sustained and the amount that needed to be offset due to sales/profits made from the inventory.

206. Moreover, the Court cannot return the entire amount paid because this would require Diamanti and Mr. Reynolds to return the jewelry.

207. Because many pieces are sold, Diamanti and Mr. Reynolds cannot return the jewelry in exchange for what it was purchase for.

208. Allowing Diamanti and Mr. Reynolds to receive money and keep the jewelry (as well as all sales figures derived from sold jewelry) would be an impermissible double recovery.

209. Consequently, Diamanti and Mr. Reynolds did not present any admissible evidence of benefit-of-the-bargain or out of pocket damages.

If any of the foregoing Conclusions of Law would more appropriately be deemed to be Findings of Fact, they shall be so deemed.

JUDGMENT

NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Final Judgment herein be, and the same hereby is, rendered in favor of Defendants Luxury Holdings and Tufenkjian and against Plaintiffs, and said Defendants shall have their costs of suit and any additional relief to which they may be entitled as prevailing parties.

Dated this 19th day of November, 2021

599 DB5 DEAD 79D3
Mark R. Denton
District Court Judge

1 **CSERV**

2
3 **DISTRICT COURT**
4 **CLARK COUNTY, NEVADA**

5
6 Robert Reynolds, Plaintiff(s)

CASE NO: A-17-753532-B

7 vs.

DEPT. NO. Department 13

8 Raffi Tufenkjian, Defendant(s)

9
10 **AUTOMATED CERTIFICATE OF SERVICE**

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

14 Service Date: 11/19/2021

15 Peter Chasey .

peter@chaseylaw.com

16 Shannon .

shannon@chaseylaw.com

17 Christian Balducci

cbalducci@maclaw.com

18 Bradley Marx

brad@marxfirm.com

19 Lynda Arzate-Reza

larzate@maclaw.com

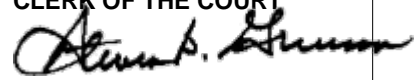
21
22 If indicated below, a copy of the above mentioned filings were also served by mail
23 via United States Postal Service, postage prepaid, to the parties listed below at their last
known addresses on 11/22/2021

24 Robert Reynolds

410 S Rampart BLVD STE 140
Las Vegas, NV, 89145

25 Terry Moore

10001 Park Run Drive
Las Vegas, NV, 89145



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

DISTRICT COURT**CLARK COUNTY, NEVADA**

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

Plaintiffs,

vs.

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

Defendants.

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

**NOTICE OF ENTRY OF FINDINGS OF
FACT, CONCLUSION OF LAW, AND
JUDGMENT**

Please take notice that Findings of Fact, Conclusion of Law, and Judgment was entered in the above-captioned matter on the 19th day of November, 2021, a copy of which is attached hereto.

Dated this 24th day of November, 2021.

MARQUIS AURBACH COFFING

By /s/ Christian T. Balducci

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

CERTIFICATE OF SERVICE

I hereby certify that the foregoing **NOTICE OF ENTRY OF FINDINGS OF FACT, CONCLUSION OF LAW, AND JUDGMENT** was submitted electronically for filing and/or service with the Eighth Judicial District Court on the 16th day of November, 2021. Electronic service of the foregoing document shall be made in accordance with the E-Service List as follows:¹

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

/s./ Lynda Arzate Reza
An employee of Marquis Aurbach Coffing

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

Heather S. Smith
CLERK OF THE COURT

1 FFCL

2 **DISTRICT COURT**

3 **CLARK COUNTY, NEVADA**

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

7 Plaintiffs,

8 vs.

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

13 Defendants.

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

14 **FINDINGS OF FACT, CONCLUSIONS OF LAW, AND JUDGMENT**

15 The above-captioned matter, having come on for bench trial before this Court on
16 September 21, 22, and October 6, 2021 on Plaintiffs Robert G. Reynolds and Diamanti Fine
17 Jewelers, LLC's claim for intentional misrepresentation against Defendants Raffi Tufenkjian
18 and Luxury Holdings, LV, LLC. Christian T. Balducci, Esq. appeared on behalf of
19 Defendants Raffi Tufenkjian and Luxury Holdings, LV, LLC and Brad Marx, Esq. appeared
20 on behalf of Plaintiff Robert G. Reynolds and Diamanti Fine Jewelers, LLC. ("Plaintiff").

21 The Court having admitted various exhibits into evidence (Exhibits J1 – J38),
22 entertained testimony from Robert Reynolds, Raffi Tufenkjian, and Aldo Aguirre, the
23 pleadings, together with opening statements and closing arguments presented at the trial on
24 this matter, and good cause appearing therefor, makes the following Findings of Fact,
25 Conclusions of Law, and Judgment:

26 **FINDINGS OF FACT**

27 **A. PLAINTIFFS**

28 1. The plaintiffs in this case are Robert G. Reynolds ("Mr. Reynolds") and
Diamanti Fine Jewelers, LLC ("**Diamanti**").

MARK R. DENTON
DISTRICT JUDGE

DEPARTMENT THIRTEEN
LAS VEGAS, NV 89155

1 2. Diamanti and Mr. Reynolds are sometimes collectively referred to herein as
2 “Plaintiffs.”

3 3. Mr. Reynolds is the manager of Diamanti.

4 4. Mr. Reynolds has years of experience supervising entire construction projects
5 in the millions of dollars, with one project being \$1.2 Billion.

6 5. He previously purchased a hotel that he expanded to 100 hotel rooms, which
7 grossed roughly \$3 Million to \$4 Million per year.

8 6. That hotel had 50 employees.

9 7. Mr. Reynolds previously invested \$4 Million into a portion of a shopping mall.

10 8. The Court finds that Mr. Reynolds is highly experienced in purchasing
11 businesses and other assets.

12 9. The Court finds that Mr. Reynolds also has experience in contracts, having
13 utilized contracts previously, including during his acquisition of the hotel.

14 10. However, Mr. Reynolds testified that he is not somewhat sophisticated with
15 contracts. (RT, 79, ll. 21 – 25)

16 11. The Court does not find Mr. Reynolds’ testimony on this topic to be credible,
17 and finds him to be sophisticated as it relates to contracts.

18 12. When confronted with his deposition testimony, wherein Mr. Reynolds
19 testified that he is somewhat sophisticated with contracts and graded himself as a 6 or 7 out of
20 10, Mr. Reynolds responded to this impeachment by testifying during the trial he would not
21 let defense counsel take him off to “la-la land of fairy,” and asked that one of defense
22 counsel’s “alternate lawyers” come in and ask questions because he and defense counsel were
23 “not going to get along.” (RT, 84, l. 18 – 85 – l. 5).

24 13. This sort of conduct permeated throughout the bulk of Mr. Reynolds cross-
25 examination.

26 14. On cross-examination, Mr. Reynolds rarely answered the question posed.

27 15. When confronted with the first few pages of his deposition where it was
28 volunteered that the deposition was being conducted on his birthday, Mr. Reynolds began

1 resorting to attacks on defense counsel, such as “I can remember you very well from the time
2 that we’d done the deposition together, and I wasn’t struck with your intelligence or your
3 demeanor then, and you’re certainly not doing anything to change my mind.” (RT 82, ll. 21-
4 25) This exchange came up in probably the first few minutes of defense counsel’s cross-
5 examination of Mr. Reynolds.

6 16. Shortly after, Mr. Reynolds went on to tell defense counsel that he didn’t see
7 defense counsel “nearly as attractive as you [defense counsel] think you [defense counsel]
8 are.” (RT 87, ll. 24-25)

9 17. These are just a few examples of Mr. Reynolds’ behavior on cross-
10 examination.

11 18. The Court finds that Mr. Reynolds understands the distinction between doing
12 business as a company, or limited liability company, as opposed to doing business as a natural
13 person.

14 19. Diamanti is a limited liability company that was formed for purposes of
15 acquiring the jewelry store that forms the foundation of this lawsuit.

16 20. Mr. Reynolds is the primary owner of Diamanti.

17 **B. DEFENDANTS**

18 21. The Defendants in this matter are Raffi Tufenkjian (“**Mr. Tufenkjian**”) and
19 Luxury Holdings LV, LLC (“**Luxury Holdings**”).

20 22. Mr. Tufenkjian and Luxury Holdings are sometimes collectively referred to
21 herein as “**Defendants**.”

22 23. Mr. Tufenkjian has been in the jewelry business for the bulk of his life,
23 beginning when he was a teenager in the 1980’s/1990’s.

24 24. Mr. Tufenkjian’s father was in the jewelry business.

25 25. Mr. Tufenkjian’s uncle was, and still is, in the jewelry business.

26 26. Mr. Tufenkjian’s brother, Nazareth Tufenkjian (“**Nazareth**”), was and still is
27 in the jewelry business.

28 27. Mr. Tufenkjian owns, and is manager of, Luxury Holdings.

1 28. Mr. Tufenkjian is also involved in commercial real estate, having owned the
2 Lynden Square shopping center where DW Bistro once was located through another
3 company.

4 29. Through other companies, Mr. Tufenkjian owns a number of commercial
5 properties throughout the Southwestern United States.

6 **C. THE JEWELRY STORE**

7 30. In or around August of 2013, Luxury Holdings opened a jewelry store in the
8 Tivoli Village Shopping Center located in Las Vegas ("**Tivoli**").

9 31. That jewelry store was named Diamanti Fine Jewelers ("**the Jewelry Store**").

10 32. The Jewelry Store was a high-end jewelry store catering to wealthier clientele.

11 33. In connection with the Jewelry Store, Mr. Tufenkjian caused Luxury Holdings
12 to enter into a lease agreement with the owner/landlord of Tivoli, Great Wash Park LLC.

13 34. The space for the Jewelry Store at Tivoli had some pre-existing cabinetry.

14 35. As part of opening the Jewelry Store, Luxury Holdings acquired all of the
15 equipment one would need to operate a fully functioning jewelry store, such as a security
16 system, phones, display cases, a large safe capable of resisting fire and theft attempts for a
17 period of time, a computer with an attendant point of sale system ("**POS System**"), diamond
18 testers, and other pieces of equipment as evidenced in Exhibit J8.

19 36. A significant amount of testimony was devoted to the POS System. The most
20 helpful, however, was the testimony from Mr. Aguirre regarding the POS System.

21 37. The POS System tracked all of the finished inventory within the Jewelry Store
22 (meaning completed rings, bracelets, pendants, etc.).

23 38. Loose stones such as diamonds and rubies were not identified within the POS
24 System.

25 39. The POS System tracked all sales within the Jewelry Store.

26 40. The POS System included inventory cost, mark up, sales, write downs,
27 discounts etc.

28 41. Cost, price, and mark up could be changed within the POS System.

- 1 42. It was a very robust system.
- 2 43. Mr. Tufenkjian worked at the Jewelry Store and operated it.
- 3 44. Mr. Tufenkjian's uncle, Zaven Tufenkjian ("**Zaven**"), also worked at the
- 4 Jewelry Store.
- 5 45. Aldo Aguirre ("**Mr. Aguirre**") was also employed at the Jewelry Store since it
- 6 opened.
- 7 46. Mr. Tufenkjian stocked the Jewelry Store with jewelry from a number of
- 8 sources, including consignment inventory and jewelry that Mr. Tufenkjian accumulated over
- 9 decades of working in the jewelry industry.
- 10 47. As evidenced in the exhibits submitted during trial, the Jewelry Store's
- 11 business steadily increased over time since it opened.

12 **D. THE GALLERIA MALL LOCATION**

- 13 48. In roughly October of 2014, Nazareth approached Mr. Tufenkjian about
- 14 opening a jewelry store location in the Galleria Mall in Henderson, Nevada.
- 15 49. For convenience, Luxury Holdings entered into the license agreement for the
- 16 location at the Galleria Mall, and Luxury Holdings Sale and Use Tax Form submittals
- 17 included sales generated at the Galleria Mall, which were hand tracked as shown in Exhibit
- 18 J31.
- 19 50. The POS System, however, did not include or track any inventory or sales
- 20 from the Galleria Mall location.

- 21 51. No inventory from the Galleria Mall location came from the Jewelry Store.

- 22 52. As testified to by Mr. Aguirre, no inventory at the Jewelry Store was
- 23 transferred from the Jewelry Store to the Galleria Mall location.

24 **E. THE JEWELRY STORE IS LISTED FOR SALE**

- 25 53. In November of 2014, Mr. Tufenkjian decided to sell the Jewelry Store to
- 26 move onto another business venture; specifically, getting out of the jewelry business entirely
- 27 and opening a Scavolini Cabinet Showroom.

- 28 54. Mr. Tufenkjian utilized Sunbelt Business Brokers to market the Jewelry Store.

1 55. As its fee for marketing the business, Sunbelt Business Brokers took a 10%
2 commission of the purchase price of the Jewelry Store and any inventory it may sell in or
3 outside escrow.

4 56. In connection with the proposed sale of the Jewelry Store, Sunbelt Business
5 Brokers prepared a business summary brochure which was admitted into evidence as Exhibit
6 J4 (“the Marketing Brochure”).

7 57. The Marketing Brochure was generated utilizing information from
8 Mr. Tufenkjian.

9 58. Mr. Tufenkjian participated in the production of the Marketing Brochure.

10 59. For example, as shown in Exhibit J.33 he told the business broker to “back
11 down” the revenue projection within the Marketing Brochure to \$800,000.00.

12 60. At the time the Marketing Brochure was finalized, Mr. Tufenkjian believed all
13 of the information within it was accurate and correct.

14 61. Because the Jewelry Store was not open for a full calendar year as of the time
15 the Marketing Brochure was prepared, Mr. Tufenkjian utilized estimates based upon his
16 experience in the jewelry industry in arriving at certain sales and revenue projections.

17 62. In particular, Mr. Tufenkjian utilized the sales and use forms from January of
18 2014 through October of 2014, monthly reports from the POS System, prior year tax returns,
19 financial statements, and then using estimations based upon his experience, estimated that the
20 total revenue for the Jewelry Store for the full year of 2014 would be \$800,000.00.

21 63. Mr. Tufenkjian also utilized information from his accountant, Mark Sherman,
22 CPA, in calculating profit/loss projections.

23 64. The Marketing Brochure includes a panoply of disclaimers informing potential
24 buyers that they bear the burden of doing due diligence into the Jewelry Store:

25 a. “During the due diligence process, it is the responsibility of the Buyer,
26 with the aid of an accountant and/or attorney, if necessary, to independently verify all
27 representations which have been made by the Seller, particularly as they relate to the
28 adjustments made to the profit and loss statements[.]”;

1 b. “Readers of this report should understand that statements are not
2 guarantees of value or results[.]”;

3 c. “Sunbelt Business Brokers cautions readers not to place undue reliance
4 on any forward-looking statements or projects that may have been used in the analysis
5 of value[.]”;

6 d. “It is the responsibility of the Buyer to verify all representations and to
7 make a final purchase decision based on their own independent investigation[.]”;

8 e. “The books are kept in house using a sophisticated register point of sale
9 software[.]”;

10 f. “Projection for the Year Ended December 2014[.]”;

11 g. “The Seller’s profit/loss statement projected out for 2014 was used in
12 the computation[.]”

13 65. The Marketing Brochure was completed prior to the conclusion of calendar
14 year 2014, and thus end of year financials were unavailable.

15 **F. MR. REYNOLDS MAKES AN OFFER AND A CONTRACT IS**
16 **FORMED**

17 66. As shown in Exhibit J15, on January 5, 2015, Mr. Reynolds contacted Sunbelt
18 Business Brokers for information regarding the Jewelry Store.

19 67. In response, Sunbelt Business Brokers provided Mr. Reynolds with the
20 Marketing Brochure.

21 68. On January 12, 2015, Mr. Reynolds submitted an offer to purchase the
22 business, which was accepted and signed by Mr. Tufenkjian on behalf of Luxury Holdings the
23 following day as shown in Exhibit J1 (“**Offer Agreement**”).

24 69. In connection with the Offer Agreement, Mr. Reynolds placed a \$10,000.00
25 earnest money deposit to be applied to the purchase price, which was \$395,000.00
26 (“**Purchase Price**”) for the Jewelry Store exclusive of inventory.

27 70. Inclusive in the purchase price were various items of furniture, fixtures, and
28 equipment (“**FF&E**”) which the Marketing Brochure identified as being worth \$270,000.00.

1 71. \$100,000.00 of the total Purchase Price was allocated to the FF&E.

2 72. The Offer Agreement states it is made on behalf of “Robert G. Reynolds or
3 entity to be formed by purchaser....”

4 73. ¶20 of the Offer Agreement states “Except for express warranties made in this
5 Contract, the Closing of this transaction shall supersede this Contract.”

6 74. ¶15 of the Offer Agreement states “This instrument together with its addenda
7 and disclosures constitutes the entire contract between the parties and supersedes and replaces
8 any and all prior negotiations, representations, warranties, understandings, or contracts
9 between the parties.”

10 75. In bold font at the bottom, the Offer Agreement tells all of the parties to it that
11 if they “do not understand it, consult an attorney.”

12 76. Pursuant to the Offer Agreement, the closing date for the sale of the Jewelry
13 Store was originally set for March 1, 2015.

14 77. Pursuant to the Offer Agreement, the period of time for Mr. Reynolds to
15 conduct due diligence began once accepted, and his earnest money deposit was refundable for
16 a period of 14 days.

17 78. During trial, Mr. Reynolds testified he had roughly six conversations with
18 Mr. Tufenkjian prior to submitting an offer, having testified in his deposition that he could not
19 recall how many conversations he had with Mr. Tufenkjian before making an offer, but if he
20 “had one, it was too damn many.” (RT 105, l. 9)

21 **G. DUE DILIGENCE AND WHAT MR. REYNOLDS LEARNED**

22 79. Mr. Reynolds began performing due diligence into the Jewelry Store almost
23 immediately upon the Offer Agreement being counter-signed by Luxury Holdings.

24 80. Mr. Reynolds did not utilize the services of an accountant or bookkeeper to
25 assist in his due diligence.

26 81. Nor did he utilize the services of an attorney.

27 82. At the time, one of Mr. Reynolds’ sons was an attorney.

28

1 83. According to Mr. Reynolds, he would from time to time ask Mr. Tufenkjian
2 questions about the Jewelry Store's financial viability, and on each occasion, Mr. Tufenkjian
3 would direct Mr. Reynolds to review the Marketing Brochure.

4 84. This is the same Marketing Brochure which specifically stated "During the due
5 diligence process, it is the responsibility of the buyer, with the aid of an accountant and/or
6 attorney, if necessary, to independently verify all representations which have been made by
7 the seller, particularly as they relate to the adjustments made to the Profit and loss
8 Statements."

9 85. Mr. Reynolds, Mr. Tufenkjian, and Mr. Aguirre all testified that Mr. Reynolds
10 would come to the store during the due diligence period, and had an opportunity to monitor
11 foot traffic, look at all of the inventory, and had full and complete access to the POS System.

12 86. During the due diligence period Mr. Reynolds became aware of the existence
13 of the Galleria Mall location, and had full and complete access to everything in the Jewelry
14 Store, including the drawers and cabinets where the document admitted into evidence as
15 Exhibit J31 was located (which is the sales at the Galleria Mall location on Galleria Mall
16 stenciling).

17 87. Mr. Reynolds (and his wife) also spent a significant amount of time utilizing
18 the POS System during the due diligence period.

19 88. Mr. Tufenkjian testified that the hand-written revenue numbers for the Galleria
20 Mall location were located in a filing cabinet in the Jewelry Store that Mr. Reynolds had
21 access to and reviewed as a part of due diligence.

22 89. When asked about Mr. Tufenkjian's testimony concerning this filing cabinet,
23 Mr. Reynolds testified that the Jewelry Store did not have a filing cabinet, thus insinuating
24 that Mr. Tufenkjian was being untruthful.

25 90. Mr. Reynolds was then confronted with the pictures of the Jewelry Store in the
26 Marketing Brochure which showed cabinets, including a filing cabinet, at which point he
27 testified "you can't put files in there."
28

1 91. On the issue of the Galleria Mall location and not knowing about its revenues,
2 the Court finds that Mr. Reynolds was not credible.

3 92. The Court finds that Mr. Reynolds knew about the Galleria Mall location, and
4 knew the sales and use forms included sales from the Galleria Mall location.

5 93. When questioned about the contents of the Marketing Brochure, Mr. Reynolds
6 attempted to speak with his counsel on the record, and said "I'd like to say something to Brad
7 [counsel for Mr. Reynolds and Diamanti]. I'd like for you to kind of listen good to what he's
8 [counsel for the defense] putting on the screen and what he's saying, and if any of that stuff is
9 legally out of bounds, say something, because he keeps fishing for something, and I'm not
10 sure exactly what, and I don't trust him. And I don't - - [] I don't want him to get me to say
11 something that's going to come back to bite us later on." (RT 98, l. 24 – 99, l. 8)

12 94. Mr. Reynolds testified that he could have utilized any consultant to assist him
13 during the due diligence period, and said he could have even used an "iron worker" as a
14 consultant if he wanted too. (RT, 100, l. 25 – 101, l. 11)

15 95. Mr. Reynolds testified that he asked for tax returns, profit and loss statements,
16 and sales and use forms during due diligence, and that he only received the sales and use
17 forms.

18 96. Mr. Reynolds testified that he asked for these documents early on in the
19 process, but was impeached with his deposition wherein he provided the following response
20 when asked whether he asked for those documents before or after February 27, 2015: "Oh
21 hell. I wouldn't know" and "I wouldn't have a clue." (RT, 111, ll. 6 – 11)

22 97. The February 27, 2015 date has significance because that is the date the parties
23 entered into an amendment continuing the closing date for the sale of the Jewelry Store to on
24 or before April 15, 2015 in exchange for a release of a portion of the earnest money.

25 98. Regardless of what Mr. Reynolds said about the time in which he asked for
26 certain documents, every witness agreed Mr. Reynolds had full and unfettered access to the
27 POS System and absolutely anything and everything within the Jewelry Store, and the Court
28 finds that Mr. Reynolds was unobstructed during due diligence and was able to review

1 anything located in the Jewelry Store (which included all of its financial information from the
2 POS System, its inventory, sales, revenues, profits, costs, and all other pertinent information
3 the buyer of a business would want to review).

