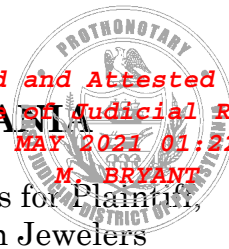


IN THE COURT OF COMMON PLEAS
OF PHILADELPHIA COUNTY, PENNSYLVANIA

Filed and Attested by the
Office of Judicial Records
05 MAY 2021 01:22 pm



LECHTER & SASSO, P.C.
BY: Ernest Sasso, Esquire
Attorney I.D. No. 34883
Lynne Kessler Lechter, Esquire
Attorney I.D. No. 59815
1845 Walnut Street, 25th Floor
Philadelphia, Pennsylvania 19103-4725
(215) 564-6000 [Telephone]
(215) 564-6002 [Fax]
sasso@lechtersasso.com [E-Mail]
lechter@lechtersasso.com [E-Mail]

Attorneys for Plaintiff,
Arlington Jewelers

ARLINGTON JEWELERS, INC.
a New Jersey Corporation

Plaintiff,

v.

HARRY MERRILL & SON, INC.
a Pennsylvania Corporation and
ROBERT SCHWARTZ and
NICOLE MANGIARACINA

Defendants.

CIVIL ACTION—LAW

APRIL TERM, 2021

NO.:
CASE ID:

JURY TRIAL DEMANDED

COMPLAINT—CIVIL ACTION

AND NOW, comes the Plaintiff, Arlington Jewelers, Inc., and avers the following in support of its Complaint:

I. PARTIES

1. Plaintiff, Arlington Jewelers, Inc. (“Plaintiff” or “Arlington Jewelers”) is a New Jersey corporation with a principal place of business located at 36 Ridge Road, North Arlington, New Jersey 07031. Mr. Richard Donato is an individual and

resident of New Jersey and the owner of Arlington Jewelers, which has been in continuous business for more than 40 years, with a stellar reputation.

2. Defendant Harry Merrill & Son, Inc. (“Merrill Jewelers”) is a Pennsylvania corporation with a principal place of business located at 124 South 8th Street, Philadelphia, Pennsylvania 19107. Defendant Merrill Jewelers has been in continuous business for more than 60 years.

3. Defendant Robert Schwartz (“Defendant Schwartz”) is an individual and resident of Pennsylvania with a business address located at 124 South 8th Street, Philadelphia, Pennsylvania 19107. Defendant Schwartz is also an owner/manager of Defendant Merrill Jewelers.

4. Defendant Nicole Mangiaracina (“Defendant Mangiaracina”) is an individual and resident of Pennsylvania with a business address located at 124 South 8th Street, Philadelphia, Pennsylvania 19107. Defendant Mangiaracina is an employee of Defendant Merrill Jewelers.

5. Each Defendant is responsible for the actions and omissions of its agents (actual, ostensible, or otherwise), servants, and/or employees in any involvement with the publications and statements at issue in this lawsuit.

II. JURISDICTION AND VENUE

6. Jurisdiction is proper in the Commonwealth of Pennsylvania as many facts giving rise to this action arose in Pennsylvania as well as the fact that Defendants conduct substantial business in the Commonwealth of Pennsylvania.

7. Venue is proper in Philadelphia as all Defendants conduct substantial business in Philadelphia.

III. FACTUAL BACKGROUND

8. Plaintiff repeats and realleges each and every allegation set forth in paragraphs 1 through 7 hereof with the same force and effect as if fully set forth herein.

9. In 2021, Defendant Mangiaracina created a negative video about Arlington Jewelers—effectively characterizing it as “another shifty jeweler”—and posted it on the China-based online social platform, Tik-Tok, which has over one billion followers globally. In the video, Ms. Mangiaracina held up a mounted diamond ring, purportedly from Arlington Jewelers, and compared it with an unmounted diamond, purportedly from her employer, Merrill Jewelers. In the background, Ms. Mangiaracina displayed an appraisal from Arlington Jewelers, and showed the name and address of Arlington Jewelers [36 Ridge Road, North Arlington, New Jersey 07031] right to the camera.

Ms. Mangiaracina then stated that the appraisal was false and that the diamond was not an SI2 and F color, showing the mounted diamond and comparing her loose diamond from Merrill Jewelers. She then said that it was visually obvious to the camera that the Merrill diamond was superior as it was GIA appraised as an SI2 quality and F color, whereas the putative Arlington Jewelers diamond was falsely stated as appraised to be SI2 quality and F color by the European Gem Lab USA¹ as well as by Arlington Jewelers. Ms. Mangiaracina then stated that Arlington Jewelers charged the customer \$9,000.00 for this diamond, whereas [her employer] Merrill Jewelers would only charge a customer \$5,700.00—*for a superior diamond*. Ms. Mangiaracina’s assertion was groundless, as she had no evidence whatsoever upon which to base her false claim.

Ms. Mangiaracina was thereby *falsely* stating that Arlington Jewelers misrepresented the diamond completely, as well as its appraised quality by the European Gem Lab USA.

¹ Established in Carlsbad, California in 1931, the non-profit GIA is the world’s foremost authority on diamonds, colored stones, and pearls, and grades diamond quality from best to worst. SI2 is a GIA grade denoting “Small Inclusions 2.” The European Gem Lab USA (“EGL”), based in New York City’s Diamond District, is an independently owned and operated gemological laboratory that evaluates diamonds and gemstones in North America.