4 99. When examined about the inconsistency as to his testimony concerning when
5 he asked for documents in due diligence, Mr. Reynolds said his memory was not as good as it
6 once was.

7 100. When asked for an explanation as to how his recollection of things was clear
8 during direct examination as opposed to “murky” (at best) during cross, Mr. Reynolds
9 testimony was “I forget.” (RT, 112, l. 3)

10 101. During due diligence, Mr. Reynolds came to the conclusion that
11 Mr. Tufenkjian was lying, that he could not “believe him,” “[t]he numbers aren’t right[,]” and
12 they “don’t balance.” (RT, 117, 15-18)

13 102. According to Mr. Reynolds, the seller of a business “will lie about 10 or 20
14 percent [,]” but he presumed Mr. Tufenkjian lied “50%[,]” and felt he could meet his
15 “commitment, if he [Mr. Tufenkjian] had lied 100 percent.” (RT 118, ll. 5-10)

16 103. In other words, Mr. Reynolds believed the figures in the Marketing Brochure
17 were incorrect, and did not believe that any statements from Mr. Tufenkjian regarding the
18 financial health of the Jewelry Store were true.

19 104. Mr. Reynolds testified that he was provided with a customer list during due
20 diligence that was admitted into evidence as Exhibit J24.

21 H. CLOSING OF THE SALE OF THE JEWELRY STORE

22 105. Ultimately, the sale of the Jewelry Store closed on or around March 25, 2015
23 (“Closing Date”).

24 106. At some time prior to the Closing Date, Mr. Reynolds and Mr. Tufenkjian
25 came to an agreement whereby Mr. Reynolds (through his company) would purchase all of
26 the Jewelry Store’s inventory “at cost.”

27 107. No one was particularly certain as to the date oral agreement was reached.
28

1 108. However, on or around February 22, 2015, Mr. Tufenkjian went into the POS
2 System and raised the cost of all finished inventory actually owned outright by Luxury
3 Holdings roughly 10% (the bulk of the jewelry inventory was on consignment).

4 109. According to Mr. Tufenkjian, he did this to account for the 10% commission
5 Sunbelt Business Brokers required as its fee to handle the transaction.

6 110. Mr. Reynolds knew that at any time prior to the Closing Date, he could have
7 backed out.

8 111. Mr. Reynolds had “alarms” going off in his head based upon the
9 inconsistencies in the financial records he reviewed, and had said to himself, “the guy is
10 trying to do something.” (RT 126, ll. 2-3)

11 112. Mr. Reynolds attempted to retreat from this position, and during trial testified
12 that the alarms were going off in his head during discovery. However, he was impeached with
13 his deposition, wherein he testified that during the due diligence period he understood that the
14 numbers were “everywhere” and they raised an “alarm” in his head. (RT 125, l. 25 – 128, l.
15 9)

16 113. When given an opportunity to explain his inconsistent testimony,
17 Mr. Reynolds said it is because he is “three years older.” (RT, 128, l. 11)

18 114. Despite the alarms and what he found as inconsistent and unreliable financial
19 records (in his mind), Mr. Reynolds decided to close on the sale of the Jewelry Store anyway.

20 115. The closing of the transaction culminated in, and is documented by, the
21 business sale closing instructions (“**Closing Agreement**”) admitted into evidence as Exhibit
22 J6.

23 116. Mr. Reynolds signed the Closing Agreement in his personal capacity in order
24 to assign the contractual obligations from the Offer Agreement to his company, Diamanti.

25 117. Mr. Reynolds also signed the Closing Agreement on behalf of the company he
26 formed for purposes of purchasing the Jewelry Store, that being, Diamanti.

1 118. The Closing Agreement, which is signed by Mr. Reynolds in his individual
2 capacity and on behalf of Diamanti, states that “[t]he parties hereto agree that no
3 representations have been made by either party.”

4 **I. THE JEWELRY INVENTORY**

5 119. On or about the Closing Date, Mr. Reynolds met Mr. Tufenkjian at the Jewelry
6 Store to go through the inventory.

7 120. Mr. Reynolds brought his son, the lawyer, with him.

8 121. While Mr. Reynolds took issue with the “cost” of the inventory on direct
9 examination, he testified to the opposite during his deposition, which in pertinent part was
10 read.

11 122. Mr. Reynolds had every opportunity to inspect all of the finished jewelry
12 inventory.

13 123. The portion of the finished jewelry inventory that belonged to Luxury
14 Holdings was sold for \$134,253.44, which was the cost shown in the point of sale.

15 124. However, in addition to finished jewelry inventory, Luxury Holdings also
16 included loose stones, such as diamonds, amethyst, rubies, sapphires, emeralds, findings
17 (which are pieces that are necessary to create and fix jewelry), batteries, etc. in the inventory
18 it provided to Mr. Reynolds and Diamanti.

19 125. When confronted with the \$134,253.44 price paid for inventory owned outright
20 by Luxury Holdings, Mr. Reynolds testified in his deposition (portion of which was read)
21 “I’m not arguing about this. We counted - - I paid for it. End of story.” (RT 152, ll. 5-6)

22 126. When asked whether he agreed with that \$134,253.55 price, Mr. Reynolds
23 testified in his deposition “Yes.” (RT 152, l. 8)

24 127. Mr. Reynolds ultimately paid \$300,691.23 for all of the inventory in the
25 Jewelry Store, including the inventory owned by Luxury Holdings outright, consignment
26 inventory from each of the consignors as shown on Exhibit J7 (Nazareth, G. Panther, Inc., and
27 National Gold & Diamond Centre, Inc.), and loose stones, findings, etc.

28 128. The retail price of the finished inventory, alone, was \$655,045.074.

1 **J. THE FF&E**

2 129. Included in the sale of the Jewelry Store was certain FF&E included on a bill
3 of sale admitted into evidence as Exhibit J8.

4 130. There are approximately 81 categories of FF&E listed in the bill of sale which
5 were conveyed from Luxury Holdings to Diamanti on the Closing Date, and within that
6 document Luxury Holdings represented and warranted that it was the true and actual owner of
7 each item of FF&E listed therein.

8 131. In connection with the closing for the sale of the Jewelry Store, the lease with
9 Tivoli was assigned from Luxury Holdings to Diamanti.

10 132. The assignment was admitted into evidence as Exhibit J14 (“**the**
11 **Assignment**”).

12 133. According to Paragraph 5 of the Assignment (wherein “Tenant” is defined as
13 Luxury Holdings), the Tenant/Luxury Holdings assigned all of its “right, title and interest to
14 any furniture, fixtures and equipment in the leased premises” to the “Assignee,” which was
15 defined in the Assignment as Diamanti.

16 134. Great Wash Park LLC, the landlord/owner of Tivoli, signed off on the
17 Assignment and thus agreed to the assignment of all of Luxury Holdings’ rights in and to the
18 Jewelry Store’s furniture, fixtures, and equipment to Diamanti.

19 135. Sometime after the Closing Date, a manager of Tivoli told Mr. Reynolds that
20 he (the manager) was unsure as to “who” owned certain cabinets in the Jewelry Store, and that
21 he “would have to go look in the files” to determine whether such cabinets (items 1 – 9 in
22 Exhibit J8) were owned by Diamanti/Mr. Reynolds or Tivoli.

23 136. This manager never followed up with Mr. Reynolds, and Mr. Reynolds never
24 followed up with the manager.

25 137. Tivoli never sent a letter or correspondence to Mr. Reynolds articulating
26 whether Tivoli believed it owned the cabinets/items of FF&E.

27 138. The issue never came up again.
28

1 **K. THE CUSTOMER LIST**

2 139. Sometime after the Closing Date, Mr. Reynolds desired to determine which
3 individuals on the customer list, Exhibit J24, were still alive, which had passed away and
4 which had moved away.

5 140. Mr. Reynolds testified that he hired someone to call everyone on the list, and
6 that this person reported back that most of the individuals were not customers.

7 141. Mr. Reynolds testified that he has no personal knowledge about this subject
8 matter, and any information he has was relayed to him by this third-party who did not testify
9 at trial.

10 **L. MR. REYNOLDS CLOSES THE JEWELRY STORE**

11 142. After the Closing Date, Mr. Reynolds operated the Jewelry Store.

12 143. He sold much of the finished jewelry inventory he purchased from Luxury
13 Holdings, although he could not approximate how much of the inventory he sold.

14 144. At some point in time, Mr. Reynolds closed the Jewelry Store. He did not
15 attempt to take any of the FF&E with him and testified that much of it was stolen.

16 If any of the foregoing Findings of Fact are more appropriately to be deemed to be
17 Conclusions of Law, they shall be so deemed.

18 FROM the foregoing Findings of Fact, the Court makes the following

19 **CONCLUSIONS OF LAW**

20 **A. PROCEDURAL HISTORY**

21 1. This action was initiated on April 5, 2017.

22 2. Various iterations of amended complaints were filed, ultimately culminating in
23 a Third Amended Complaint filed November 1, 2017, by Diamanti and Mr. Reynolds against
24 Luxury Holdings, Mr. Tufenkjian, and Great Wash Park LLC.

25 3. The Third Amended Complaint asserted fraud/intentional misrepresentation,
26 negligent misrepresentation, and elder abuse against Luxury Holdings and Mr. Tufenkjian,
27 breach of contract against Luxury Holdings, and no affirmative claims against Great Wash
28

1 Park LLC (which was named to support the request for rescission in order to unwind the lease
2 and attendant personal guaranty of Mr. Reynolds).

3 4. On October 12, 2018, this Court entered its Decision granting Luxury
4 Holdings and Mr. Tufenkjian's motion for summary judgment, written Order for which was
5 entered on November 14, 2018.

6 5. Notice of entry of that order was filed and served on November 16, 2018.

7 6. Following post-judgment tolling motions, Diamanti and Mr. Reynolds filed a
8 timely notice of appeal on February 19, 2019.

9 7. Diamanti and Mr. Reynolds entered into a Stipulation with Great Wash Park
10 LLC for purposes of dismissing Great Wash Park LLC, which was reduced to an Order
11 entered on April 25, 2019, notice of entry of which was filed and served on May 13, 2019.

12 8. An Appeal of the claims for breach of contract and negligent misrepresentation
13 was dismissed. *See Reynolds v. Tufenkjian*, 136 Nev. Adv. Op. 19, 475 P.3d 777 (2020).

14 9. Summary judgment against the elder abuse claim was affirmed on the basis
15 that the underlying transaction was at arms' length, and thus there could not be a relationship
16 of "trust and confidence" between Mr. Reynolds and Mr. Tufenkjian.

17 10. Summary judgment against the intentional misrepresentation was reversed,
18 leading to the instant trial and these Findings of Fact, Conclusions of Law, and Judgment.

19 **B. BURDENS OF PROOF**

20 **1. Burden of Production**

21 11. A plaintiff has the burden of production.

22 12. The party that carries the burden of production must establish a *prima facie*
23 case; burden of production entails only the presentation of evidence and a *prima facie*
24 showing is one sufficient to support the position of the party in question. *Rivera v. Philip*
25 *Morris, Inc.*, 125 Nev. 185, 209 P.3d 271 (2009) (citing *Aguilar v. Atl. Richfield Co.*, 25 Cal.
26 4th 826, 24 P.3d 493 (2001)).

27 **2. Burden of Persuasion**

28 13. Plaintiffs also have the burden of persuasion in this matter.

1 14. The party with the burden of persuasion must demonstrate that each element of
2 the cause of action has been proved.

3 15. The burden of persuasion rests with one party throughout the case and
4 “determines which party must produce sufficient evidence to convince a judge that a fact has
5 been established.” *Rivera*, 125 Nev. at 191, 209 P.3d at 275 (citations omitted).

6 **3. Clear and Convincing Evidence is Required for Fraud Claims**

7 16. Because the only claim that went to trial was for intentional misrepresentation,
8 it is necessary to establish the heightened standard for such claims.

9 17. Nevada law utilizes the clear and convincing standard for fraud. *See Lubbe v.*
10 *Barba*, 91 Nev. 596, 598, 540 P.2d 115, 117 (1975).

11 18. The Nevada Supreme Court has upheld the heightened standard for fraud time
12 and time again. *See Bulbman, Inc. v. Nevada Bell*, 108 Nev. 105, 111, 825 P.2d 588, 592
13 (1992); *see also J.A. Jones Const. Co. v. Lehrer McGovern Bovis, Inc.*, 120 Nev. 277, 290, 89
14 P.3d 1009, 1018 (2004).

15 19. Clear and convincing evidence has been defined as “evidence establishing
16 every factual element to be highly probable,” or as “evidence [which] must be so clear as to
17 leave no substantial doubt[.]” *In re Discipline of Drakulich*, 111 Nev. 1556, 1567, 908 P.2d
18 709, 715 (1995).

19 20. Consequently, if Plaintiffs do not present such clear and convincing evidence
20 for each and every element of fraud, then a defense ruling must be entered by the Court.

21 21. A determination of fraud based on anything less than clear and convincing
22 proof is reversible error. *Hindenesh v. Whitney by Vogelheim*, 101 Nev. 175, 178, 697 P.2d
23 932, 934 (1985).

24 22. “A party alleging fraud must clearly and distinctly prove the fraud as alleged,
25 or as has been said, fraud must be established by clear and convincing proof.” *Miller v. Lewis*,
26 80 Nev. 402, 403, 395 P.2d 386, 387 (1964).

23. "Circumstances of mere suspicion will not warrant the court in coming to the conclusion that a fraud has been committed." *Gruber v. Baker*, 20 Nev. 453, 23 P. 858, 865 (1890).

24. In *Miller, supra*, the Nevada Supreme Court dealt with a situation where the only fraud allegations were based on the testimony of plaintiff:

The occasions at which the fraudulent and deceitful statements of defendants are alleged to have been made were four meetings between the parties, one at the office of appellant Redelius, one at the Holiday Hotel, one at the offices of the Sno-Lite Co., and one at the offices of attorney Emerson Wilson at the Nevada Title Guaranty Company, all in Reno, Nevada. The testimony of the plaintiffs in support of the allegations of fraud and deceit were all categorically denied by the testimony of the defendants.

The court in its findings and conclusions said: 'The burden of proof in establishing fraud is upon plaintiffs. A party alleging fraud must clearly and distinctly prove the fraud as alleged, or as has been said, fraud must be established by clear and convincing proof. *Gruber v. Baker*, 20 Nev. 453 [23 P. 858, 9 L.R.A. 302]; *Tallman v. First National Bank of Nevada* [66 Nev. 248], 208 P.2d 302.

'The only testimony as to the making of the alleged promises and representations upon which plaintiffs' case is predicated is that of plaintiffs themselves. The other non-party witnesses, Catron and Wilson, did not testify that such representations were made in their presence.

'Plaintiffs have not sustained the burden of proof in establishing their claim of fraud.

Id.

25. Thus, the uncorroborated testimony of a plaintiff was not enough.

C. REQUIRED ELEMENTS FOR FRAUD/INTENTIONAL MISREPRESENTATION

26. In Nevada, it is well established that the elements of fraud / intentional misrepresentation are as follows:

- a. A false representation made by the Defendant;
- b. Defendants' knowledge or belief that the representation is false, or that the Defendants does not have a sufficient basis of information to make such representation;
- c. The Defendants' intention to induce Plaintiff to act or to refrain from acting in reliance upon the misrepresentation;

- 1 d. Plaintiff's justifiable reliance upon the misrepresentation; and
2 e. Damage to Plaintiff resulting from such reliance.

3 *Lubbe, supra*, 91 Nev. 596, 540 P.2d 115.

4 27. It is also well established that it is essential for a plaintiff claiming fraud to
5 prove each and every element by clear and convincing evidence. *Id.* at 598, 540 P.2d at 117.

6 28. A cause of action for fraudulent concealment must be alleged with
7 particularity. *Golden Nugget, Inc. v. Ham*, 98 Nev. 311, 646 P.2d 1221 (1982).

8 29. There is no concealment claim to address here.

9 30. At the inception of this trial in opening statement, Mr. Reynolds and Diamanti
10 laid out four categories of misrepresentations they contended support their claim for
11 intentional misrepresentation:

12 a. That Luxury Holdings and Mr. Tufenkjian misrepresented the revenues
13 of the business in the Marketing Brochure, and provided financial information (sales
14 and use forms) during due diligence which included sales from the Galleria Mall
15 location (which was not being purchased as part of the transaction);

16 b. That Luxury Holdings and Mr. Tufenkjian misrepresented the cost of
17 the inventory sold to Diamanti and Mr. Reynolds when some of it was inflated roughly
18 10%;

19 c. That Luxury Holdings and Mr. Tufenkjian misrepresented their
20 ownership of certain items of the FF&E, and, in particular, the cabinets and items 1 –
21 9 on Exhibit J8; and

22 d. That the customer list provided during due diligence constituted a
23 misrepresentation because the individuals identified in that list were not customers.

24 31. In closing arguments, Diamanti and Mr. Reynolds abandoned the customer list
25 issue.

26 **D. THE REPRESENTATIONS AT ISSUE**

27 32. "Circumstances of mere suspicion will not warrant the court in coming to the
28 conclusion that a fraud has been committed." *Gruber, supra*, 20 Nev. 453, 23 P. at 865.

1 **1. The Revenue Figures Contained in the Marketing Brochure and Sales**
2 **and Use Forms**

3 33. The primary representation pursued at trial were the revenues contained in the
4 Marketing Brochure, Exhibit J4, and Sales and Use Forms, Exhibit J30.

5 34. According to Mr. Reynolds, he was informed by Mr. Tufenkjian that the
6 Marketing Brochure and Sales and Use Forms accurately portrayed the revenues, profits,
7 losses, and sales of the Jewelry Store and that these documents included false information.

8 35. According to Mr. Reynolds, on each occasion where he inquired about the
9 Jewelry Store's financial figures, he was directed to the Marketing Brochure, which included
10 false information.

11 36. In particular, Mr. Reynolds testified that the Marketing Brochure represents the
12 Jewelry Store as having revenues totaling \$800,000.00 a year and profits of roughly
13 \$110,000.00, both of which Mr. Reynolds contended were false and were inflated by the
14 Galleria Mall location.

15 37. Mr. Reynolds also testified that the Sales and Use Forms he received during
16 due diligence were inaccurate portrayals of the Jewelry Store because they included sales
17 from the Jewelry Store and the Galleria Mall location.

18 38. Mr. Tufenkjian testified that he did not utilize Galleria Mall location figures in
19 computing the numbers set forth in the Marketing Brochure.

20 39. Mr. Tufenkjian testified that he referred to prior sales figures that excluded the
21 Galleria Mall location, and then, using his experience in the market, came up with projections
22 and figures in order to create revenue and profit and loss projections.

23 40. Mr. Tufenkjian also testified that he informed Mr. Reynolds of the Galleria
24 Mall location and its existence.

25 41. In closing, it was acknowledged that Diamanti and Mr. Reynolds were aware
26 of the Galleria Mall location during due diligence.

27 42. As it relates to the revenue and profit/loss figures set forth in the Marketing
28 Brochure, the document explicitly states in multiple locations that "Readers of this report

1 should understand that statements are not guarantees of value or results[,]” that the financial
2 information set forth is a “Projection for the Year Ended December 2014[,]” that “[t]he
3 Seller’s profit/loss statement projected out for 2014 was used in the computation[,]” and it
4 “cautions readers not to place undue reliance on any forward-looking statements or projects
5 that may have been used in the analysis of value.”

6 43. Given that the Marketing Brochure was generated in year 2014, before the
7 2014 financial year ended, it was impossible to provide accurate financial figures; hence why
8 the Market Brochure stated in multiple locations that they were projections.

9 44. In light of the foregoing, the Court does not find that the projections were
10 false. They were just that – projections.

11 45. Moreover, the Court has previously stated it questions Mr. Reynolds’
12 credibility as it relates to how many conversations Mr. Reynolds did or did not have with
13 Mr. Tufenkjian, and consequently, this Court cannot and does not rely upon any conversation
14 Mr. Reynolds claimed to have with Mr. Tufenkjian.

15 46. As it relates to the Sales and Use forms, Mr. Reynolds and Diamanti conceded
16 they were aware of the Galleria Mall location and its existence.

17 47. Other than Mr. Reynolds’ own testimony, there is no evidence that
18 Mr. Tufenkjian told Mr. Reynolds that the Sale and Use forms are only for the Jewelry Store.

19 48. Mr. Tufenkjian testified contrary to Mr. Reynolds, and specifically testified
20 that Mr. Reynolds was informed that the Sales and Use included sales from both locations.

21 49. Moreover, the sales numbers from the Galleria Mall location were on site at
22 the Jewelry Store on Galleria Mall stencil paper, readily available to Mr. Reynolds during one
23 of his many visits to the Jewelry Store during the due diligence period.

24 50. In addition, other than his own testimony, Mr. Reynolds did not present any
25 financial records during the trial establishing the financial performance of the Jewelry Store in
26 2015, 2016, 2017, or after.

27 51. In other words, there was no evidence presented at trial of the Jewelry Store’s
28 financial performance (for better or worse) after the Closing Date.

1 52. Consequently, the evidence adduced at trial does not establish to the level of
2 clear and convincing evidence that either Luxury Holdings or Mr. Tufenkjian intentionally
3 made a false representation with respect to the financial performance of the Jewelry Store.

4 53. Equally as dispositive is the fact that the Closing Statement, which was signed
5 and agreed to by both Diamanti and Mr. Reynolds, states that “[t]he parties hereto agree that
6 no representations have been made by either party.”

7 54. Thus, to find a misrepresentation occurred, this Court must first disregard the
8 contractual agreement between the parties, which this Court will not do.

9 **2. The FF&E**

10 55. As it relates to the FF&E, at trial, Diamanti and Mr. Reynolds contended that
11 Luxury Holdings and Mr. Tufenkjian falsely stated they owned (and could convey) ownership
12 of items 1 – 9 of the FF&E identified in Exhibit J8 (that being some mirrors, display cases,
13 counters).

14 56. In particular, Diamanti and Mr. Reynolds contended that Tivoli owned those
15 pieces.

16 57. Diamanti and Mr. Reynolds relied on statements from a manager (named
17 “Fickenstein”) and the lease agreement.

18 58. As for the statements from Fickenstein, this is information Mr. Reynolds heard
19 that he testified about.

20 59. Mr. Reynolds did not present Fickenstein as a witness.

21 60. As for the lease, the lease agreement does not specifically address the FF&E
22 items 1 – 9 in Exhibit J8.

23 61. The Assignment, however, provides that the “Tenant” (Luxury Holdings) is
24 assigning any and all of its interest in and to any FF&E located within the leased premises of
25 the Jewelry Store from itself to the Assignee (Diamanti).

26 62. Tivoli never sent a letter claiming it owned FF&E items 1 – 9 within Exhibit
27 J8, and Mr. Reynolds made no effort to determine if he could take those items with him when
28 he closed the Jewelry Store.

63. Based upon the foregoing, Diamanti and Mr. Reynolds did not meet their burden to establish that the statements made regarding FF&E items 1 – 9 within Exhibit J8 are false.

3. Cost of the Inventory

64. The final representation Diamanti and Mr. Reynolds claim to be false is that the finished jewelry inventory was not sold at “cost” because it was the subject of a 10% markup.

65. Exhibit J7 lists the various inventory which was sold:

- a. Jewelry from consignor G. Panther, Inc., for \$28,352.00;
- b. Jewelry from consignor National Gold & Diamond Centre, Inc., for \$88,085.79;
- c. Jewelry from Nazareth for \$50,000.00; and
- d. Jewelry from Luxury Holdings for \$134,253.44.

66. Diamanti and Mr. Reynolds did not present any evidence capable of showing, or even intimating, that the G. Panther, National Gold & Diamond Centre, Inc., or Nazareth jewelry pieces were marked up.

67. The only pieces of inventory that Diamanti and Mr. Reynolds presented evidence of a mark-up were those owned by Luxury Holdings.

68. According to Mr. Reynolds, the Luxury Holdings items were marked up roughly 10% as shown in the spreadsheet generated by the POS System and admitted into evidence as Exhibit J27.

69. Mr. Tufenkjian testified that he marked up the Luxury Holdings finished jewelry pieces because he had to pay his broker 10% commission, meaning, if he sold the pieces at their original cost he would have lost money by selling them for under cost.

70. Mr. Tufenkjian testified that he informed Mr. Reynolds of this markup, and that Mr. Reynolds agreed to it.

71. Mr. Reynolds, on the other hand, testified that he was never informed of the mark up.

1 72. Ultimately, Mr. Reynolds testified in his deposition (with which he was
2 impeached) that he took no issue with the price he paid for the finished inventory from
3 Luxury Holdings.

4 73. The Court concludes Mr. Reynolds is not credible.

5 74. Consequently, this Court does not find that Diamanti and Mr. Reynolds
6 sustained their burden of establishing the false nature of the “cost” representation.

7 75. The \$134,253.44 is the dollar figure for “cost” of the finished inventory in the
8 POS System.

9 76. Moreover, Diamanti and Mr. Reynolds ignore the fact that they also received
10 loose diamonds, rubies, emeralds, sapphires, findings, gold, silver, etc., and that none of these
11 items were within the POS System despite having a value exceeding \$20,000.00 according to
12 the testimony of Mr. Tufenkjian (which was undisputed on that issue).

13 77. Thus, assuming the 10% markup which would total roughly \$14,000.00,
14 Diamanti and Mr. Reynolds still come out ahead and acquired the finished inventory and
15 loose stones for less than cost.

16 4. The Customer List

17 78. Although it was abandoned in closing, it is worth the time to address the
18 customer list since it was raised in opening and raised by Mr. Reynolds during his testimony.

19 79. The specific representation Mr. Reynolds takes issue with as it relates to the
20 customer list is that most, if not all, of the individuals identified on the customer list submitted
21 into evidence as Exhibit J24 were never customers of the Jewelry Store.

22 80. The only evidence Mr. Reynolds presented in furtherance of this contention
23 was his testimony regarding information told to him by a woman he had hired (namely, that
24 many were not customers).

25 81. Mr. Reynolds did not call this woman to testify, and, consequently, the
26 information relayed to him regarding the customers about which he testified is hearsay which
27 this Court cannot rely upon for the truth of the matter asserted.

1 82. Aside from this hearsay statement, neither Diamanti nor Mr. Reynolds
2 presented any evidence that the customer list contained inaccurate information.

3 83. Mr. Reynolds specifically testified that he did not have “personal knowledge”
4 as to whether the customers on the customer list were customers of the Jewelry Store or not.

5 84. As such, no admissible evidence was presented to demonstrate whether the
6 representations regarding the customer list were false.

7 85. The Court, therefore, finds that Diamanti and Mr. Reynolds did not meet their
8 burden to show that a misrepresentation was made regarding the customer list.

9 86. Moreover, Mr. Reynolds testified that there was a customer of the Jewelry
10 Store named Robert Reynolds, and the customer list specifically identifies a customer named
11 Robert Reynolds.

12 87. Consequently, the Court does not find Mr. Reynolds testimony regarding the
13 customer list to be credible.

14 **E. WHETHER DEFENDANTS KNEW THE REPRESENTATIONS WERE**
15 **FALSE, OR LACKED A SUFFICIENT BASIS TO MAKE SUCH**
16 **REPRESENTATIONS**

17 **1. The Revenue Figures**

18 88. In compiling the revenue figures set forth in the Marketing Brochure,
19 Mr. Tufenkjian testified that he relied on prior sales in 2014 (which were limited because the
20 Jewelry Store was fairly new), prior year tax returns, financial statements, and monthly
21 reports from the POS System, and then utilizing his experience in the industry, reached the
22 projections which are laid out.

23 89. Mr. Tufenkjian testified that he believes the figures set forth within the
24 Marketing Brochure were true at the time he made them, and testified at trial he believes those
25 projections are still true today.

26 90. Mr. Tufenkjian testified that at the time he compiled the projections, he did not
27 take into account the sales from the Galleria Mall location.

28 91. At the time the Marketing Brochure was generated, the Galleria Mall location
had been open two weeks, at most.

1 92. Mr. Tufenkjian testified that he utilized his accountant, Mark Sherman, CPA in
2 coming up with the figures, as well.

3 93. Other than innuendo regarding the Galleria Mall location, no evidence was
4 presented indicating that Luxury Holdings or Mr. Tufenkjian believed or knew that the figures
5 set forth in the Market Brochure were false.

6 94. Likewise, through using historical sales, referring to the accountant, and
7 relying upon experience, Luxury Holdings and Mr. Tufenkjian did not lack a justifiable basis
8 for making such representations.

9 95. As for the Sale and Use forms, the figures within them are true, and, other than
10 Mr. Reynolds' testimony (which the Court does not find credible), there is no evidence to
11 suggest that Mr. Tufenkjian ever stated that the Sales and Use forms are for the Jewelry Store,
12 only.

13 96. Diamanti and Mr. Reynolds failed to meet their burden on this issue.

14 2. FF&E

15 97. There was a lack of evidence tending to show that either Luxury Holdings or
16 Mr. Tufenkjian believed items 1 – 9 of the FF&E were not their property.

17 98. Mr. Tufenkjian consistently testified that those items were included as the
18 landlord's contribution to tenant improvements.

19 99. Moreover, given the plain language of the Assignment Luxury Holdings,
20 Diamanti, and Tivoli signed, Luxury Holdings and Mr. Tufenkjian had every reason to
21 believe those items were their property.

22 100. Indeed, the Assignment has Luxury Holdings assigning all of its right, title,
23 and interest in all of the FF&E to the Diamanti, and the landlord Tivoli signed off on that
24 document.

25 101. While it is true the lease agreement does not expressly say that Luxury
26 Holdings owns those items of FF&E, it equally does not say the opposite (that Luxury
27 Holding does not own those items).

1 102. And, Diamanti and Mr. Reynolds did not call any witness from or on behalf of
2 the landlord Tivoli.

3 103. Diamanti and Mr. Reynolds did not sustain their burden on this issue.

4 **3. Cost of the Inventory**

5 104. Mr. Tufenkjian ultimately testified that he sold the Luxury Holdings jewelry
6 inventory not just at cost, but actually below cost because he included (and did not charge for)
7 loose diamonds, rubies, sapphires, emeralds, findings, and other items.

8 105. According to Mr. Tufenkjian, the finished jewelry in conjunction with the
9 loose stones were valued at far more than the \$134,253.44 they were sold for.

10 106. Neither Diamanti nor Mr. Reynolds presented any testimony to counter this.

11 107. Instead, they steadfastly maintained the 10% markup increased the Luxury
12 Holdings inventory over cost without ever addressing the loose stones and other items.

13 108. Moreover, Luxury Holdings and/or Mr. Tufenkjian did in fact pay a
14 commission on the inventory.

15 109. Consequently, the Court concludes that Luxury Holdings and Mr. Tufenkjian
16 believed their representations were true and they had sufficient basis to make such
17 representations.

18 **4. The Customer List**

19 110. Diamanti and Mr. Reynolds did not present any evidence tending to show that
20 Luxury Holdings or Mr. Tufenkjian knew or believed that the customers on the customer list
21 were not in fact customers of the Jewelry Store.

22 111. Therefore, they did not sustain their burden on this issue.

23 **F. INTENTION TO INDUCE**

24 112. Based upon the lack of false statements and the Defendants' knowledge and/or
25 belief that each statement they made was true, the Court concludes that Diamanti and
26 Mr. Reynolds did not sustain their burden to a degree of clear and convincing evidence as to
27 the element of inducement.

1 **G. JUSTIFIABLE RELIANCE**

2 113. The element of justifiable reliance is well developed in Nevada.

3 114. It requires that the plaintiff plead and prove he or she justifiably relied on the
4 misrepresentation in question. *Lubbe, supra*, 91 Nev. 596, 540 P.2d 115 (outlining elements
5 of intentional misrepresentation); *Barmettler v. Reno Air, Inc.*, 114 Nev. 441, 449, 956 P.2d
6 1382, 1387 (1998) (providing that one who, without exercising reasonable care or
7 competence, “supplies false information for the guidance of others in their business
8 transactions” is liable for “pecuniary loss caused to them by their justifiable reliance upon the
9 information” (emphasis added)).

10 115. “Circumstances of mere suspicion will not warrant the court in coming to the
11 conclusion that a fraud has been committed.” *Gruber, supra*, 20 Nev. at 453, 23 P. at 865.

12 **1. Sophisticated Parties**

13 116. Courts have also held that a sophisticated party is not entitled to rely on a
14 representation when that party can protect itself by conducting its own investigation. As the
15 court explained in *Emergent Capital Inv. Mgmt., LLC v. Stonepath Grp., Inc.*, 165 F. Supp. 2d
16 615, 623 (S.D.N.Y. 2001):

17 In evaluating justifiable reliance, the plaintiffs sophistication and expertise is a
18 principal consideration. Moreover, the sophisticated investor such an Emergent
19 must show that he or she has made an independent inquiry into all available
20 information. As the Second Circuit has noted on this point: put another way, if
21 the plaintiff “has the means of knowing, by the exercise of ordinary
22 intelligence, the truth, or the real quality of the subject of the representation, he
23 must make use of those means, or he will not be heard to complain that he was
24 induced to enter into the transaction by misrepresentations.”

25 *Id.* at 623.

26 117. In other words, a sophisticated party is deemed to be able to protect himself
27 and thus not just rely upon anything presented by the opposing side in an arms-length
28 transaction.

2. Reliance Must Actually be Justifiable

 118. The Nevada Supreme Court case of *Collins v. Burns*, 103 Nev. 394, 741 P.2d
819 (1987), is illustrative on this element.

1 119. In that case, the Nevada Supreme Court held that the lack of justifiable reliance
2 bars recovery in an action for damages for the tort of fraud and deceit.

3 120. However, this principle does not impose a duty to investigate upon the plaintiff
4 absent any facts to alert the defrauded party that his reliance is unreasonable.

5 121. As the Supreme Court pointed out, the test is whether the recipient has
6 information which would serve as a "red light" to any normal person of his intelligence and
7 experience.

8 122. Justifiable reliance is such an intricate issue in fraud claims, that it has
9 elements in and of itself. It requires:

10 In order to establish justifiable reliance, the plaintiff is required to show the
11 following: the false representation must have played a material and substantial
12 part in leading the plaintiff to adopt his particular course; and when he was
13 unaware of it at the time that he acted, or it is clear that he was not in any way
14 influenced by it, and would have done the same thing without it for other
15 reasons, his loss is not attributed to the defendant.

16 *Blanchard v. Blanchard*, 108 Nev. 908, 911 – 912, 839 P.3d 1320 (1992).

17 123. A plaintiff who undertakes his own investigation which should have alerted
18 him to misrepresentation is charged with relying on himself, and no one else:

19 Generally, a plaintiff making an independent investigation will be charged with
20 knowledge of facts which reasonable diligence would have disclosed. Such a
21 plaintiff is deemed to have relied on his own judgment and not on the
22 defendant's representations.

23 *Id.*

24 **3. Diamanti and Reynolds Contentions**

25 124. Mr. Reynolds is savvy businessman with years of experience in buying and
26 selling companies, assets, and running large projects worth over a billion dollars.

27 125. He has purchased, and sold, a hotel, an investment in a mall, and operated a
28 theater.

 126. He paid for the Jewelry Store in cash.

 127. The Court finds that Mr. Reynolds is a sophisticated businessman that is more
than capable of protecting himself in an arms' length transaction such as the one at issue here.

1 128. He testified he could have utilized a lawyer, accountant, bookkeeper, and even
2 an “iron worker” if he so desired during due diligence.

3 129. Mr. Reynolds also undertook his own investigation, visiting the Jewelry Store
4 frequently during due diligence, spending as much time as he wanted on the POS System and
5 elsewhere throughout the Jewelry Store.

6 130. Mr. Reynolds is charged with having to perform his own investigation, and
7 relying exclusively upon himself and the results of his investigation.

8 **a. The Revenues**

9 131. To prove fraud as it relates to the revenue aspect of their claim, Diamanti and
10 Mr. Reynolds were obligated to prove they justifiably relied upon the figures in the Marketing
11 Brochure and the figures in the Sales and Use forms.

12 132. The Marketing Brochure cannot be relied upon as a matter of law.

13 133. It includes a panoply of disclaimers informing prospective buyers:

14 a. “During the due diligence process, it is the responsibility of the Buyer,
15 with the aid of an accountant and/or attorney, if necessary, to independently verify all
16 representations which have been made by the Seller, particularly as they relate to the
17 adjustments made to the profit and loss statements[.]”;

18 b. “Readers of this report should understand that statements are not
19 guarantees of value or results[.]”;

20 c. “Sunbelt Business Brokers cautions readers not to place undue reliance
21 on any forward-looking statements or projects that may have been used in the analysis
22 of value[.]”;

23 d. “It is the responsibility of the Buyer to verify all representations and to
24 make a final purchase decision based on their own independent investigation[.]”;

25 e. “The books are kept in house using a sophisticated register point of sale
26 software[.]”;

27 f. “Projection for the Year Ended December 2014[.]”;

1 g. "The Seller's profit/loss statement projected out for 2014 was used in
2 the computation[.]"

3 134. The Ninth Circuit observed that an individual could not rely on an insurance
4 booklet when it said the insurance contract is the controlling document:

5 This booklet describes provisions of the group insurance program contained in
6 the contract between the company and the insurance company. The contract
shall be the controlling document.

7 *Pisciotta v. Teledyne Industries, Inc.*, 91 F.3d 1326, 1330 – 1331 (9th Cir. 1996).

8 135. As set forth above, the disclaimers in the Market Brochure go much farther
9 than the disclaimer in *Pisciotta*.

10 136. It is not justifiable to rely on a Marketing Brochure that is designed as an
11 advertisement that disclaims all of its contents, expressly states the figures are "projections,"
12 and tells prospective buyers they must perform their own due diligence.

13 137. The Court finds it is not justifiable to rely upon the Marketing Brochure in
14 light of its panoply of disclaimers.

15 138. As it relates to the Sales and Use forms, Mr. Reynolds testified that he knew
16 the financial figures did not reconcile after comparing them to the POS System, which
17 contained the sales and revenue figures for the Jewelry Store.

18 139. Mr. Reynolds agreed that the irreconcilable financial figures caused "alarms,"
19 and said to himself, "the guy is trying to do something." (FOF 111, *supra*)

20 140. He was impeached with his deposition, wherein he testified that during the due
21 diligence period he understood that the numbers were "everywhere" and they raised an
22 "alarm" in his head. (FOF 112, *supra*)

23 141. It is not justifiable to rely upon financial figures one knows are inconsistent
24 and do not reconcile.

25 142. As Mr. Reynolds said, the numbers were everywhere.

26 143. Despite having these facts, Mr. Reynolds closed the transaction anyway.

1 144. Diamanti and Mr. Reynolds were not justified in relying upon the Sales and
2 Use forms that they were fully aware did not reconcile with the information in the POS
3 System.

4 145. In addition, the Court finds that Mr. Reynolds was fully aware of the Galleria
5 Mall location, and that Mr. Tufenkjian told Mr. Reynolds that the Galleria Mall location's
6 figures were on those forms.

7 146. Moreover, the document that listed the Galleria Mall locations figures were at
8 the Jewelry Store for Mr. Reynolds' inspection.

9 147. In fact, Mr. Reynolds testified that he independently learned about the Galleria
10 mall location during due diligence while comparing the figures from the Sales and Use form
11 to the POS System's figures.

12 148. These facts further support this Court's finding that Diamanti and
13 Mr. Reynolds were not justified in relying upon the Sales and Use forms (and were equally
14 not justified in relying upon the Marketing Brochure).

15 149. And, during due diligence, Mr. Reynolds came to the conclusion that
16 Mr. Tufenkjian was lying, that he could not "believe him," "[t]he numbers aren't right[,]" and
17 they "don't balance." (FOF 101, *supra*)

18 150. According to Mr. Reynolds, the seller of a business "will lie about 10 or 20
19 percent." (FOF 102, *supra*)

20 151. Mr. Reynolds also presumed Mr. Tufenkjian lied "50%[,]" and felt he could
21 meet his "commitment, if he [Mr. Tufenkjian] had lied 100 percent." (FOF 102, *supra*)

22 152. It is never justifiable to rely upon what you believe is a lie.

23 153. In other words, Mr. Reynolds knew the figures in the Marketing Brochure
24 were incorrect, and did not believe that any statements from Mr. Tufenkjian regarding the
25 financial health of the Jewelry Store were true.

26 154. The Court concludes that any reliance Diamanti and Mr. Reynolds had was not
27 justified based upon the foregoing facts.

28 155. It is never justified to rely information that you believe is a lie.

b. The FF&E

156. As it relates to the FF&E, Diamanti and Mr. Reynolds argue they justifiably relied upon Luxury Holdings and/or Mr. Tufenkjian's ownership of items 1 – 9 on Exhibit J8 in proceeding forward with the transaction.

157. Items 1 – 9, generally, are display cases and mirrors.

158. This contention by Diamanti and Mr. Reynolds ignores the 70+ other items (10 – 81) to which they concede they received good title, including a special jewelry safe, an alarm system, jewelry making equipment, etc.; basically, everything one would need to operate a fully functioning jewelry store which has the capabilities to make custom jewelry.

159. In the grand scheme of things, the display cases and mirrors identified as items 1 – 9 on Exhibit J8 are the most insignificant items of FF&E in the context of acquiring and operating a jewelry store such as the Jewelry Store.

160. The Court concludes that reliance upon valid ownership of items 1 – 9 on Exhibit J8 in terms of making the decision to proceed forward with the acquisition of the Jewelry Store is not justifiable in light of the fact that Diamanti and Mr. Reynolds concede they received good title to items 10 – 81 and concede they acquired the Jewelry Store.

161. To conclude otherwise would mean that items 1 – 9 on Exhibit J8 were the most important considerations in acquiring the Jewelry Store, a contention which is preposterous.

c. The Inventory

162. As it relates to the inventory, Diamanti and Mr. Reynolds are obligated to prove they justifiably relied upon representations from Luxury Holdings and/or Mr. Tufenkjian that the inventory was being sold at cost.

163. Here, Mr. Reynolds is a sophisticated businessman.

164. He had the abilities, and the means, to review the inventory himself and determine that the price he was about to pay was "cost."

1 165. The term cost, in and of itself, is a difficult term in the jewelry business given
2 the ever-fluctuating price of gold, silver, precious metals, and precious stones (as was testified
3 to by Mr. Tufenkjian, and not refuted by any other witness).

4 166. Mr. Reynolds also had access to the POS System, which specifically
5 articulated item cost at the date it was entered into the POS System.

6 167. As testified to by Mr. Reynolds, he reviewed the inventory, went through all of
7 it, and then took no issue with the price and paid it.

8 168. He fully satisfied himself that the price he was paying was cost.

9 169. As admitted to at trial, Mr. Tufenkjian was not representing Mr. Reynolds –
10 this was an arm's length transaction.

11 170. Consequently, to the extent Diamanti and Mr. Reynolds claim they rely upon
12 any representations that the Luxury Holdings inventory was being sold at "cost," such
13 reliance was not justified given that they did their own investigation and review of the jewelry
14 and satisfied themselves of the price.

15 171. As testified too, Mr. Reynolds took "no issue" with the price paid for the
16 Luxury Holdings jewelry.

17 **d. The Customer List**

18 172. Even though Diamanti and Mr. Reynolds abandoned the customer list issue
19 during closing, the Court addresses it for the sake of thoroughness.

20 173. While Diamanti/Mr. Reynolds testified that he in part relied upon the customer
21 list in purchasing the Jewelry Store, Mr. Reynolds acknowledged that the Jewelry Store and
22 its business does not have a monthly membership and testified that "customers are people"
23 that "come and [] go where they want to." (RT 131, ll. 6-8)

24 174. Consequently, Diamanti and Mr. Reynolds were not justified in relying upon
25 the customer list in deciding to proceed forward and close the transaction.

26 175. Moreover, Mr. Reynolds performed his own investigation, wherein he
27 concluded the Jewelry Store had low foot traffic.

1 **H. DAMAGES**

2 176. Last, Diamanti and Mr. Reynolds are obligated to prove damages.

3 177. “The measure of damages for fraudulent misrepresentation can be determined
4 in one of two ways.” *Randono v. Turk*, 86 Nev. 123, 130, 466 P.2d 218, 222–23 (1970).

5 178. “The first allows the defrauded party to recover the ‘benefit-of-his-bargain,’
6 that is, the value of what he would have if the representations were true, less what he had
7 received.” *Id.*

8 179. “The second allows the defrauded party to recover only what he has lost ‘out-
9 of-pocket,’ that is, the difference between what he gave and what he actually received.”
10 *Randano*, 86 Nev. at 130, 466 P.2d at 222 – 223.

11 180. The Restatement (Second) of Torts, which our Supreme Court often follows,
12 breaks down the calculation of damages in plain terms:

13 (1) The recipient of a fraudulent misrepresentation is entitled to recover as
14 damages in an action of deceit against the maker the pecuniary loss to him of
which the misrepresentation is a legal cause, including

15 (a) the difference between the value of what he has received in the
16 transaction and its purchase price or other value given for it; and

17 (b) pecuniary loss suffered otherwise as a consequence of the
recipient's reliance upon the misrepresentation.

18 (2) The recipient of a fraudulent misrepresentation in a business transaction is
19 also entitled to recover additional damages sufficient to give him the benefit of
his contract with the maker, if these damages are proved with reasonable
20 certainty.

21 RESTATEMENT (SECOND) OF TORTS § 549 (1977).

22 181. As it relates to purchase of the Jewelry Store, Diamanti and Mr. Reynolds did
23 not present any evidence of the Jewelry Store’s financial performance post-closing other than
24 Mr. Reynolds testifying that it performed poorly.

25 182. Mr. Reynolds never specifically testified as to the difference between what he
26 paid for the Jewelry Store, and what the value should have been; nor is he qualified to do so.

1 183. However, even assuming Mr. Reynolds is correct, Mr. Reynolds received the
2 benefit of owning the Jewelry Store and receiving a pay check up and until he decided to
3 close the Jewelry Store.

4 184. To award Mr. Reynolds the entire purchase price after allowing him to run the
5 store for years without there being any documented evidence of how the Jewelry Store
6 actually fared would be entirely speculative, lacking in foundation, and unfair.

7 185. This is particularly true in this case, where Mr. Reynolds testified that he had
8 never lost money on a business before, the Jewelry Store is the first business he has lost
9 money on, and he blames someone other than himself for its failure.

10 186. Moreover, such an award would be tantamount to rescission, which this Court
11 cannot grant because (a) there is no Jewelry Store to return, (b) the landlord is not a party to
12 this action, and (c) intentional misrepresentation does not provide for the relief of rescission.

13 187. The Court finds that Diamanti and Mr. Reynolds did not present any evidence
14 of benefit-of-the-bargain monetary damages proximately caused by the alleged
15 misrepresentations.

16 188. In addition, Diamanti and Mr. Reynolds failed to established that any monetary
17 loss was due to a reason other than general market conditions.

18 189. Perhaps the business brokers were correct in their statements set forth in the
19 email admitted as Exhibit J35: "That old man can't operate that business."

20 190. In terms of the FF&E, an alternative request of Diamanti and Mr. Reynolds is
21 that they be awarded all \$100,000.00 of the purchase price of the Jewelry Store that was
22 allocated to the FF&E.

23 191. The primary issue here is that Diamanti and Mr. Reynolds do not dispute all of
24 the FF&E within Exhibit J8; they only dispute the first nine of the eighty-one items.

25 192. No competent evidence was presented as to the value of these nine particular
26 items, and no competent evidence was presented to depreciation.

1 193. Moreover, it is impossible to come up with even an approximation as Diamanti
2 and Mr. Reynolds did not publish or admit pictures of what these nine categories of FF&E
3 look like.

4 194. Thus, it would be purely speculative to even guess what these items are, how
5 big they are, etc.

6 195. Because there is no evidence as to what these items look like, what their value
7 is, etc., assuming, *arguendo* only, liability, the Court cannot award damages for these nine
8 categories of FF&E.

9 196. Similarly, Mr. Reynolds acknowledged that he did not attempt to take those
10 particular items with him when he closed the Jewelry Store. He abandoned them.

11 197. As for the inventory of jewelry, Diamanti and Mr. Reynolds requested that the
12 entire purchase price for all of the jewelry (\$300,691.23) be awarded.

13 198. However, Diamanti and Mr. Reynolds only presented testimonial and
14 documentary evidence of a 10% markup which was limited to the Luxury Holdings finished
15 inventory, which was acquired for \$134,253.44.

16 199. That mark up, however, applied only to the finished inventory.

17 200. Also included in the sale were loose diamonds, rubies, sapphires, emeralds,
18 findings, gold, etc., which Mr. Tufenkjian – an individual that has been in the jewelry
19 business all of his life – values at far more than \$20,000.00.

20 201. Thus, by Mr. Reynolds' own logic, he purchased the Luxury Holdings
21 inventory at less than cost; meaning, he did not suffer any damage.

22 202. And regardless, the brokers emailed Mr. Reynolds and told him if
23 Mr. Tufenkjian didn't pay the commission, then he would be responsible for it as outlined in
24 Exhibit J37: "It also says in the confidentiality agreement in section 3 of the document
25 attached that you as the buyer have some financial responsibility to ensure we are paid
26 correctly by the seller."

27 203. Consequently, whether the commission was paid as a mark up or directly from
28 the buyer (Diamanti) reaches the same result – cost includes commission.

204. Equally problematic is that the retail price of all of the jewelry exceeded \$655,000.00, and Mr. Reynolds knew who sold a fair amount of the jewelry, but could not approximate how many pieces or how much in revenue or cost.

205. Consequently, Diamanti and Mr. Reynolds did not present any evidence regarding the amount of damages sustained and the amount that needed to be offset due to sales/profits made from the inventory.

206. Moreover, the Court cannot return the entire amount paid because this would require Diamanti and Mr. Reynolds to return the jewelry.

207. Because many pieces are sold, Diamanti and Mr. Reynolds cannot return the jewelry in exchange for what it was purchase for.

208. Allowing Diamanti and Mr. Reynolds to receive money and keep the jewelry (as well as all sales figures derived from sold jewelry) would be an impermissible double recovery.

209. Consequently, Diamanti and Mr. Reynolds did not present any admissible evidence of benefit-of-the-bargain or out of pocket damages.

If any of the foregoing Conclusions of Law would more appropriately be deemed to be Findings of Fact, they shall be so deemed.

JUDGMENT

NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Final Judgment herein be, and the same hereby is, rendered in favor of Defendants Luxury Holdings and Tufenkjian and against Plaintiffs, and said Defendants shall have their costs of suit and any additional relief to which they may be entitled as prevailing parties.

Dated this 19th day of November, 2021

599 DB5 DEAD 79D3
Mark R. Denton
District Court Judge

1 **CSERV**

2
3 **DISTRICT COURT**
4 **CLARK COUNTY, NEVADA**

5
6 Robert Reynolds, Plaintiff(s)

CASE NO: A-17-753532-B

7 vs.

DEPT. NO. Department 13

8 Raffi Tufenkjian, Defendant(s)

9
10 **AUTOMATED CERTIFICATE OF SERVICE**

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

14 Service Date: 11/19/2021

15 Peter Chasey .

peter@chaseylaw.com

16 Shannon .

shannon@chaseylaw.com

17 Christian Balducci

cbalducci@maclaw.com

18 Bradley Marx

brad@marxfirm.com

19 Lynda Arzate-Reza

larzate@maclaw.com

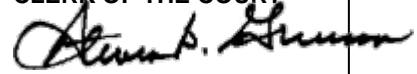
21
22 If indicated below, a copy of the above mentioned filings were also served by mail
23 via United States Postal Service, postage prepaid, to the parties listed below at their last
known addresses on 11/22/2021

24 Robert Reynolds

410 S Rampart BLVD STE 140
Las Vegas, NV, 89145

25 Terry Moore

10001 Park Run Drive
Las Vegas, NV, 89145



1 **NOAS**

2 **JOSEPH Z. GERSTEN, ESQ.**
3 Nevada Bar No.: 13876
4 The Gersten Law Firm PLLC
5 9680 W Tropicana Avenue, #146
6 Las Vegas, NV 89147
7 Telephone (702) 857-8777
8 joe@thegerstenlawfirm.com
9 *Attorney for Plaintiff*

6 **DISTRICT COURT**
7 **CLARK COUNTY, NEVADA**

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

Case No.: A-17-753532-B

Dept. No.: 13

11 **Plaintiffs,**

12 **vs.**

13 **RAFFI TUFENKJIAN**, an individual,
14 and **LUXURY HOLDINGS LV, LLC**, a
15 Nevada Limited Liability Company,
16 **DOES 1-10**, and **ROE CORPORATIONS**
17 **1-10 inclusive,**

18 **Defendants.**

19 **NOTICE OF APPEAL**

20 Notice is hereby given that **ROBERT REYNOLDS**, Plaintiff above named,
21 hereby appeals to the Supreme Court of Nevada from the **FINDING OF FACT,**
22 **CONCLUSION OF LAW, AND JUDGMENT**, entered in this action on the 19th
23 day of November 2021.

24 ///

25 ///

26 ///


27 ///

28 ///

THE GERSTEN LAW FIRM PLLC
9680 W Tropicana Avenue # 146
Las Vegas, NV 89147
Tel (702) 857-8777 | Fax (702) 857-8767

1 DATED this 20th day of December 2021.

2
3
4 Submitted by:

5 
6 By _____
7 JOSEPH Z. GERSTEN, ESQ.
8 Nevada Bar No.: 13876
9 The Gersten Law Firm PLLC
10 9680 W Tropicana Avenue, #146
11 Las Vegas, NV 89147
12 Telephone (702) 857-8777
13 joe@thegerstenlawfirm.com
14 *Attorney for Plaintiff*
15
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28

CERTIFICATE OF SERVICE

I hereby certify that on the 20th day of December 2021, I filed a true and correct copy of the **NOTICE OF APPEAL** using the Eighth Judicial District's electronic filing system and/or deposited a true and correct copy in the United States Mail at Las Vegas, Nevada, enclosed in a sealed envelope, first class mail, postage prepaid, addressed as follows:

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

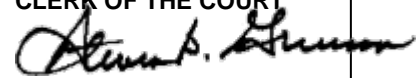


JOSEPH Z. GERSTEN, ESQ.
An Employee of The Gersten Law Firm PLLC

1 **NOAS**
2 **JOSEPH Z. GERSTEN, ESQ.**
3 Nevada Bar No.: 13876
4 The Gersten Law Firm PLLC
5 9680 W Tropicana Avenue, #146
6 Las Vegas, NV 89147
7 Telephone (702) 857-8777
8 joe@thegerstenlawfirm.com
9 *Attorney for Plaintiff*

6 **DISTRICT COURT**
7 **CLARK COUNTY, NEVADA**

Electronically Filed
3/16/2022 4:28 PM
Steven D. Grierson
CLERK OF THE COURT



Electronically Filed
Mar 21 2022 03:40 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

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

Case No.: A-17-753532-B

Dept. No.: 13

11 Plaintiffs,

12 vs.

13 **RAFFI TUFENKJIAN**, an individual,
14 and **LUXURY HOLDINGS LV, LLC**, a
15 Nevada Limited Liability Company,
16 **DOES 1-10**, and **ROE CORPORATIONS**
17 1-10 inclusive,

18 Defendants.

19 **CORRECTED NOTICE OF APPEAL**

20 Notice is hereby given that **ROBERT REYNOLDS**, and **DIAMANTI**
21 **FINE JEWELERS, LLC**, Plaintiffs above named, hereby appeal to the Supreme
22 Court of Nevada from the **NOTICE OF ENTRY OF ORDER GRANTING**
23 **DEFENDANTS' MOTION FOR ATTORNEY'S FEES AND COSTS**, entered
24 in this action on the 15th day of February 2022.

25 ///

26 ///

27 ///

DATED this 16th day of March 2022.

Submitted by:

By Joseph Z. Gersten
JOSEPH Z. GERSTEN, ESQ.
Nevada Bar No.: 13876
The Gersten Law Firm PLLC
9680 W Tropicana Avenue, #146
Las Vegas, NV 89147
Telephone (702) 857-8777
joe@thegerstenlawfirm.com
Attorney for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on the 16th day of March 2022, I filed a true and correct copy of the **NOTICE OF APPEAL** using the Eighth Judicial District's electronic filing system and/or deposited a true and correct copy in the United States Mail at Las Vegas, Nevada, enclosed in a sealed envelope, first class mail, postage prepaid, addressed as follows:

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


JOSEPH Z. GERSTEN, ESQ.
An Employee of The Gersten Law Firm PLLC

DISTRICT COURT
CASE SUMMARY
CASE NO. A-17-753532-B

Robert Reynolds, Plaintiff(s)
vs.
Raffi Tufenkjian, Defendant(s)

§
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§
§

Location: **Department 13**
Judicial Officer: **Denton, Mark R.**
Filed on: **04/05/2017**
Case Number History: **A-17-753532-C**
Cross-Reference Case Number: **A753532**
Supreme Court No.: **78187**
84000

CASE INFORMATION

Statistical Closures

11/19/2021 Judgment Reached (bench trial)
11/14/2018 Summary Judgment

Case Type: **Other Business Court Matters**

Case Flags: **Appealed to Supreme Court**
Business Court
Other Contract Case

DATE

CASE ASSIGNMENT

Current Case Assignment

Case Number A-17-753532-B
Court Department 13
Date Assigned 05/02/2017
Judicial Officer Denton, Mark R.

PARTY INFORMATION

Lead Attorneys

Plaintiff

Diamanti Jewelers LLC

Reyco LLC

Removed: 05/12/2017
Inactive

Reynolds, Robert G.

Pro Se
702-435-5200(H)

Defendant

Great Wash Park LLC

Removed: 04/25/2019
Dismissed

Luxury Holdings LV LLC

Moore, Terry A, ESQ
Retained
702-382-0711(W)

Tufenkjian, Raffi

Moore, Terry A, ESQ
Retained
702-382-0711(W)

DATE

EVENTS & ORDERS OF THE COURT

INDEX

04/05/2017



Complaint

Filed By: Plaintiff Reynolds, Robert G.
[1] Complaint

04/13/2017



Acceptance of Service

Filed By: Plaintiff Reynolds, Robert G.
[2] Acceptance of Service













04/28/2017



Notice of Appearance

Party: Defendant Tufenkjian, Raffi; Defendant Luxury Holdings LV LLC












DISTRICT COURT
CASE SUMMARY
CASE NO. A-17-753532-B

	<i>[3] Notice of Appearance of Counsel for Defendants Raffi Tufenkjian and Luxury Holdings LV LLC</i>
04/28/2017	 Initial Appearance Fee Disclosure Filed By: Defendant Luxury Holdings LV LLC <i>[4] Initial Appearance Fee Disclosure</i>
05/02/2017	Other Contract Case
05/02/2017	 Request to Transfer to Business Court Filed by: Defendant Tufenkjian, Raffi; Defendant Luxury Holdings LV LLC <i>[6] Request to Transfer to Business Court</i>
05/03/2017	 Notice of Department Reassignment <i>[5] Notice of Department Reassignment</i>
05/12/2017	 First Amended Complaint Filed By: Plaintiff Reynolds, Robert G. <i>[7] First Amended Complaint</i>
05/25/2017	 Motion to Dismiss Filed By: Defendant Tufenkjian, Raffi; Defendant Luxury Holdings LV LLC <i>[9] Motion to Dismiss Against Robert Reynolds and Each of His Claims</i>
05/26/2017	 Answer to Amended Complaint Filed By: Defendant Tufenkjian, Raffi; Defendant Luxury Holdings LV LLC <i>[8] Defendants' Answer to Diamanti Fine Jewelers LLC's First Amended Complaint, Only</i>
05/30/2017	 Notice of Motion Filed By: Defendant Tufenkjian, Raffi; Defendant Luxury Holdings LV LLC <i>[10] Notice of Motion</i>
06/13/2017	 Business Court Order <i>[11] Business Court Order</i>
06/16/2017	 Opposition to Motion to Dismiss Filed By: Plaintiff Reynolds, Robert G. <i>[12] Defendant Robert Reynolds' Opposition to Defendants' Motion to Dismiss Robert Reynolds and Each of His Claims</i>
06/26/2017	 Reply in Support Filed By: Defendant Tufenkjian, Raffi; Defendant Luxury Holdings LV LLC <i>[13] Reply in Support of Motion to Dismiss Against Robert Reynolds and Each of His Claims</i>
07/06/2017	 Motion to Dismiss (9:00 AM) (Judicial Officer: Denton, Mark R.) <i>Defendant's Motion to Dismiss Against Robert Reynolds and each of his Claims</i> Granted in Part; <i>Granted in Part</i>
07/10/2017	 Mandatory Rule 16 Conference (2:00 PM) (Judicial Officer: Denton, Mark R.) MINUTES Matter Heard; <i>Matter Heard</i>













DISTRICT COURT
CASE SUMMARY
CASE NO. A-17-753532-B

SCHEDULED HEARINGS












CANCELED Status Check (08/10/2017 at 9:00 AM) (Judicial Officer: Denton, Mark R.)
Vacated
Status Check Re JCCR Filing

07/17/2017	 Order Filed By: Defendant Tufenkjian, Raffi; Defendant Luxury Holdings LV LLC <i>[14] Order Granting in Part and Denying in Part</i>
07/18/2017	 Notice of Entry of Order Filed By: Defendant Tufenkjian, Raffi; Defendant Luxury Holdings LV LLC <i>[15] Notice of Entry of Order</i>
07/19/2017	 Order Setting Civil Non-Jury Trial <i>[16] Order Re Rule 16 Conference, Setting Civil Non-Jury Trial, Calendar Call, and Deadlines for Motions; Discovery Scheduling Order</i>
07/25/2017	 Second Amended Complaint Filed By: Plaintiff Reynolds, Robert G.; Plaintiff Diamanti Jewelers LLC <i>[17] Second Amended Complaint</i>
08/01/2017	 Joint Case Conference Report Filed By: Plaintiff Reynolds, Robert G.; Plaintiff Diamanti Jewelers LLC <i>[18] Joint Case Conference Report</i>
08/03/2017	 Recorders Transcript of Hearing <i>[19] Recorders Transcript of Hearing Re: Defendant's Motion To Dismiss Against Robert Reynolds And Each Of His Claims, July 6, 2017</i>
08/07/2017	 Motion to Dismiss Filed By: Defendant Tufenkjian, Raffi; Defendant Luxury Holdings LV LLC <i>[20] Motion to Dismiss Against Robert Reynolds and Each of His Claims</i>
08/10/2017	CANCELED Status Check (9:00 AM) (Judicial Officer: Denton, Mark R.) <i>Vacated</i> <i>Status Check Re JCCR Filing</i>
08/23/2017	 Stipulation and Order Filed by: Defendant Tufenkjian, Raffi; Defendant Luxury Holdings LV LLC <i>[21] Stipulation and Order to Continue Hearing and for Briefing Schedule</i>
08/23/2017	 Notice of Entry of Stipulation and Order Filed By: Defendant Tufenkjian, Raffi <i>[22] Notice of Entry of Stipulation and Order</i>
09/06/2017	 Opposition to Motion to Dismiss Filed By: Plaintiff Reynolds, Robert G.; Plaintiff Diamanti Jewelers LLC <i>[23] Opposition To Motion To Dismiss And Counter Motion For Leave To File Third Amended Complaint</i>
09/12/2017	 Reply to Motion Filed By: Defendant Tufenkjian, Raffi; Defendant Luxury Holdings LV LLC <i>[24] Defendants' Reply in Support of Motion to Dismiss Robert Reynolds' Claims and Opposition to Counter-Motion for Leave to File Third Amended Complaint</i>













DISTRICT COURT
CASE SUMMARY
CASE NO. A-17-753532-B

09/14/2017	 Reply in Support Filed By: Plaintiff Reynolds, Robert G.; Plaintiff Diamanti Jewelers LLC <i>[25] Reply Brief in Support of Counter-Motion for Leave to File Third Amended Complaint</i>
09/18/2017	Motion to Dismiss (9:00 AM) (Judicial Officer: Denton, Mark R.) <i>Defendants, Raffi Tufenkjian and Luxury Holdings LV, LLC's Motion to Dismiss Against Robert Reynolds and Each of His Claims</i> Denied; <i>Denied</i>
09/18/2017	Opposition and Countermotion (9:00 AM) (Judicial Officer: Denton, Mark R.) <i>Plaintiffs, Robert G. Reynolds and Diamanti Fine Jewelers, LLC's Opposition to Motion to Dismiss and Counter Motion for Leave to File Third Amended Complaint</i> Granted; <i>Granted</i>
09/18/2017	 All Pending Motions (9:00 AM) (Judicial Officer: Denton, Mark R.) Matter Heard; <i>Matter Heard</i>
10/26/2017	 Order <i>[26] Order Denying Defendant's Motion to Dismiss & Granting Counter-Motion for Leave to File Third Amended Complaint</i>
10/30/2017	 Notice of Entry of Order Filed By: Plaintiff Reynolds, Robert G.; Plaintiff Diamanti Jewelers LLC <i>[27] Notice of Entry of Order</i>
11/01/2017	 Summons Electronically Issued - Service Pending Party: Plaintiff Reynolds, Robert G.; Plaintiff Diamanti Jewelers LLC <i>[28] Summons</i>
11/01/2017	 Amended Complaint Filed By: Plaintiff Reynolds, Robert G.; Plaintiff Diamanti Jewelers LLC <i>[29] Third Amended Complaint</i>
11/06/2017	 Summons Filed by: Plaintiff Reynolds, Robert G.; Plaintiff Diamanti Jewelers LLC <i>[30] Summons - Civil</i>
01/16/2018	 Stipulation and Order <i>[31] Stipulation and Order to Continue Discovery and Trial</i>
01/18/2018	 Notice of Entry of Stipulation and Order Filed By: Plaintiff Reynolds, Robert G.; Plaintiff Diamanti Jewelers LLC <i>[32] Notice of Entry of Stipulation and Order</i>
01/18/2018	 Stipulated Protective Order <i>[33] Stipulated Confidentiality Agreement and Protective Order</i>
01/19/2018	 Notice of Entry of Order Filed By: Plaintiff Reynolds, Robert G.; Plaintiff Diamanti Jewelers LLC <i>[34] Notice of Entry of Order</i>
01/22/2018	 Order Setting Civil Non-Jury Trial and Calendar Call

DISTRICT COURT
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CASE NO. A-17-753532-B

	<i>[35] Order Setting Civil Non-Jury Trial and Calendar Call</i>
07/02/2018	CANCELED Calendar Call (2:00 PM) (Judicial Officer: Denton, Mark R.) <i>Vacated - per Stipulation and Order</i>
07/10/2018	CANCELED Bench Trial (9:00 AM) (Judicial Officer: Denton, Mark R.) <i>Vacated - per Stipulation and Order</i>
07/26/2018	 Answer to Amended Complaint Filed By: Defendant Tufenkjian, Raffi; Defendant Luxury Holdings LV LLC <i>[36] Answer to Third Amended Complaint</i>
08/10/2018	 Motion Filed By: Defendant Tufenkjian, Raffi; Defendant Luxury Holdings LV LLC <i>[37] Defendants' Motion to Exceed Page Limit of Defendants' Motion for Summary Judgment</i>
08/10/2018	 Motion for Summary Judgment Filed By: Defendant Tufenkjian, Raffi; Defendant Luxury Holdings LV LLC <i>[38] Defendants' Motion for Summary Judgment</i>
08/10/2018	 Appendix Filed By: Defendant Tufenkjian, Raffi; Defendant Luxury Holdings LV LLC <i>[39] Appendix in Support of Defendants' Motion for Summary Judgment</i>
08/30/2018	 Stipulation and Order Filed by: Defendant Tufenkjian, Raffi; Defendant Luxury Holdings LV LLC <i>[40] Stipulation and Order to Extend Deadline for Plaintiffs' Opposition to Motion for Summary Judgment</i>
09/05/2018	 Opposition to Motion For Summary Judgment Filed By: Plaintiff Reynolds, Robert G.; Plaintiff Diamanti Jewelers LLC <i>[41] Plaintiffs' Opposition to Motion for Summary Judgment</i>
09/06/2018	 Minute Order (2:00 PM) (Judicial Officer: Denton, Mark R.) <i>Re: Defendants Motion to Exceed Page Limit of Defendants Motion for Summary Judgment</i> Minute Order - No Hearing Held; Minute Order - No Hearing Held
09/06/2018	 Opposition to Motion For Summary Judgment Filed By: Plaintiff Reynolds, Robert G.; Plaintiff Diamanti Jewelers LLC <i>[42] Plaintiffs' Opposition to Motion for Summary Judgment</i>
09/10/2018	CANCELED Motion (9:00 AM) (Judicial Officer: Denton, Mark R.) <i>Vacated</i> <i>Defendants' Motion to Exceed Page Limit of Defendants' Motion for Summary Judgment</i>
09/11/2018	 Stipulation and Order Filed by: Defendant Tufenkjian, Raffi; Defendant Luxury Holdings LV LLC <i>[43] Stipulation and Order to Continue Hearing on Motion for Summary Judgment</i>
09/18/2018	 Notice of Entry of Stipulation and Order Filed By: Defendant Tufenkjian, Raffi; Defendant Luxury Holdings LV LLC <i>[44] Notice of Entry of Stipulation and Order</i>
09/21/2018	 Reply

DISTRICT COURT
CASE SUMMARY
CASE NO. A-17-753532-B

	Filed by: Defendant Tufenkjian, Raffi; Defendant Luxury Holdings LV LLC <i>[45] Reply to Defendants' Motion for Summary Judgment</i>
09/27/2018	 Motion for Summary Judgment (9:00 AM) (Judicial Officer: Denton, Mark R.) <i>Defendants' Motion for Summary Judgment</i> Granted; <i>Granted</i>
10/12/2018	 Decision <i>[46] Decision</i>
10/15/2018	 Order <i>[47] Order Rescheduling Calendar Call</i>
10/29/2018	 Ex Parte Application Party: Defendant Tufenkjian, Raffi; Defendant Luxury Holdings LV LLC <i>[48] Ex Parte Application Pre-Judgment Writ of Attachment</i>
10/29/2018	 Notice of Hearing Filed By: Defendant Tufenkjian, Raffi; Defendant Luxury Holdings LV LLC <i>[50] Notice of Hearing</i>
10/30/2018	 Receipt of Copy Filed by: Defendant Tufenkjian, Raffi; Defendant Luxury Holdings LV LLC <i>[49] Receipt of Copy</i>
11/01/2018	 Hearing (9:00 AM) (Judicial Officer: Denton, Mark R.) <i>Ex Parte Application Pre-Judgment Writ of Attachement</i> Granted in Part; <i>Granted in Part</i>
11/13/2018	 Calendar Call (1:00 PM) (Judicial Officer: Denton, Mark R.) Matter Heard; <i>Matter Heard</i>
11/13/2018	 Decision <i>[51] Decision</i>
11/14/2018	Summary Judgment (Judicial Officer: Denton, Mark R.) Debtors: Robert G. Reynolds (Plaintiff), Diamanti Jewelers LLC (Plaintiff) Creditors: Raffi Tufenkjian (Defendant), Luxury Holdings LV LLC (Defendant) Judgment: 11/14/2018, Docketed: 11/15/2018 Comment: Amended in Part to Certain Paragraph 5 pg.6 - 1/28/19 Per Order
11/14/2018	 Order Granting Summary Judgment Filed By: Defendant Tufenkjian, Raffi; Defendant Luxury Holdings LV LLC <i>[52] (1/28/19 Per Order Amending Only In Part as to Certain Paragraph 5,pg. 6 "Removing Therefore" and Denying the Rest.) Order Granting Summary Judgment</i>
11/16/2018	 Notice of Entry of Order Filed By: Defendant Tufenkjian, Raffi; Defendant Luxury Holdings LV LLC <i>[53] Notice of Entry of Order</i>
11/16/2018	 Memorandum of Costs and Disbursements Filed By: Defendant Tufenkjian, Raffi; Defendant Luxury Holdings LV LLC

DISTRICT COURT
CASE SUMMARY
CASE NO. A-17-753532-B

[54] Verified Memorandum of Costs and Disbursements

11/20/2018



Notice of Posting Bond

Filed By: Defendant Tufenkjian, Raffi; Defendant Luxury Holdings LV LLC
[55] Notice of Posting Surety Bond

11/26/2018



Motion for Attorney Fees and Costs

Filed By: Defendant Tufenkjian, Raffi; Defendant Luxury Holdings LV LLC
[56] Defendants' Motion for Attorney's Fees and Costs

11/27/2018

CANCELED Bench Trial (9:00 AM) (Judicial Officer: Denton, Mark R.)
Vacated

11/27/2018



Motion to Withdraw As Counsel

Filed By: Plaintiff Reynolds, Robert G.; Plaintiff Diamanti Jewelers LLC
[57] Motion to Withdraw as Attorney of Record

11/27/2018



Motion to Amend Judgment

Filed By: Plaintiff Reynolds, Robert G.; Plaintiff Diamanti Jewelers LLC
[58] Plaintiffs' Motion to Amend Judgment

11/28/2018



Certificate of Service

[59] Certificate of Service

11/30/2018



Notice of Non Opposition

Filed By: Defendant Tufenkjian, Raffi; Defendant Luxury Holdings LV LLC
[60] Notice of Non-Opposition to Motion to Withdraw, Only

12/03/2018



Order

Filed By: Defendant Tufenkjian, Raffi; Defendant Luxury Holdings LV LLC
[61] Order

12/03/2018



Order

Filed By: Defendant Tufenkjian, Raffi; Defendant Luxury Holdings LV LLC
[62] Order

12/04/2018



Notice of Entry of Order

Filed By: Defendant Tufenkjian, Raffi; Defendant Luxury Holdings LV LLC
[63] Notice of Entry of Order

12/04/2018



Notice of Entry of Order

Filed By: Defendant Tufenkjian, Raffi; Defendant Luxury Holdings LV LLC
[64] Notice of Entry of Order

12/05/2018



Opposition to Motion

Filed By: Defendant Tufenkjian, Raffi; Defendant Luxury Holdings LV LLC
[65] Defendants' Opposition to Plaintiffs' Motion to Amend Judgment

12/12/2018



Opposition to Motion

Filed By: Plaintiff Reynolds, Robert G.; Plaintiff Diamanti Jewelers LLC
[66] Plaintiffs' Opposition to Motion for Attorneys' Fees and Costs







01/04/2019















Reply in Support

Filed By: Defendant Tufenkjian, Raffi; Defendant Luxury Holdings LV LLC












DISTRICT COURT
CASE SUMMARY
CASE NO. A-17-753532-B

	<i>[67] Defendants' Reply in Support of Motion for Attorney's Fees and Costs</i>
01/07/2019	Motion for Attorney Fees and Costs (9:00 AM) (Judicial Officer: Denton, Mark R.) <i>Defendants' Motion for Attorney's Fees and Costs</i> Granted in Part; <i>Granted in Part</i>
01/07/2019	Motion to Withdraw as Counsel (9:00 AM) (Judicial Officer: Denton, Mark R.) <i>Motion to Withdraw as Attorney of Record</i> Granted; <i>Granted</i>
01/07/2019	Motion to Amend Judgment (9:00 AM) (Judicial Officer: Denton, Mark R.) <i>Plaintiffs' Motion to Amend Judgment</i> Granted in Part; <i>Granted in Part</i>
01/07/2019	 All Pending Motions (9:00 AM) (Judicial Officer: Denton, Mark R.) Matter Heard; <i>Matter Heard</i>
01/18/2019	 Order Granting <i>[68] Order Granting Peter L. Chasey's Motion to Withdraw as Plaintiffs' Counsel of Record</i>
01/23/2019	Order (Judicial Officer: Denton, Mark R.) Debtors: Robert G. Reynolds (Plaintiff), Diamanti Jewelers LLC (Plaintiff) Creditors: Raffi Tufenkjian (Defendant), Luxury Holdings LV LLC (Defendant), Great Wash Park LLC (Defendant) Judgment: 01/23/2019, Docketed: 01/23/2019 Total Judgment: 57,941.92 Comment: In Part
01/23/2019	 Decision <i>[69] Decision</i>
01/28/2019	 Order <i>[70] Order Granting in Part, Denying in Part, Plaintiffs' Motion to Amend Judgment</i>
01/29/2019	 Notice of Entry of Order Filed By: Plaintiff Reynolds, Robert G.; Plaintiff Diamanti Jewelers LLC <i>[71] Notice of Entry of Order</i>
01/29/2019	 Notice of Entry of Order <i>[72] Notice of Entry of Order</i>
02/14/2019	Order (Judicial Officer: Denton, Mark R.) Debtors: Robert G. Reynolds (Plaintiff), Diamanti Jewelers LLC (Plaintiff) Creditors: Luxury Holdings LV LLC (Defendant) Judgment: 02/14/2019, Docketed: 02/14/2019 Total Judgment: 50,000.00 Debtors: Robert G. Reynolds (Plaintiff), Diamanti Jewelers LLC (Plaintiff) Creditors: Raffi Tufenkjian (Defendant), Luxury Holdings LV LLC (Defendant) Judgment: 02/14/2019, Docketed: 02/14/2019 Total Judgment: 7,941.92
02/14/2019	Judgment (Judicial Officer: Denton, Mark R.) Debtors: Robert G. Reynolds (Plaintiff), Diamanti Jewelers LLC (Plaintiff) Creditors: Luxury Holdings LV LLC (Defendant)














DISTRICT COURT
CASE SUMMARY
CASE NO. A-17-753532-B

	Judgment: 02/14/2019, Docketed: 02/14/2019 Total Judgment: 5,000.00 Debtors: Robert G. Reynolds (Plaintiff), Diamanti Jewelers LLC (Plaintiff) Creditors: Raffi Tufenkjian (Defendant) Judgment: 02/14/2019, Docketed: 02/14/2019 Total Judgment: 7,941.92
02/14/2019	 Order Granting Motion Filed By: Defendant Tufenkjian, Raffi; Defendant Luxury Holdings LV LLC <i>[73] Order Granting Defendants' Motion for Attorney's Fees and Costs and Judgment Against Plaintiffs</i>
02/19/2019	 Notice of Entry of Order Filed By: Defendant Tufenkjian, Raffi; Defendant Luxury Holdings LV LLC <i>[74] Notice of Entry of Order</i>
02/19/2019	 Case Appeal Statement <i>[75] Case Appeal Statement</i>
02/19/2019	 Notice of Appeal <i>[76] Notice of Appeal</i>
03/25/2019	 Writ Electronically Issued Party: Defendant Tufenkjian, Raffi; Defendant Luxury Holdings LV LLC <i>[77] Writ of Execution</i>
03/27/2019	 Writ Electronically Issued Party: Defendant Tufenkjian, Raffi; Defendant Luxury Holdings LV LLC <i>[78] Writ of Execution</i>
03/28/2019	 Writ Electronically Issued Party: Defendant Tufenkjian, Raffi; Defendant Luxury Holdings LV LLC <i>[79] Writ of Execution - Choses in Action</i>
04/05/2019	 Motion for Stay of Execution <i>[80] Motion to Stay Execution and Enforcement of Judgment Pending Appeal on an Order Shortening Time</i>
04/16/2019	 Opposition to Motion Filed By: Defendant Tufenkjian, Raffi; Plaintiff Diamanti Jewelers LLC <i>[81] Opposition to Motion for Stay of Execution</i>
04/24/2019	 Claim <i>[82] Claim of Exemption from Execution</i>
04/24/2019	 Claim <i>[83] Claim of Exemption from Execution</i>
04/25/2019	 Voluntary Dismissal <i>[84] Voluntary Dismissal of Great Wash Park, LLC</i>
04/25/2019	Dismissal Pursuant to NRCP 41 (Judicial Officer: Denton, Mark R.) Debtors: Great Wash Park LLC (Defendant) Creditors: Robert G. Reynolds (Plaintiff), Diamanti Jewelers LLC (Plaintiff) Judgment: 04/25/2019, Docketed: 05/02/2019

DISTRICT COURT
CASE SUMMARY
CASE NO. A-17-753532-B

05/03/2019	 Objection Filed By: Defendant Tufenkjian, Raffi; Defendant Luxury Holdings LV LLC <i>[85] Objection to Claim for Exemption - Ninacci, Inc.</i>
05/03/2019	 Objection Filed By: Defendant Tufenkjian, Raffi; Defendant Luxury Holdings LV LLC <i>[86] Objection to Claim for Exemption - Robert Reynolds</i>
05/06/2019	 Clerk's Notice of Hearing <i>[87] Notice of Hearing</i>
05/06/2019	 Clerk's Notice of Hearing <i>[88] Notice of Hearing</i>
05/13/2019	Objection (9:00 AM) (Judicial Officer: Denton, Mark R.) <i>Objection to Claim of Exemption from Execution (Plaintiff Robert Reynolds)</i> Sustained; <i>Sustained</i>
05/13/2019	Objection (9:00 AM) (Judicial Officer: Denton, Mark R.) <i>Objection to Claim of Exemption from Execution (Third Party Ninacci, Inc.,)</i> Matter Resolved; <i>Matter Resolved</i>
05/13/2019	 All Pending Motions (9:00 AM) (Judicial Officer: Denton, Mark R.) Matter Heard; <i>Matter Heard</i>
05/13/2019	 Stipulation and Order for Dismissal With Prejudice <i>[89] Stip and Order to Dismiss Great Wash Park LLC With Prejudice</i>
05/13/2019	Order of Dismissal With Prejudice (Judicial Officer: Denton, Mark R.) Debtors: Great Wash Park LLC (Defendant) Creditors: Robert G. Reynolds (Plaintiff), Diamanti Jewelers LLC (Plaintiff) Judgment: 05/13/2019, Docketed: 05/13/2019
05/13/2019	 Notice of Entry of Stipulation & Order for Dismissal <i>[90] Notice of Entry of Stipulation and Order for Dismissal of Great Wash Park LLC With Prejudice</i>
05/14/2019	 Minute Order (10:00 AM) (Judicial Officer: Denton, Mark R.) <i>Re: Defendants' Objection to Claim of Exemption from Execution (Robert Reynolds)</i> Minute Order - No Hearing Held; <i>Minute Order - No Hearing Held</i>
05/20/2019	 Notice of Sheriff's Sale Filed By: Defendant Tufenkjian, Raffi; Defendant Luxury Holdings LV LLC <i>[91] Notice of Sheriff's Sale</i>
06/03/2019	 Order Filed By: Defendant Tufenkjian, Raffi; Defendant Luxury Holdings LV LLC <i>[92] Order Sustaining Objection to Claim of Exemption from Execution</i>
06/03/2019	 Notice of Entry of Order


DISTRICT COURT
CASE SUMMARY
CASE NO. A-17-753532-B

	Filed By: Defendant Tufenkjian, Raffi; Defendant Luxury Holdings LV LLC <i>[93] Notice of Entry of Order - Order Sustaining Objection to Claim of Exemption from Execution</i>
06/04/2019	 Affidavit of Publication Filed By: Plaintiff Reynolds, Robert G.; Defendant Tufenkjian, Raffi; Defendant Luxury Holdings LV LLC; Plaintiff Diamanti Jewelers LLC <i>[94] Affidavit of Publication</i>
07/09/2019	 Affidavit of Posting Filed By: Defendant Tufenkjian, Raffi; Defendant Luxury Holdings LV LLC <i>[95] Affidavit of Posting</i>
07/18/2019	 Certificate Filed By: Defendant Tufenkjian, Raffi; Defendant Luxury Holdings LV LLC <i>[96] Certificate of Sale of Personal Property</i>
07/18/2019	 Notice Filed By: Defendant Tufenkjian, Raffi; Defendant Luxury Holdings LV LLC <i>[97] Notice of Filing Certificate of Sale of Personal Property</i>
09/10/2019	 Notice of Sheriff's Sale <i>[98] Notice of Sheriff's Sale of Personal Property</i>
09/24/2019	 Affidavit of Publication Filed By: Plaintiff Reynolds, Robert G.; Defendant Tufenkjian, Raffi; Defendant Luxury Holdings LV LLC; Plaintiff Diamanti Jewelers LLC <i>[99] Affidavit of Publication</i>
09/24/2019	 Affidavit of Posting Filed By: Defendant Tufenkjian, Raffi <i>[100] Affidavit of Posting</i>
10/10/2019	 Writ of Execution Filed by: Defendant Tufenkjian, Raffi; Defendant Luxury Holdings LV LLC <i>[101] Writ of Execution</i>
10/10/2019	 Certificate Filed By: Defendant Tufenkjian, Raffi; Defendant Luxury Holdings LV LLC <i>[102] Certificate of Sale of Personal Property</i>
03/18/2021	 NV Supreme Court Clerks Certificate/Judgment - Affd/Rev Part <i>[103] Nevada Supreme Court Clerk's Certificate/Remittitur Judgment - Affirmed in Part, Reversed in Part and Remand; Rehearing Denied; Petition Denied</i>
03/22/2021	 Order Scheduling Status Check <i>[104] Order Re: Status Check</i>
04/13/2021	 Minute Order (1:45 PM) (Judicial Officer: Denton, Mark R.) <i>Re: BlueJeans Appearance</i> Minute Order - No Hearing Held; <i>Minute Order - No Hearing Held</i>
04/15/2021	 Status Check (9:00 AM) (Judicial Officer: Denton, Mark R.)


DISTRICT COURT
CASE SUMMARY
CASE NO. A-17-753532-B

Status check re: further proceedings
Matter Heard;
Matter Heard


04/21/2021

 Order Setting Civil Non-Jury Trial
[105] Order Setting Civil Non-Jury Trial and Calendar Call


09/08/2021

 Joint Pre-Trial Memorandum
Filed By: Plaintiff Reynolds, Robert G.; Plaintiff Diamanti Jewelers LLC
[106] Joint Pre-Trial Memorandum


09/09/2021

 **Minute Order** (7:00 AM) (Judicial Officer: Denton, Mark R.)
Re: BlueJeans Appearance
Minute Order - No Hearing Held;
Minute Order - No Hearing Held


09/13/2021

 **Calendar Call** (2:00 PM) (Judicial Officer: Denton, Mark R.)
Trial Date Set;
Trial Date Set


09/20/2021

 **Minute Order** (7:15 AM) (Judicial Officer: Denton, Mark R.)
Re: BlueJeans Appearance for Trial
Minute Order - No Hearing Held;
Minute Order - No Hearing Held


09/20/2021

 Proof of Service
Filed by: Defendant Tufenkjian, Raffi
[107] Proof of Service of Trial Subpoena of Robert Reynolds


09/20/2021

 Brief
Filed By: Defendant Tufenkjian, Raffi
[108] Civil Trial Memoranda in Accord with EDCR 7.27: Burden of Proof and Fraud Elements


09/21/2021

 **Non-Jury Trial** (9:00 AM) (Judicial Officer: Denton, Mark R.)
09/21/2021-09/22/2021, 10/06/2021
Trial Continues;
Trial Continues;
Court Finds for Defendant;
Trial Continues;
Trial Continues;
Court Finds for Defendant;
Trial Continues;
Trial Continues;
Court Finds for Defendant;
Trial Continues














09/27/2021

 Stipulation and Order
Filed by: Defendant Tufenkjian, Raffi; Defendant Luxury Holdings LV LLC
[109] Stipulation and Order to Continue the Resumption of Trial to October 6 and 7, 2021










09/27/2021

 Notice of Entry of Stipulation and Order
Filed By: Defendant Tufenkjian, Raffi
[110] Notice of Entry of Stipulation and Order




DISTRICT COURT
CASE SUMMARY
CASE NO. A-17-753532-B

09/29/2021	 Recorders Transcript of Hearing <i>[111] Recorder's Transcript of Hearing Re: Non-Jury Trial - Day 2 - September 22, 2021</i>
10/28/2021	 Findings of Fact, Conclusions of Law and Order <i>[112] Proposed Findings of Fact and Conclusions of Law with Order</i>
10/28/2021	 Findings of Fact, Conclusions of Law and Judgment Filed by: Defendant Tufenkjian, Raffi; Defendant Luxury Holdings LV LLC <i>[113] Raffi Tufenjian and Luxury Holdings LV, LLC's Proposed Findings of Fact, Conclusions of Law, and Judgment</i>
11/19/2021	 Findings of Fact, Conclusions of Law and Judgment <i>[114] Findings of Fact, Conclusions of Law, and Judgment</i>
11/22/2021	Judgment (Judicial Officer: Denton, Mark R.) Debtors: Robert G. Reynolds (Plaintiff), Diamanti Jewelers LLC (Plaintiff) Creditors: Raffi Tufenkjian (Defendant), Luxury Holdings LV LLC (Defendant) Judgment: 11/22/2021, Docketed: 11/22/2021
11/23/2021	 Motion to Withdraw As Counsel Filed By: Plaintiff Reynolds, Robert G.; Plaintiff Diamanti Jewelers LLC <i>[115] Motion to Withdraw as Counsel for Plaintiffs Robert G. Reynolds and Diamanti Fine Jewelers LLC</i>
11/23/2021	 Clerk's Notice of Hearing <i>[116] Notice of Hearing</i>
11/24/2021	 Certificate of Service <i>[117] Supplement to Certificate of Service</i>
11/24/2021	 Memorandum of Costs and Disbursements Filed By: Defendant Tufenkjian, Raffi <i>[118] Verified Memorandum of Costs and Disbursements</i>
11/24/2021	 Notice of Entry of Findings of Fact, Conclusions of Law Filed By: Defendant Tufenkjian, Raffi <i>[119] Notice of Entry of Findings of Facts, Conclusion of Law, and Judgment</i>
12/15/2021	 Motion for Attorney Fees and Costs Filed By: Defendant Tufenkjian, Raffi; Defendant Luxury Holdings LV LLC <i>[120] Defendants' Motion for Attorney's Fees and Costs</i>
12/16/2021	 Clerk's Notice of Hearing Party: Defendant Tufenkjian, Raffi <i>[121] Notice of Hearing</i>
12/20/2021	 Notice of Appeal Filed By: Plaintiff Reynolds, Robert G. <i>[122] Notice of Appeal - NOAS (CIV)</i>
12/27/2021	 Opposition to Motion Filed By: Plaintiff Reynolds, Robert G.; Plaintiff Diamanti Jewelers LLC <i>[123] Plaintiffs' Opposition to Defendants Motion for Fees and Costs</i>

DISTRICT COURT
CASE SUMMARY
CASE NO. A-17-753532-B

12/29/2021	 Reply in Support Filed By: Defendant Tufenkjian, Raffi <i>[124] Reply in Support of their Motion for Attorney's Fees and Costs</i>
01/04/2022	 Minute Order (7:00 AM) (Judicial Officer: Denton, Mark R.) <i>Re: BlueJeans Appearance</i> Minute Order - No Hearing Held; <i>Minute Order - No Hearing Held</i>
01/06/2022	Motion to Withdraw as Counsel (9:00 AM) (Judicial Officer: Denton, Mark R.) Events: 11/23/2021 Motion to Withdraw As Counsel <i>Motion to Withdraw as Counsel for Plaintiffs Robert G. Reynolds and Diamanti Fine Jewelers LLC</i> Granted; <i>Granted</i>
01/06/2022	Motion for Attorney Fees and Costs (9:00 AM) (Judicial Officer: Denton, Mark R.) <i>[120] Defendants' Motion for Attorney's Fees and Costs</i> Granted; <i>Granted</i>
01/06/2022	 All Pending Motions (9:00 AM) (Judicial Officer: Denton, Mark R.) Matter Heard; <i>Matter Heard</i>
01/25/2022	 Order to Withdraw as Attorney of Record <i>[125] Order Granting Motion to Withdraw as Counsel for Plaintiffs Robert G. Reynolds and Diamanti Fine Jewelers LLC</i>
01/26/2022	 Minute Order (9:00 AM) (Judicial Officer: Denton, Mark R.) <i>Re: Defendants' Motion for Attorney's Fees and Costs</i> Minute Order - No Hearing Held; <i>Minute Order - No Hearing Held</i>
01/26/2022	 Notice of Entry of Order <i>[126] Notice of Entry of Order Granting Motion to Withdraw As Counsel For Plaintiffs Robert G. Reynolds and Diamanti Fine Jewelers LLC</i>
02/15/2022	 Order Granting Motion <i>[127] Order Granting Defendants' Motion for Attorney's Fees and Costs</i>
02/15/2022	 Notice of Entry of Order Filed By: Defendant Tufenkjian, Raffi; Defendant Luxury Holdings LV LLC <i>[128] Notice of Entry of Order Granting Defendants' Motion for Attorneys' Fees and Costs</i>
02/15/2022	Judgment (Judicial Officer: Denton, Mark R.) Debtors: Robert G. Reynolds (Plaintiff), Diamanti Jewelers LLC (Plaintiff) Creditors: Raffi Tufenkjian (Defendant), Luxury Holdings LV LLC (Defendant) Judgment: 02/15/2022, Docketed: 02/16/2022 Total Judgment: 120,802.42 Comment: \$7,744.42 of that amount being in favor of Raffi Tufenkjian
02/28/2022	 Notice of Intent Filed By: Defendant Tufenkjian, Raffi; Defendant Luxury Holdings LV LLC <i>[129] Notice of Intent to Serve Subpoena Duces Tecum</i>

DISTRICT COURT
CASE SUMMARY
CASE NO. A-17-753532-B

03/03/2022	 Writ Electronically Issued Party: Defendant Tufenkjian, Raffi; Defendant Luxury Holdings LV LLC <i>[130] Writ of Execution</i>	
03/16/2022	 Notice of Appeal Filed By: Plaintiff Reynolds, Robert G. <i>[131] Notice of Appeal</i>	
03/16/2022	 Notice of Appeal Filed By: Plaintiff Reynolds, Robert G. <i>[132] Corrected Notice of Appeal</i>	

DATE	FINANCIAL INFORMATION	
	Plaintiff Reyco LLC	
	Total Charges	30.00
	Total Payments and Credits	30.00
	Balance Due as of 3/18/2022	0.00
	Defendant Luxury Holdings LV LLC	
	Total Charges	31.00
	Total Payments and Credits	31.00
	Balance Due as of 3/18/2022	0.00
	Defendant Tufenkjian, Raffi	
	Total Charges	1,933.50
	Total Payments and Credits	1,933.50
	Balance Due as of 3/18/2022	0.00
	Plaintiff Reynolds, Robert G.	
	Total Charges	373.00
	Total Payments and Credits	373.00
	Balance Due as of 3/18/2022	0.00
	Plaintiff Reynolds, Robert G.	
	Appeal Bond Balance as of 3/18/2022	500.00

BUSINESS COURT CIVIL COVER SHEET

Clark County, Nevada
Case No. A-17-753532-C-B XIII
(Assigned by Clerk's Office)

I. Party Information (provide both home and mailing addresses if different)

Plaintiff(s) (name/address/phone):
Robert G. Reynolds; Reyco, LLC dba Diamanti Fine Jewelers

Attorney (name/address/phone):
Peter L. Chasey, Esq. (NV Bar No. 7650)
Chasey Law Offices
3295 N. Forte Apache Road, Suite 110
Las Vegas, Nevada 89129
(702) 233-0393

Defendant(s) (name/address/phone):
Raffi Tufenkjian; Luxury Holdings LV, LLC

Attorney (name/address/phone):
Christian T. Balducci, Esq. (NV Bar No. 7650)
Marquis Aurbach Coffing
10001 Park Rub Drive
Las Vegas, NV 89145
(702) 382-0711

II. Nature of Controversy (Please check the applicable boxes for both the civil case type and business court case type)

☐ Arbitration Requested

Civil Case Filing Types		Business Court Filing Types
Real Property	Torts	CLARK COUNTY BUSINESS COURT
Landlord/Tenant <input type="checkbox"/> Unlawful Detainer <input type="checkbox"/> Other Landlord/Tenant Title to Property <input type="checkbox"/> Judicial Foreclosure <input type="checkbox"/> Other Title to Property Other Real Property <input type="checkbox"/> Condemnation/Eminent Domain <input type="checkbox"/> Other Real Property	Negligence <input type="checkbox"/> Auto <input type="checkbox"/> Premises Liability <input type="checkbox"/> Other Negligence Malpractice <input type="checkbox"/> Medical/Dental <input type="checkbox"/> Legal <input type="checkbox"/> Accounting <input type="checkbox"/> Other Malpractice Other Torts <input type="checkbox"/> Product Liability <input type="checkbox"/> Intentional Misconduct <input type="checkbox"/> Employment Tort <input type="checkbox"/> Insurance Tort <input type="checkbox"/> Other Tort	<input type="checkbox"/> NRS Chapters 78-89 <input type="checkbox"/> Commodities (NRS 91) <input type="checkbox"/> Securities (NRS 90) <input type="checkbox"/> Mergers (NRS 92A) <input type="checkbox"/> Uniform Commercial Code (NRS 104) <input type="checkbox"/> Purchase/Sale of Stock, Assets, or Real Estate <input type="checkbox"/> Trademark or Trade Name (NRS 600) <input type="checkbox"/> Enhanced Case Management <input checked="" type="checkbox"/> Other Business Court Matters
Construction Defect & Contract	Civil Writs	WASHOE COUNTY BUSINESS COURT
Construction Defect <input type="checkbox"/> Chapter 40 <input type="checkbox"/> Other Construction Defect Contract Case <input type="checkbox"/> Uniform Commercial Code <input type="checkbox"/> Building and Construction <input type="checkbox"/> Insurance Carrier <input type="checkbox"/> Commercial Instrument <input type="checkbox"/> Collection of Accounts <input type="checkbox"/> Employment Contract <input checked="" type="checkbox"/> Other Contract	<input type="checkbox"/> Writ of Habeas Corpus <input type="checkbox"/> Writ of Mandamus <input type="checkbox"/> Writ of Quo Warrant <input type="checkbox"/> Writ of Prohibition <input type="checkbox"/> Other Civil Writ	<input type="checkbox"/> NRS Chapters 78-88 <input type="checkbox"/> Commodities (NRS 91) <input type="checkbox"/> Securities (NRS 90) <input type="checkbox"/> Investments (NRS 104 Art. 8) <input type="checkbox"/> Deceptive Trade Practices (NRS 598) <input type="checkbox"/> Trademark/Trade Name (NRS 600) <input type="checkbox"/> Trade Secrets (NRS 600A) <input type="checkbox"/> Enhanced Case Management <input type="checkbox"/> Other Business Court Matters
Judicial Review/Appeal/Other Civil Filing		
Judicial Review <input type="checkbox"/> Foreclosure Mediation Case Appeal Other <input type="checkbox"/> Appeal from Lower Court	Other Civil Filing <input type="checkbox"/> Foreign Judgment <input type="checkbox"/> Other Civil Matters	

5/3/17

Date

/s/ Christian T. Balducci

Signature of initiating party or representative

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

DISTRICT COURT

CLARK COUNTY, NEVADA

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

Plaintiffs,

vs.

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

Defendants.

Case No.: A-17-753532-B
Dept. No.: 13

Hearing Date: January 6, 2022
Hearing Time: 9:00 a.m.

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

THIS MATTER having come before this Court on January 6, 2022, on Defendants' Motion for Attorney's Fees and Costs; Christian T. Balducci, Esq. of the law firm of Marquis Aurbach appearing on behalf of Raffi Tufenkjian and Luxury Holdings LV, LLC ("Defendants") and Bradley M. Marx of the Marx Law Firm, PPC, appearing on behalf of Plaintiffs Robert G. Reynolds and Diamanti Fine Jewelers, LLC ("Plaintiffs").

This Court, having reviewed the papers and pleadings on file herein, the evidence and declarations on file herein, the papers and pleadings filed in this matter, and oral argument of counsel, hereby ORDERS that Defendants' Motion for Attorney's Fees and Costs is GRANTED IN PART, and enters further MONETARY JUDGMENT, based on the following:

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

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

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

9 4. Because Plaintiffs filed suit based on allegations that the Defendants
10 misrepresented material facts about the business's profitability during negotiations of the sale
11 agreement, as well as for an alleged breach of contract, this litigation arises out of the contract
12 between the parties, and thus the prevailing party is entitled to reasonable attorney's fees and
13 costs.

14 5. Previously, Defendants obtained summary judgment against all of Plaintiffs
15 claims, and on February 14, 2019, this Court awarded Defendants \$50,000.00 in attorney fees
16 and \$7,941.92 in costs as further set forth in that order, notice of entry of which was noticed and
17 entered on February 19, 2019 ("**First Fee and Cost Award**").

18 6. Defendants began execution on the First Fee and Cost Award, which resulted in
19 only \$200.00 in collections.

20 7. Plaintiffs appealed the summary judgment order.

21 8. On appeal, the claims for breach of contract and negligent misrepresentation were
22 dismissed. *See Reynolds v. Tufenkjian*, 136 Nev. Adv. Op. 19, 475 P.3d 777 (2020).

23 9. Summary judgment against the elder abuse claim was affirmed on the basis that
24 the underlying transaction was at arms' length, and thus there could not be a relationship of
25 "trust and confidence" between Mr. Reynolds and Mr. Tufenkjian.

26 10. Summary judgment against the intentional misrepresentation was reversed.

27 11. A bench trial was conducted on Plaintiffs' fraud claims culminating in this
28 Court's findings of fact, conclusions of law, and judgment entered on November 19, 2021, in

1 which this Court rendered judgment in favor of the Defendants, and against Plaintiffs, notice of
2 entry of which was filed and served on November 24, 2021.

3 12. Defendants filed a timely memorandum of costs and disbursements seeking all of
4 the costs incurred in this matter which total \$15,686.34.

5 13. The \$15,686.34 includes costs the Defendants previously applied for, which were
6 awarded in connection with the First Fee and Cost Award.

7 14. Defendants also filed a timely motion for attorney fees seeking all of the attorney
8 fees reasonably incurred in this matter totaling \$163,058.00 minus \$200.00 in sums collected
9 from the First Fee and Cost Award.

10 15. Based upon the contract, Luxury Holdings LV, LLC is entitled to recover
11 reasonable attorney's fees and costs incurred in this action.

12 16. Mr. Tufenkjian and Luxury Holdings LV, LLC prevailed in this action following
13 a bench trial before this Court.

14 17. As prevailing parties, both Mr. Tufenkjian and Luxury Holdings LV, LLC are
15 entitled to costs.

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

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

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

26 21. The Nevada Supreme Court has mandated that a district court analyze the
27 reasonableness of attorney's fees by considering the factors enumerated in *Brunzell v. Golden*
28 *Gate National Bank*, 85 Nev. 345, 349, 455 P.2d 31, 33 (1969), which are (1) the qualities of the

1 advocate; (2) the character of the work to be done; (3) the work actually performed; and (4) the
2 result.

3 22. The Court has analyzed the *Brunzell* factors as they relate to the instant motion,
4 and agrees with Defendants' analysis proffered in the Motion. The Court further finds that
5 Plaintiff Reynolds has wide experience in business transactions, that Plaintiffs made serious
6 allegations against Defendants, and that it would reasonably be expected that Defendants would
7 vigorously defend themselves, which they did in a professional and appropriate manner. In light
8 of these considerations, the Court awards all fees and costs incurred in this action as set forth in
9 Defendants' motion for attorney fees and the verified memorandum of costs.

10 23. During the hearing in this matter, counsel for Plaintiffs said he took no issue with
11 the First Fee and Cost Award and requested that the Court address all additionally incurred fees
12 and costs.

13 24. Consequently, this Court finds it will address all additionally incurred fees and
14 costs via this order granting Defendants fees and costs.

15 25. This makes the most sense since the First Fee and Cost Award will have accrued
16 interest since the date of its entry.

17 26. Why this may cause some confusion since there will be a different renewal date
18 for the First Fee and Cost Award when compared to this award, legally it is appropriate to have
19 two separate, stand alone fee and cost awards, each of which can be the subject of their own
20 collection proceedings and execution, among all other remedies available to a judgment creditor.

21 27. Simply for the sake of clarification since it was raised in the opposition, the First
22 Fee and Cost Award is a standalone fee and cost award, which is good, valid, and collectable
23 separate from this fee and cost award.

24 28. Because the First Fee and Cost Award was never the subject of an appeal, it was
25 never vacated as a result of the reversal of the previously entered summary judgment order and
26 remained (and remains) a valid award.

27 ///

28 ///

ORDER

IT IS HEREBY ORDERED, ADJUDGED AND DECREED

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

2. Defendant Luxury Holdings LV, LLC is awarded additional attorney's fees in the sum of \$113,058.00, and Defendants Luxury Holdings LV, LLC and Raffi Tufenkjian are awarded additional costs in the sum of \$7,744.42.

3. The First Fee and Cost Award is a valid fee and cost award which is collectable separate from this particular fee and cost award.

4. Based upon the foregoing, further award and judgment is hereby entered and against Plaintiffs Robert G. Reynolds and Diamanti Fine Jewelers, LLC, in the total amount of \$120,802.42, with that entire amount being in favor Defendant Luxury Holdings LV, LLC, and \$7,744.42 of that amount being in favor of Raffi Tufenkjian (joint and severally against each of the Plaintiffs).

IT IS SO ORDERED.

Dated this 15th day of February, 2022



ABG
C88 A8B 912F 6D99
Mark R. Denton
District Court Judge

Respectfully Submitted By:

MARQUIS AURBACH

By: /s/ Christian T. Balducci

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

1 **CSERV**

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

5
6 Robert Reynolds, Plaintiff(s)

CASE NO: A-17-753532-B

7 vs.

DEPT. NO. Department 13

8 Raffi Tufenkjian, Defendant(s)

9
10 **AUTOMATED CERTIFICATE OF SERVICE**

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

14 Service Date: 2/15/2022

15 Peter Chasey .

peter@chaseylaw.com

16 Shannon .

shannon@chaseylaw.com

17 Christian Balducci

cbalducci@maclaw.com

18 Joseph Gersten

joe@thegerstenlawfirm.com

19 Bradley Marx

brad@marxfirm.com

20 Lynda Arzate-Reza

larzate@maclaw.com

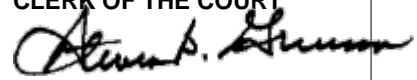
21 Nicara Brown

nicara@thegerstenlawfirm.com

22 Diana Gonzalez

diana@thegerstenlawfirm.com

23
24
25
26
27
28



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

DISTRICT COURT

CLARK COUNTY, NEVADA

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

Plaintiffs,

vs.

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

Defendants.

Case No.: A-17-753532-B
Dept. No.: 13

**NOTICE OF ENTRY OF ORDER
GRANTING DEFENDANTS' MOTION
FOR ATTORNEY'S FEES AND COSTS**

PLEASE TAKE NOTICE that on February 15, 2022, an Order Granting Defendants' Motion for Attorney's Fees and Costs was entered in the above-entitled matter, a copy of which is attached hereto.

Dated this 15th day of February 2022.

MARQUIS AURBACH

/s/ Christian T. Balducci
Christian T. Balducci, Esq.
Nevada Bar No. 12688
10001 Park Run Drive
Las Vegas, Nevada 89145
Attorneys for Defendants

CERTIFICATE OF SERVICE

I hereby certify that the foregoing **NOTICE OF ENTRY OF ORDER GRANTING DEFENDANTS' MOTION FOR ATTORNEY'S FEES AND COSTS** was submitted electronically for filing and/or service with the Eighth Judicial District Court on the 15th day of February 2022. Electronic service of the foregoing document shall be made in accordance with the E-Service List as follows:¹

N/A

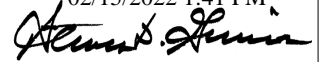
I further certify that I served a copy of this document by mailing a true and correct copy thereof, postage prepaid, addressed to:

Robert G. Reynolds
6885 W. Lone Mountain Rd., Apt. 140
Las Vegas, Nevada 89108
Plaintiff

Diamanti Fine Jewelers
5117 Cedar Lawn Drive
Las Vegas, Nevada 89130
Plaintiff

/s/ Kellie Piet
An employee of Marquis Aurbach Coffing

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


CLERK OF THE COURT

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

DISTRICT COURT

CLARK COUNTY, NEVADA

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

Plaintiffs,

vs.

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

Defendants.

Case No.: A-17-753532-B
Dept. No.: 13

Hearing Date: January 6, 2022
Hearing Time: 9:00 a.m.

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

THIS MATTER having come before this Court on January 6, 2022, on Defendants' Motion for Attorney's Fees and Costs; Christian T. Balducci, Esq. of the law firm of Marquis Aurbach appearing on behalf of Raffi Tufenkjian and Luxury Holdings LV, LLC ("Defendants") and Bradley M. Marx of the Marx Law Firm, PPC, appearing on behalf of Plaintiffs Robert G. Reynolds and Diamanti Fine Jewelers, LLC ("Plaintiffs").

This Court, having reviewed the papers and pleadings on file herein, the evidence and declarations on file herein, the papers and pleadings filed in this matter, and oral argument of counsel, hereby ORDERS that Defendants' Motion for Attorney's Fees and Costs is GRANTED IN PART, and enters further MONETARY JUDGMENT, based on the following:

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

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

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

9 4. Because Plaintiffs filed suit based on allegations that the Defendants
10 misrepresented material facts about the business's profitability during negotiations of the sale
11 agreement, as well as for an alleged breach of contract, this litigation arises out of the contract
12 between the parties, and thus the prevailing party is entitled to reasonable attorney's fees and
13 costs.

14 5. Previously, Defendants obtained summary judgment against all of Plaintiffs
15 claims, and on February 14, 2019, this Court awarded Defendants \$50,000.00 in attorney fees
16 and \$7,941.92 in costs as further set forth in that order, notice of entry of which was noticed and
17 entered on February 19, 2019 ("**First Fee and Cost Award**").

18 6. Defendants began execution on the First Fee and Cost Award, which resulted in
19 only \$200.00 in collections.

20 7. Plaintiffs appealed the summary judgment order.

21 8. On appeal, the claims for breach of contract and negligent misrepresentation were
22 dismissed. *See Reynolds v. Tufenkjian*, 136 Nev. Adv. Op. 19, 475 P.3d 777 (2020).

23 9. Summary judgment against the elder abuse claim was affirmed on the basis that
24 the underlying transaction was at arms' length, and thus there could not be a relationship of
25 "trust and confidence" between Mr. Reynolds and Mr. Tufenkjian.

26 10. Summary judgment against the intentional misrepresentation was reversed.

27 11. A bench trial was conducted on Plaintiffs' fraud claims culminating in this
28 Court's findings of fact, conclusions of law, and judgment entered on November 19, 2021, in

1 which this Court rendered judgment in favor of the Defendants, and against Plaintiffs, notice of
2 entry of which was filed and served on November 24, 2021.

3 12. Defendants filed a timely memorandum of costs and disbursements seeking all of
4 the costs incurred in this matter which total \$15,686.34.

5 13. The \$15,686.34 includes costs the Defendants previously applied for, which were
6 awarded in connection with the First Fee and Cost Award.

7 14. Defendants also filed a timely motion for attorney fees seeking all of the attorney
8 fees reasonably incurred in this matter totaling \$163,058.00 minus \$200.00 in sums collected
9 from the First Fee and Cost Award.

10 15. Based upon the contract, Luxury Holdings LV, LLC is entitled to recover
11 reasonable attorney's fees and costs incurred in this action.

12 16. Mr. Tufenkjian and Luxury Holdings LV, LLC prevailed in this action following
13 a bench trial before this Court.

14 17. As prevailing parties, both Mr. Tufenkjian and Luxury Holdings LV, LLC are
15 entitled to costs.

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

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

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

26 21. The Nevada Supreme Court has mandated that a district court analyze the
27 reasonableness of attorney's fees by considering the factors enumerated in *Brunzell v. Golden*
28 *Gate National Bank*, 85 Nev. 345, 349, 455 P.2d 31, 33 (1969), which are (1) the qualities of the

1 advocate; (2) the character of the work to be done; (3) the work actually performed; and (4) the
2 result.

3 22. The Court has analyzed the *Brunzell* factors as they relate to the instant motion,
4 and agrees with Defendants' analysis proffered in the Motion. The Court further finds that
5 Plaintiff Reynolds has wide experience in business transactions, that Plaintiffs made serious
6 allegations against Defendants, and that it would reasonably be expected that Defendants would
7 vigorously defend themselves, which they did in a professional and appropriate manner. In light
8 of these considerations, the Court awards all fees and costs incurred in this action as set forth in
9 Defendants' motion for attorney fees and the verified memorandum of costs.

10 23. During the hearing in this matter, counsel for Plaintiffs said he took no issue with
11 the First Fee and Cost Award and requested that the Court address all additionally incurred fees
12 and costs.

13 24. Consequently, this Court finds it will address all additionally incurred fees and
14 costs via this order granting Defendants fees and costs.

15 25. This makes the most sense since the First Fee and Cost Award will have accrued
16 interest since the date of its entry.

17 26. Why this may cause some confusion since there will be a different renewal date
18 for the First Fee and Cost Award when compared to this award, legally it is appropriate to have
19 two separate, stand alone fee and cost awards, each of which can be the subject of their own
20 collection proceedings and execution, among all other remedies available to a judgment creditor.

21 27. Simply for the sake of clarification since it was raised in the opposition, the First
22 Fee and Cost Award is a standalone fee and cost award, which is good, valid, and collectable
23 separate from this fee and cost award.

24 28. Because the First Fee and Cost Award was never the subject of an appeal, it was
25 never vacated as a result of the reversal of the previously entered summary judgment order and
26 remained (and remains) a valid award.

27 ///

28 ///

ORDER

IT IS HEREBY ORDERED, ADJUDGED AND DECREED

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

2. Defendant Luxury Holdings LV, LLC is awarded additional attorney's fees in the sum of \$113,058.00, and Defendants Luxury Holdings LV, LLC and Raffi Tufenkjian are awarded additional costs in the sum of \$7,744.42.

3. The First Fee and Cost Award is a valid fee and cost award which is collectable separate from this particular fee and cost award.

4. Based upon the foregoing, further award and judgment is hereby entered and against Plaintiffs Robert G. Reynolds and Diamanti Fine Jewelers, LLC, in the total amount of \$120,802.42, with that entire amount being in favor Defendant Luxury Holdings LV, LLC, and \$7,744.42 of that amount being in favor of Raffi Tufenkjian (joint and severally against each of the Plaintiffs).

IT IS SO ORDERED.

Dated this 15th day of February, 2022



ABG
C88 A8B 912F 6D99
Mark R. Denton
District Court Judge

Respectfully Submitted By:

MARQUIS AURBACH

By: /s/ Christian T. Balducci
Christian T. Balducci, Esq.
Nevada Bar No. 12688
10001 Park Run Drive
Las Vegas, Nevada 89145
Attorneys for Defendants

1 **CSERV**

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

5
6 Robert Reynolds, Plaintiff(s)

CASE NO: A-17-753532-B

7 vs.

DEPT. NO. Department 13

8 Raffi Tufenkjian, Defendant(s)

9
10 **AUTOMATED CERTIFICATE OF SERVICE**

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

14 Service Date: 2/15/2022

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peter@chaseylaw.com

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cbalducci@maclaw.com

18 Joseph Gersten

joe@thegerstenlawfirm.com

19 Bradley Marx

brad@marxfirm.com

20 Lynda Arzate-Reza

larzate@maclaw.com

21 Nicara Brown

nicara@thegerstenlawfirm.com

22 Diana Gonzalez

diana@thegerstenlawfirm.com

23
24
25
26
27
28

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Business Court Matters

COURT MINUTES

July 06, 2017

A-17-753532-B	Robert Reynolds, Plaintiff(s) vs. Raffi Tufenkjian, Defendant(s)
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July 06, 2017	9:00 AM	Motion to Dismiss
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HEARD BY: Denton, Mark R.	COURTROOM: RJC Courtroom 03D
----------------------------------	-------------------------------------

COURT CLERK: Marwanda Knight

RECORDER: Jennifer Gerold

REPORTER:

PARTIES

PRESENT:	Balducci, Christian T.	Attorney
	Chasey, Peter L.	Attorney
	Moore, Terry A, ESQ	Attorney
	Tufenkjian, Raffi	Defendant

JOURNAL ENTRIES

- In support of the Motion, Mr. Balducci argued that Pltf, Robert Reynolds lacks standing, noting he lacks a legally enforceable right to pursue a claim. In response, Mr. Chasey argued Mr. Reynolds personally satisfies the standing to proceed in this case.

Following argument, Court stated it could not say that the Complaint fails to state claims upon which relief can be granted, and ORDERED, Motion DENIED WITHOUT PREJUDICE to any Rule 56 practice. Colloquy regarding the guarantee issue and Pltf amending the Complaint.

Court revised its ruling, and ORDERED, Motion GRANTED WITHOUT PREJUDICE to Pltf seeking leave to amend, noting the Court could not grant an amendment without a proposed pleading as the rule requires. Mr. Balducci stated he would stipulate to counsel filing an amended pleading, to which Mr. Chasey agreed.

Following additional review of the Complaint, Court stated it would require a more definite statement, and ORDERED, Motion GRANTED IN PART to the extent it seeks a more definite

statement; DENIED to the extent it seeks dismissal.

Mr. Balducci directed to submit the proposed order; Mr. Chasey directed to promptly file and serve the amended complaint, which is DEEMED to contain a more definite statement relative to your contentions. Additional colloquy as to pushing back the Rule 16 Conference currently scheduled for Monday, July 10, 2017 to allow all parties to appear. Court stated the conference would remain in place.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Business Court Matters

COURT MINUTES

July 10, 2017

A-17-753532-B	Robert Reynolds, Plaintiff(s) vs. Raffi Tufenkjian, Defendant(s)
---------------	--

July 10, 2017	2:00 PM	Mandatory Rule 16 Conference
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HEARD BY: Denton, Mark R.

COURTROOM: No Location

COURT CLERK: Marwanda Knight

RECORDER:

REPORTER:

PARTIES

PRESENT:	Balducci, Christian T.	Attorney
	Chasey, Peter L.	Attorney

JOURNAL ENTRIES

- Counsel met with the Court in Chambers for the purpose of the Mandatory Rule 16 Conference. Colloquy regarding the Court's ruling and the Pltff filing a more definite statement. Court advised discovery is now heard by the Department for Business Court matters and all discovery motions should be directed to this Court's attention. Further, Court noted counsel could consider today's conference to be their Rule 16.1 Conference.

Thereafter, Court stated that it still requires a Joint Case Conference Report and directed it to be submitted by the close of business on July 31, 2017; the JCCR is to comply with NRCP 16.1(c)(1,3, & 4). COURT ORDERED, status check SET for August 10, 2017 at 9:00 am to determine if the Joint Case Conference Report (JCCR) has been filed. If filed, attendance is not required. However, if the JCCR has not been filed counsel must appear to explain why it has not been filed and the amount of time needed for compliance.

Upon the Court's inquiry as to how much time counsel would require for discovery; both counsel confirmed they would require nine (9) months until the close of discovery. Court advised that based

upon that date the Department would issue a combined Scheduling/Trial Order. Based upon the stipulation of counsel and Order of the Court, Court advised counsel could start discovery now. Court further noted that the case is currently being carried as a non-jury case.

Mr. Balducci addressed Pltfs preserving due diligence material received by the buyer, which includes a computer system and having an IT vendor coming in to retrieve the material. Court queried whether Mr. Chasey had discussed protecting and perserving the system for discovery purosses with his clients, to which Mr. Chasey indicated he had and that Mr. Balducci retrieving the material would not be a problem. Colloquy regarding the parties signing a confidentiality agreement.

The Court then queried counsel as to the case being ripe for a Settlement Conference; however, Mr. Balducci stated it would be premature until Pltf could get an understanding of what their damages are. Court directed counsel to contact the Department's Judicial Executive Assistant if at some point there was a consensus for a Settlement Conference. If no consensus, the party that desires a Settlement Conference may file a motion to compel.

08/10/2017 9:00 A.M. | STATUS CHECK RE: JCCR FILING

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Business Court Matters

COURT MINUTES

September 18, 2017

A-17-753532-B Robert Reynolds, Plaintiff(s)
vs.
Raffi Tufenkjian, Defendant(s)

September 18, 2017 9:00 AM

All Pending Motions

HEARD BY: Denton, Mark R.

COURTROOM: RJC Courtroom 03D

COURT CLERK: Marwanda Knight

RECORDER: Jennifer Gerold

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- APPEARANCES: Peter Chasey, Attorney for Pltf
Christian Balducci, Attorney for Defts
Raffi Tufenkjian, Deft

DEFENDANTS, RAFFI TUFENKJIAN AND LUXURY HOLDINGS LV, LLC's MOTION TO DISMISS AGAINST ROBERT REYNOLDS AND EACH OF HIS CLAIMS ... PLAINTIFFS, ROBERT G. REYNOLDS AND DIAMANTI FINE JEWELERS, LLC's OPPOSITION TO MOTION TO DISMISS AND COUNTERMOTION FOR LEAVE TO FILE THIRD AMENDED COMPLAINT

Following argument by counsel, COURT STATED ITS FINDINGS, and ORDERED, Motion DENIED and FURTHER ORDERED, Countermotion GRANTED.

Counsel for Pltf to submit the proposed order.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Business Court Matters

COURT MINUTES

September 06, 2018

A-17-753532-B Robert Reynolds, Plaintiff(s)
vs.
Raffi Tufenkjian, Defendant(s)

September 06, 2018 2:00 PM Minute Order

HEARD BY: Denton, Mark R.

COURTROOM: Chambers

COURT CLERK: Madalyn Kearney

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- Cause appearing, and pursuant to EDCR 2.20(e) and EDCR 2.23 (c), the Court GRANTS Defendants Motion to Exceed Page Limit of Defendants Motion for Summary Judgment without oral argument and ORDERS such Motion removed from its civil motion calendar of Monday, September 10, 2018. Counsel for Defendants to submit a proposed Order.

IT IS SO ORDERED.

CLERK'S NOTE: A copy of this minute order was sent via fax to: Terry A. Moore, Esq. (702-382-5816) and Peter L. Chasey, Esq. (702-233-2107) /mk 9/6/18

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Business Court Matters

COURT MINUTES

September 27, 2018

A-17-753532-B Robert Reynolds, Plaintiff(s)
vs.
Raffi Tufenkjian, Defendant(s)

**September 27, 2018 9:00 AM Motion for Summary
Judgment**

HEARD BY: Denton, Mark R.

COURTROOM: RJC Courtroom 03D

COURT CLERK: Elizabeth Vargas

RECORDER: Sandra Pruchnic

REPORTER:

PARTIES

PRESENT: Balducci, Christian T. Attorney
Chasey, Peter L. Attorney

JOURNAL ENTRIES

- Court noted it reviewed the briefs. Arguments by counsel regarding the Motion. COURT ORDERED, matter TAKEN UNDER ADVISEMENT.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Business Court Matters

COURT MINUTES

November 01, 2018

A-17-753532-B Robert Reynolds, Plaintiff(s)
vs.
Raffi Tufenkjian, Defendant(s)

November 01, 2018 9:00 AM Hearing

HEARD BY: Denton, Mark R.

COURTROOM: RJC Courtroom 03D

COURT CLERK: Madalyn Kearney

RECORDER: Sandra Pruchnic

REPORTER:

PARTIES

PRESENT:	Balducci, Christian T.	Attorney
	Chasey, Peter L.	Attorney
	Reynolds, Robert G.	Plaintiff
	Tufenkjian, Raffi	Defendant

JOURNAL ENTRIES

- Arguments by Mr. Balducci and Mr. Chasey regarding Defendant's Ex Parte Application Pre-Judgment Writ of Attachment. COURT ORDERED, Ex Parte Application Pre-Judgment Writ of Attachment UNDER ADVISEMENT. Court advised in the meantime it will enter an injunction against the disposition of the items set forth in the pictures. Mr. Chasey inquired if his client is prevented from selling the items through a proper sale. Colloquy regarding selling the items in the pictures, some of the items being in possession with a memo of consignment and cash flow concerns. Court advised the injunction will not preclude or bar sales in the ordinary course of business that are commercially reasonable; monies derived from those sales will be applied as appropriate to the consignors and there will be an injunction against disposition of any balance until further order of the Court. Statement by Plaintiff. Mr. Balducci suggested setting up a blocked account for the funds. Court noted a blocked account is appropriate; the balance remaining after payment of the consignors will not be disposed of and Plaintiff can apply to the Court to dispose of the funds. Mr. Balducci to prepare the order.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Business Court Matters

COURT MINUTES

November 13, 2018

A-17-753532-B Robert Reynolds, Plaintiff(s)
vs.
Raffi Tufenkjian, Defendant(s)

November 13, 2018 1:00 PM Calendar Call

HEARD BY: Denton, Mark R.

COURTROOM: RJC Courtroom 03D

COURT CLERK: Madalyn Kearney

RECORDER: Sandra Pruchnic

REPORTER:

PARTIES

PRESENT: Balducci, Christian T. Attorney

JOURNAL ENTRIES

- Mr. Balducci advised he spoke with Mr. Chasey's office and confirmed no one will be appearing today. Court noted there was a Motion before the Court and the Court disposed of all claims in the case. As such, there is nothing left to try. Mr. Balducci concurred. Accordingly, Court advised there will be no setting in the case. Court added it signed the order that was submitted today.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Business Court Matters

COURT MINUTES

January 07, 2019

A-17-753532-B Robert Reynolds, Plaintiff(s)
vs.
Raffi Tufenkjian, Defendant(s)

January 07, 2019 9:00 AM All Pending Motions

HEARD BY: Denton, Mark R.

COURTROOM: RJC Courtroom 03D

COURT CLERK: Madalyn Kearney

RECORDER: Jennifer Gerold

REPORTER:

PARTIES

PRESENT: Balducci, Christian T. Attorney
Chasey, Peter L. Attorney

JOURNAL ENTRIES

- DEFENDANT'S MOTION FOR ATTORNEY'S FEES AND COSTS...MOTION TO WITHDRAW AS ATTORNEY OF RECORD...PLAINTIFFS' MOTION TO AMEND JUDGMENT

Following arguments by Mr. Chasey and Mr. Balducci, COURT ORDERED, Plaintiffs' Motion to Amend Judgment GRANTED IN PART only in reference to Paragraph 5, removing the first sentence in Paragraph 5 that states "While Plaintiffs asserted that there are material misrepresentations that formed the foundation of Plaintiffs' claims, Plaintiffs failed to reference any particular records which evidence such misrepresentations." and removing "therefore" from the following sentence. Following arguments by Mr. Balducci and Mr. Chasey regarding Defendants' Motion for Attorney's Fees and Costs, COURT FURTHER ORDERED, Motion UNDER ADVISEMENT. As to the Motion to Withdraw, Mr. Balducci advised he had no opposition. There being no opposition, COURT ORDERED, Motion to Withdraw as Attorney of Record GRANTED.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Business Court Matters

COURT MINUTES

May 13, 2019

A-17-753532-B	Robert Reynolds, Plaintiff(s)
	vs.
	Raffi Tufenkjian, Defendant(s)

May 13, 2019	9:00 AM	All Pending Motions
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HEARD BY: Denton, Mark R.	COURTROOM: RJC Courtroom 03D
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COURT CLERK: Madalyn Kearney

RECORDER: Jennifer Gerold

REPORTER:

PARTIES

PRESENT:	Moore, Terry A, ESQ	Attorney
	Reynolds, Robert G.	Plaintiff

JOURNAL ENTRIES

- Bradley Marx, Esq., appellate counsel for Plaintiff, also present. Raman Nourizad, Representative for Ninacci, Inc., present telephonically.

Mr. Marx advised his appearance in this court is limited to cleaning up the record in order to go forward with the appeal. As such, there was another Defendant that was served but has not made an appearance; the Supreme Court has requested Mr. Marx get a dismissal in order to go forward with the appeal. Mr. Marx advised he has a proposed stipulation and order to dismiss with prejudice as to that entity and provided it to the Court. Mr. Moore had no objection. Court read the stipulation and order into the record. Stipulation and Order for Dismissal of Great Wash Park, LLC, with Prejudice SIGNED IN OPEN COURT. Mr. Marx added the motions today are outside the scope of his representation and he will not be arguing. Court so noted. Court noted it appears the Objection to Claim of Exemption from Execution regarding Third Party Ninacci, Inc. is moot as something in the record indicates that item has been settled. Mr. Moore advised an agreement has been reached with Ninacci to provide further release of the items being held by the Sheriff that are listed in memorandums 614712, 62833, and 63834. Court so noted the settlement. Arguments by Mr. Moore and Mr. Reynolds regarding the Objection to Claim of Exemption from Execution (Plaintiff Robert Reynolds). COURT ORDERED, Objection to Claim of Exemption from Execution (Plaintiff Robert

Reynolds) UNDER ADVISEMENT.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Business Court Matters

COURT MINUTES

May 14, 2019

A-17-753532-B	Robert Reynolds, Plaintiff(s)
	vs.
	Raffi Tufenkjian, Defendant(s)

May 14, 2019	10:00 AM	Minute Order
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HEARD BY: Denton, Mark R.	COURTROOM: Chambers
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COURT CLERK: Madalyn Kearney

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- HAVING further reviewed the subject of Defendants Objection to Claim of Exemption from Execution pertaining to Plaintiff Robert Reynolds coming before the Court on May 13, 2019 and then taken under advisement, and being now fully advised in the premises, the Court SUSTAINS such Objection.

The within ruling is without prejudice to Plaintiffs Motion for Stay of Execution which was filed on April 5, 2019 but which has not been noticed for hearing.

Counsel for Defendants is directed to submit a proposed order consistent herewith.

IT IS SO ORDERED.

CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Madalyn Kearney, to all registered parties for Odyssey File & Serve. /mk 5/14/19

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Business Court Matters

COURT MINUTES

April 13, 2021

A-17-753532-B Robert Reynolds, Plaintiff(s)
vs.
Raffi Tufenkjian, Defendant(s)

April 13, 2021 1:45 PM Minute Order

HEARD BY: Denton, Mark R.

COURTROOM: Chambers

COURT CLERK: Madalyn Kearney

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- Until further notice, Department 13 will be conducting court hearings REMOTELY using the BlueJeans Video Conferencing system. Department 13 has adopted this policy as a precautionary measure in light of public health concerns for Coronavirus COVID-19, and the Court orders that any party intending to appear before Department 13 for law and motion matters do so by BlueJeans only. As a result, your matter scheduled April 15, 2021 in this case will be conducted via BlueJeans. You have the choice to appear either by phone or computer/video.

Dial the following number: 1-408-419-1715

Meeting ID: 751 790 305

URL: [bluejeans.com/ 751790305](https://bluejeans.com/751790305)

To connect by phone, dial the number provided and enter the meeting ID followed by #.

To connect by computer if you do NOT have the app, copy the URL link into a web browser. Google Chrome is preferred but not required. Once you are on the BlueJeans website click on Join with Browser which is located on the bottom of the page. Follow the instructions and prompts given by BlueJeans.

You may also download the BlueJeans app and join the meeting by entering the meeting ID.

PLEASE NOTE the following protocol each participant will be required to follow:

You will be automatically muted upon entry to the meeting. Please remain muted while waiting for your matter to be called. If you are connecting by phone, you can mute/unmute yourself on your phone or by pressing *4.

Do NOT place the call on hold since some phones may play wait/hold music.

Please do NOT use speaker phone as it causes a loud echo/ringing noise.

Please state your name each time you speak so that the court recorder can capture a clear record.

Please be mindful of rustling papers, background noise, and coughing or loud breathing.

Please be mindful of where your camera is pointing.

We encourage you to visit the Bluejeans.com website to get familiar with the BlueJeans phone/videoconferencing system before your hearing.

If your hearing gets continued to a different date after you have already received this minute order please note a new minute order will issue with a different meeting ID since the ID number changes with each meeting/hearing.

Please be patient if you call in and we are in the middle of oral argument from a previous case. Your case should be called shortly. Again, please keep your phone or computer mic on MUTE until your case is called.

CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Madalyn Kearney, to all registered parties for Odyssey File & Serve. /mk 4/13/21

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Business Court Matters

COURT MINUTES

April 15, 2021

A-17-753532-B	Robert Reynolds, Plaintiff(s) vs. Raffi Tufenkjian, Defendant(s)
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April 15, 2021	9:00 AM	Status Check
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HEARD BY: Denton, Mark R.

COURTROOM: RJC Courtroom 03D

COURT CLERK: Madalyn Kearney

RECORDER: Jennifer Gerold

REPORTER:

PARTIES

PRESENT: Balducci, Christian T. Attorney

JOURNAL ENTRIES

- Bradley Marx, Esq. present for Plaintiff Robert Reynolds. Counsel present via BlueJeans.

Mr. Balducci advised the case went up on appeal, the summary judgment order was reversed, and discovery already closed. As such, Mr. Balducci requested a trial date be set. Mr. Marx concurred. Upon Court's inquiry, counsel confirmed a jury demand was not made. Upon Court's inquiry, counsel had no preference as to when to set trial. Court advised it will issue a new trial order.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Business Court Matters

COURT MINUTES

September 09, 2021

A-17-753532-B Robert Reynolds, Plaintiff(s)
vs.
Raffi Tufenkjian, Defendant(s)

September 09, 2021 7:00 AM Minute Order

HEARD BY: Denton, Mark R.

COURTROOM: Chambers

COURT CLERK: Madalyn Kearney

RECORDER:

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- Until further notice, Department 13 will be conducting court hearings REMOTELY using the BlueJeans Video Conferencing system. Department 13 has adopted this policy as a precautionary measure in light of public health concerns for Coronavirus COVID-19, and the Court orders that any party intending to appear before Department 13 for law and motion matters do so by BlueJeans only. As a result, your matter scheduled September 13, 2021 in this case will be conducted via BlueJeans. You have the choice to appear either by phone or computer/video.

Dial the following number: 1-408-419-1715

Meeting ID: 869 862 085

Participant Passcode: 0049

URL: <https://bluejeans.com/869862085/0049>

To connect by phone, dial the number provided and enter the meeting ID followed by #.

To connect by computer if you do NOT have the app, copy the URL link into a web browser. Google Chrome is preferred but not required. Once you are on the BlueJeans website click on Join with Browser which is located on the bottom of the page. Follow the instructions and prompts given by BlueJeans.

You may also download the BlueJeans app and join the meeting by entering the meeting ID.

PLEASE NOTE the following protocol each participant will be required to follow:

You will be automatically muted upon entry to the meeting. Please remain muted while waiting for your matter to be called. If you are connecting by phone, you can mute/unmute yourself on your phone or by pressing *4.

Do NOT place the call on hold since some phones may play wait/hold music.

Please do NOT use speaker phone as it causes a loud echo/ringing noise.

Please state your name each time you speak so that the court recorder can capture a clear record.

Please be mindful of rustling papers, background noise, and coughing or loud breathing.

Please be mindful of where your camera is pointing.

We encourage you to visit the Bluejeans.com website to get familiar with the BlueJeans phone/videoconferencing system before your hearing.

If your hearing gets continued to a different date after you have already received this minute order please note a new minute order will issue with a different meeting ID since the ID number changes with each meeting/hearing.

Please be patient if you call in and we are in the middle of oral argument from a previous case. Your case should be called shortly. Again, please keep your phone or computer mic on MUTE until your case is called.

CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Madalyn Kearney, to all registered parties for Odyssey File & Serve. /mk 9/9/21

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Business Court Matters

COURT MINUTES

September 13, 2021

A-17-753532-B Robert Reynolds, Plaintiff(s)
vs.
Raffi Tufenkjian, Defendant(s)

September 13, 2021 2:00 PM Calendar Call

HEARD BY: Denton, Mark R.

COURTROOM: RJC Courtroom 03D

COURT CLERK: Madalyn Kearney

RECORDER: Trisha Garcia

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- Bradley Marx, Esq. present for Plaintiffs. Robert Loftus, Esq. present for Defendants. Counsel present for BlueJeans.

Upon Court's inquiry, counsel estimated trial to take two days, announced ready for trial, and provided their availability. MATTER TRAILED.

MATTER RECALLED. All parties present as before. COURT ORDERED, September 21, 2021 trial date STANDS. Court noted Pre-Trial Memoranda have already been filed.

9/21/21 9:00 AM NON-JURY TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Business Court Matters

COURT MINUTES

September 20, 2021

A-17-753532-B Robert Reynolds, Plaintiff(s)
vs.
Raffi Tufenkjian, Defendant(s)

September 20, 2021 7:15 AM Minute Order

HEARD BY: Denton, Mark R.

COURTROOM: Chambers

COURT CLERK: Madalyn Kearney

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- In accordance with AO 21-03, Department 13 will be conducting Non-Jury Trial in this case REMOTELY using the BlueJeans Video Conferencing system. Counsel/ Parties in proper person and witnesses are to appear only by video conferencing and not by telephone. A notary is NOT required to be present with the witness if the witness is testifying via video conferencing.

The following URL and meeting ID will be used for the entire length of the trial. Please distribute this information to your witnesses as this is the information they will need in order to testify.

Meeting ID: 869 862 085

Participant Passcode: 0049

URL: <https://bluejeans.com/869862085/0049>

To connect by computer if you do NOT have the app, copy the URL link into a web browser. Google Chrome is preferred but not required. Once you are on the BlueJeans website click on Join with Browser which is located on the bottom of the page. Follow the instructions and prompts given by BlueJeans.

You may also download the BlueJeans app and join the meeting by entering the meeting ID.

You are encouraged to visit bluejeans.com to familiarize yourself with the BlueJeans system before trial.

PLEASE NOTE the following protocol for trial:

Please mute yourself when you are not speaking. During examination of a witness, both the witness and person examining can be unmuted in order to prevent delays.

Counsel/ Parties in proper person are required to provide witnesses copies of all exhibits prior to their testimony. If counsel/ parties in proper person intend to cross-examine a witness with a document or documents, they must provide copies to the witness before cross-examination begins. It is incumbent on counsel/ parties in proper person to provide the above BlueJeans meeting information to their witnesses before the start of trial. We recommend counsel/ parties in proper person test with their witnesses at least 24 hours in advance of their testimony to address any technical issues there may be.

CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Madalyn Kearney, to all registered parties for Odyssey File & Serve. /mk 9/20/21

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Business Court Matters

COURT MINUTES

September 21, 2021

A-17-753532-B	Robert Reynolds, Plaintiff(s) vs. Raffi Tufenkjian, Defendant(s)
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September 21, 2021 9:00 AM Non-Jury Trial

HEARD BY: Denton, Mark R.

COURTROOM: RJC Courtroom 03D

COURT CLERK: Madalyn Kearney

RECORDER: Jennifer Gerold

REPORTER:

PARTIES

PRESENT:	Balducci, Christian T. Reynolds, Robert G. Tufenkjian, Raffi	Attorney Plaintiff Defendant
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JOURNAL ENTRIES

- Bradley Marx, Esq. present for Plaintiffs. All parties present via BlueJeans.

Opening statement by Mr. Marx. Mr. Balducci reserved his opening statement for his case in chief.
Testimony and exhibits presented (see worksheets). COURT ORDERED, trial CONTINUED.

CONTINUED TO: 9/22/21 9:00 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Business Court Matters

COURT MINUTES

September 22, 2021

A-17-753532-B Robert Reynolds, Plaintiff(s)
vs.
Raffi Tufenkjian, Defendant(s)

September 22, 2021 9:00 AM Non-Jury Trial

HEARD BY: Denton, Mark R.

COURTROOM: RJC Courtroom 03D

COURT CLERK: Madalyn Kearney

RECORDER: Jennifer Gerold

REPORTER:

PARTIES

PRESENT: Balducci, Christian T. Attorney
Reynolds, Robert G. Plaintiff
Tufenkjian, Raffi Defendant

JOURNAL ENTRIES

- Bradley Marx, Esq. also present for Plaintiffs. All parties present via BlueJeans.

Testimony and exhibits presented (see worksheets). Mr. Balducci moved for a directed verdict. Arguments by Mr. Balducci and Mr. Marx regarding the Rule 52(c) motion. Court noted in looking at Rule 52(c), the Court may decline to render any judgment until the close of evidence. Accordingly, COURT ORDERED, Rule 52(c) motion DENIED. COURT FURTHER ORDERED, trial CONTINUED.

CONTINUED TO: 9/28/21 1:00 PM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Business Court Matters

COURT MINUTES

October 06, 2021

A-17-753532-B Robert Reynolds, Plaintiff(s)
vs.
Raffi Tufenkjian, Defendant(s)

October 06, 2021 9:00 AM Non-Jury Trial

HEARD BY: Denton, Mark R.

COURTROOM: RJC Courtroom 03D

COURT CLERK: Madalyn Kearney

RECORDER: Jennifer Gerold

REPORTER:

PARTIES

PRESENT: Balducci, Christian T. Attorney
Reynolds, Robert G. Plaintiff
Tufenkjian, Raffi Defendant

JOURNAL ENTRIES

- Bradley Marx, Esq. present for Plaintiffs. All parties present via BlueJeans.

Testimony and exhibits presented (see worksheets). Defense RESTED. Closing arguments by Mr. Marx and Mr. Balducci. Court directed counsel to each file and serve proposed findings of fact and conclusions of law and proposed judgment by close of business October 28, 2021. COURT ORDERED, decision UNDER ADVISEMENT as of that date.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Business Court Matters

COURT MINUTES

January 04, 2022

A-17-753532-B Robert Reynolds, Plaintiff(s)
vs.
Raffi Tufenkjian, Defendant(s)

January 04, 2022 7:00 AM Minute Order

HEARD BY: Denton, Mark R.

COURTROOM: Chambers

COURT CLERK: Madalyn Kearney

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- Until further notice, Department 13 will be conducting court hearings REMOTELY using the BlueJeans Video Conferencing system. Department 13 has adopted this policy as a precautionary measure in light of public health concerns for Coronavirus COVID-19, and the Court orders that any party intending to appear before Department 13 for law and motion matters do so by BlueJeans only. As a result, your matter scheduled January 6, 2022 in this case will be conducted via BlueJeans. You have the choice to appear either by phone or computer/video.

Dial the following number: 1-408-419-1715
Meeting ID: 869 862 085
Participant Passcode: 0049
URL: <https://bluejeans.com/869862085/0049>

To connect by phone, dial the number provided and enter the meeting ID followed by #.

To connect by computer if you do NOT have the app, copy the URL link into a web browser. Google Chrome is preferred but not required. Once you are on the BlueJeans website click on Join with Browser which is located on the bottom of the page. Follow the instructions and prompts given by BlueJeans.

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Please state your name each time you speak so that the court recorder can capture a clear record.

Please be mindful of rustling papers, background noise, and coughing or loud breathing.

Please be mindful of where your camera is pointing.

We encourage you to visit the Bluejeans.com website to get familiar with the BlueJeans phone/videoconferencing system before your hearing.

Please be patient if you call in and we are in the middle of oral argument from a previous case. Your case should be called shortly. Again, please keep your phone or computer mic on MUTE until your case is called.

CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Madalyn Kearney, to all registered parties for Odyssey File & Serve. /mk 1/4/22

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Business Court Matters

COURT MINUTES

January 06, 2022

A-17-753532-B	Robert Reynolds, Plaintiff(s)
	vs.
	Raffi Tufenkjian, Defendant(s)

January 06, 2022	9:00 AM	All Pending Motions
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HEARD BY: Denton, Mark R.	COURTROOM: RJC Courtroom 16D
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COURT CLERK: Madalyn Kearney

RECORDER: Jennifer Gerold

REPORTER:

PARTIES

PRESENT:	Balducci, Christian T.	Attorney
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JOURNAL ENTRIES

- DEFENDANTS' MOTION FOR ATTORNEY'S FEES AND COSTS...MOTION TO WITHDRAW AS COUNSEL FOR PLAINTIFFS ROBERT G. REYNOLDS AND DIAMANTI FINE JEWELERS LLC

Bradley Marx, Esq. present for Plaintiffs. Counsel present via BlueJeans.

Following arguments by Mr. Balducci and Mr. Marx, COURT ORDERED, Defendants' Motion for Attorney's Fees and Costs UNDER ADVISEMENT. Mr. Balducci advised he had no opposition to the Motion to Withdraw. Cause appearing and there being no opposition, COURT FURTHER ORDERED, Motion to Withdraw as Counsel for Plaintiffs Robert G. Reynolds and Diamanti Fine Jewelers LLC GRANTED. Mr. Marx to prepare the order.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Business Court Matters

COURT MINUTES

January 26, 2022

A-17-753532-B	Robert Reynolds, Plaintiff(s)
	vs.
	Raffi Tufenkjian, Defendant(s)

January 26, 2022	9:00 AM	Minute Order
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HEARD BY: Denton, Mark R.

COURTROOM: Chambers

COURT CLERK: Madalyn Kearney

RECORDER:

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- HAVING further reviewed and considered the parties' filings and argument of counsel pertaining to Defendants' Motion for Attorney's Fees and Costs, heard and taken under advisement on January 6, 2022, and being fully advised in the premises, and being unpersuaded by Defendants' offer of judgment contentions, but being persuaded by their contractual contentions, the Court GRANTS Defendants' subject Motion and will award attorneys' fees and costs beyond those previously awarded in the Order of February 14, 2019 for Defendants in the additional sums of \$113,058.00 (fees) and \$7,744.42 (costs). With regard to costs, this ruling is based on Defendants' cost showings, not upon their untimeliness contention. Counsel for Defendants is directed to submit a proposed order consistent herewith and with supportive briefing/argument.

IT IS SO ORDERED.

CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Madalyn Kearney, to all registered parties for Odyssey File & Serve. /mk 1/26/22

EXHIBIT(S) LIST

Case No.: A753532

Trial Date: 9/21/21

Dept. No.: XIII

Judge: Mark Denton

Plaintiff: Robert Reynolds

Court Clerk: Madalyn Kearney

Recorder: Jennifer Gerold

Counsel for Plaintiff: Bradley Marx

vs.

Defendant: Raffi Tufenkjian

Counsel for Defendant: Christian Balducci

TRIAL BEFORE THE COURT

JOINT EXHIBITS

Exhibit Number	Exhibit Description	Date Offered	Objection	Date Admitted	
J1	DEFTS 000234-000239 Offer to Purchase and Sale of Business Assets with Earnest Money Provision	9/21/21	stip	9/21/21	WA
J2	DEFTS 000233 Amendment to Purchase Agreement				WA
J3	DEFTS 000418 Personal Financial Statement				WA
J4	DEFTS 000797-000841 Business Opportunity Summary				WA
J5	DEFTS 000200-000201 Certificate of Limited Liability Company Status and Authority of Diamanti Fine Jewelers LLC				WA
J6	DEFTS 000221-000226 Business/Bulk Sale Transfer Instructions (Closing Agreement)				WA
J7	REYNOLDS 000193 Bill of Sale: Jewelers				WA
J8	REYNOLDS 000200-000203 Bill of Sale - Typed				WA
J9	DEFTS 000199 Joint Acknowledgement of Change of Possession				WA
J10	DEFTS 000204 Uniform Commercial Code (U.C.C.) & Federal Tax Lien Document Report				WA
J11	DEFTS 000211-000212 Sales Tax Agreement				WA
J12	DEFTS 000213-000214 State of Nevada Unemployment "DETR" Tax Agreement				WA
J13	DEFTS 000216 Inventory Report Approval and Mutual Understanding				WA
J14	DEFTS 001327-001329 Assignment and Assumption of Retail Lease	9/21/21	stip	9/21/21	WA

EXHIBIT(S) LIST

Exhibit Number	Exhibit Description	Date Offered	Objection	Date Admitted	
J15	DEFTS 000794-000796 January 5, 2015 Email	9/21/21	Stip	9/21/21	WA
J16	DEFTS 000183-000184 Certificate of Custodian of Records to Accompany Copies of Records Pursuant to NRS 52.260 (Accelerated Law Group, Inc.)				WA
J17	DEFTS 000325-000326 Certificate of Custodian of Records to Accompany Copies of Records Pursuant to NRS 52.260 (Sunbelt Business Brokers)				WA
J18	REYNOLDS000001-62 Tivoli Village Lease				WA
J19	REYNOLDS000063-120 Tivoli Village Retail Restaurant Tenant Criteria Manual				WA
J20	REYNOLDS001829-1832 License Agreement				WA
J21	REYNOLDS001827 Specialty Leasing Merchant Vacating Notice				WA
J22	REYNOLDS001837 Emails				WA
J23	REYNOLDS000132-175 Business Opportunity Summary				WA
J24	REYNOLDS000240-277 Customer List				WA
J25	REYNOLDS000312-340 Inventory				WA
J26	REYNOLDS000215 Allocation of Purchase Price				WA
J27	REYNOLDS000236-238 Assignment and Assumption of Lease				WA
J28	REYNOLDS001778-1825 Item Cost History Report				WA
J29	REYNOLDS000239 Emails				WA
J30	REYNOLDS000344-355 Sales and Use Tax Return				WA
J31	REYNOLDS1844-1842 Diamanti Jewelers Records				WA
J32	DEFTS000609 Emails				WA
J33	DEFTS000346 Emails				WA
J34	DEFTS000349 Emails				WA
J35	DEFTS000567-570 Emails				WA
J36	DEFTS000559 Emails				WA
J37	DEFTS000856 Emails				WA
J38	DEFTS001164-1169 Listing Agreement	9/21/21	Stip	9/21/21	WA



EIGHTH JUDICIAL DISTRICT COURT CLERK'S OFFICE
NOTICE OF DEFICIENCY
ON APPEAL TO NEVADA SUPREME COURT

JOSEPH Z. GERSTEN, ESQ.
9680 W. TROPICANA AVE. #146
LAS VEGAS, NV 89147

DATE: March 18, 2022
CASE: A-17-753532-B

RE CASE: ROBERT G. REYNOLDS; DIAMANTI FINE JEWELERS, LLC vs. RAFFI TUFENKJIAN; LUXURY HOLDINGS LV, LLC

NOTICE OF APPEAL FILED: March 16, 2022

YOUR APPEAL HAS BEEN SENT TO THE SUPREME COURT.

PLEASE NOTE: DOCUMENTS **NOT** TRANSMITTED HAVE BEEN MARKED:

- ☒ \$250 – Supreme Court Filing Fee (Make Check Payable to the Supreme Court)**
 - If the \$250 Supreme Court Filing Fee was not submitted along with the original Notice of Appeal, it must be mailed directly to the Supreme Court. The Supreme Court Filing Fee will not be forwarded by this office if submitted after the Notice of Appeal has been filed.
- ☐ \$24 – District Court Filing Fee (Make Check Payable to the District Court)**
- ☒ \$500 – Cost Bond on Appeal (Make Check Payable to the District Court)**
 - NRAP 7: Bond For Costs On Appeal in Civil Cases
 - *Previously paid Bonds are not transferable between appeals without an order of the District Court.*
- ☒ Case Appeal Statement
 - NRAP 3 (a)(1), Form 2
- ☐ Order
- ☐ Notice of Entry of Order

NEVADA RULES OF APPELLATE PROCEDURE 3 (a) (3) states:

"The district court clerk must file appellant's notice of appeal despite perceived deficiencies in the notice, including the failure to pay the district court or Supreme Court filing fee. **The district court clerk shall apprise appellant of the deficiencies in writing**, and shall transmit the notice of appeal to the Supreme Court in accordance with subdivision (g) of this Rule with a notation to the clerk of the Supreme Court setting forth the deficiencies. Despite any deficiencies in the notice of appeal, the clerk of the Supreme Court shall docket the appeal in accordance with Rule 12."

Please refer to Rule 3 for an explanation of any possible deficiencies.

*****Per District Court Administrative Order 2012-01, in regards to civil litigants, "...all Orders to Appear in Forma Pauperis expire one year from the date of issuance." You must reapply for in Forma Pauperis status.***

Certification of Copy

State of Nevada }
County of Clark } SS:

I, Steven D. Grierson, the Clerk of the Court of the Eighth Judicial District Court, Clark County, State of Nevada, does hereby certify that the foregoing is a true, full and correct copy of the hereinafter stated original document(s):

CORRECTED NOTICE OF APPEAL; DISTRICT COURT DOCKET ENTRIES;
CIVIL COVER SHEET; ORDER GRANTING DEFENDANTS' MOTION FOR ATTORNEY'S FEES
AND COSTS; NOTICE OF ENTRY OF ORDER GRANTING DEFENDANTS' MOTION FOR
ATTORNEY'S FEES AND COSTS; DISTRICT COURT MINUTES; EXHIBITS LIST

ROBERT G. REYNOLDS; DIAMANTI FINE
JEWELERS, LLC,

Plaintiff(s),

vs.

RAFFI TUFENKJIAN; LUXURY HOLDINGS
LV, LLC,

Defendant(s),

Case No: A-17-753532-B

Dept No: XIII

now on file and of record in this office.

IN WITNESS THEREOF, I have hereunto
Set my hand and Affixed the seal of the
Court at my office, Las Vegas, Nevada
This 18 day of March 2022.

Steven D. Grierson, Clerk of the Court



Heather Ungermann, Deputy Clerk