10. In early April 2021, Mr. Donato was contacted by a repeat client regarding the Tik Tok posting. The loyal client was concerned for the continued viability of Mr. Donato's business. When Mr. Donato viewed the posting, it had already garnered nearly 250,000 views and 40,000 "likes" for the negative video and posting. A few days later, one of Mr. Donato's neighbors called to inform him of the blatantly offensive video. Subsequently, two of Mr. Donato's nieces, residing in Buffalo, New York, saw the Tik Tok video and contacted their mothers—all of whom were horrified and worried about Mr. Donato's business reputation. Obviously, the harm and impact to Mr. Donato's business was extremely widespread, as Arlington Jewelers and Merrill Jewelers are located only 91 miles from each other and essentially serve the same market for high-end jewelry.

11. Shortly after her first defamatory "shifty jeweler" video against Arlington Jewelers and Mr. Donato, Defendant Mangiaracina posted another video, crowing over the "success" of her first video, and telling her audience that it had spurred her to start a new series about the four "Cs" of diamonds to further harass Arlington Jewelers and Mr. Donato.

12. Through Mr. Donato's attorneys, Lechter & Sasso, P.C., Defendant Schwartz was contacted by telephone at Merrill Jewelers. Mr. Schwartz conceded that Ms. Mangiaracina was employed by Merrill Jewelers but professed "ignorance" of the offensive videos. Mr. Schwartz was advised by Mr. Donato's counsel that the blatantly offensive and false videos must immediately be removed, and that Defendant Mangiaracina needed to issue a retraction and apology to avoid further action. Subsequent to the undersigned counsel's request for a retraction of the videos (and concomitant apology from Defendant Mangiaracina), Mr. Donato received an e-mail from an anonymous person who forwarded a link to the Arlington Jewelers website with the word "horrible" posted on it. When Mr. Donato opened the e-mail, the system literally went berserk and sent out e-mails with Ms.

Mangiaracina’s offensive video to unknown recipients with the offensive video attached. Obviously the Arlington Jewelers website had been hacked—most likely by Defendant Mangiaracina or an agent acting on her behalf—requiring Mr. Donato to fix his website and change the password for access.

13. While the offensive videos were deleted, no apology and retraction was forthcoming; hence, the employee (Defendant Mangiaracina) appears to represent the views of her employer, Defendant Merrill Jewelers.

14. In her Tik-Tok “shifty jeweler” characterization of the business practices of Arlington Jewelers, Defendant Mangiaracina used demonstrably false and deceptive tactics, including but not limited to:

- a. Comparing a diamond mounted on a setting, with an unmounted pure diamond;
- b. Stating that the diamond ring and the Arlington Jewelers appraisal was of that particular ring, with no chain of custody or proof whatsoever;
- c. Not providing a chain of custody between the ring in question and Arlington Jewelers;
- d. Not allowing for the fact that once a piece of jewelry leaves a store, the owner has no knowledge or control of its subsequent ownership or condition;
- e. Not allowing for the fact that it is extremely common in the jewelry business that an appraisal for insurance purposes is for a replacement value and does not mirror the purchase price of the item. In pursuing her insatiable quest for “fame,” Defendant Mangiaracina blithely attempted to destroy the impeccable reputation of Mr. Donato—a hard-working respected entrepreneur with 42 years in the jewelry business, with a loving wife and supportive adult children—all of whom have been disturbed and emotionally distressed by this unfathomable attack.

IV. THEORIES OF LIABILITY AND CAUSES OF ACTION

COUNT I
DEFAMATION
PLAINTIFF v. DEFENDANT MANGIARACINA

15. Plaintiff repeats and realleges each and every allegation set forth in paragraphs 1 through 14 hereof with the same force and effect as if fully set forth herein.

16. As adumbrated with detail above, in April 2021 Defendant Mangiaracina posted offensive and harmful online videos of Arlington Jewelers, falsely and aggressively characterizing it as a “shifty jeweler” for its business practices of charging excessively high prices and cheating its customers.

17. Defendant’s defamatory and harassing statements, in addition to her video postings, were understood by the recipients—evidenced by a number of their comments—as to their defamatory meaning and that they were intended to be applied to Plaintiff, Arlington Jewelers.

18. Defendant Mangiaracina’s untrue statements and vile video postings constitute defamation *per se*.

19. Defendant Mangiaracina knew that the statements and video postings were false and proceeded to act in reckless disregard of their truth or falsity.

20. Plaintiff has been harmed by Defendant Mangiaracina’s statements and video postings in that these statements and video postings have adversely affected Plaintiff’s reputation and caused Plaintiff to suffer humiliation, loss of current and potential clients, and loss of revenue.

21. Such harm occurred in both the State of New Jersey and the Commonwealth of Pennsylvania, inclusive of the City of Philadelphia.

WHEREFORE, Plaintiff Arlington Jewelers respectfully requests that this Honorable Court enter judgment in its favor and against both Defendants, jointly and severally, in an amount substantially in excess of the jurisdictional amount required to guarantee a jury trial, together with interest and costs, attorney fees, and punitive damages in an amount which will punish the Defendants for their conduct and deter them and others similarly situated from similar acts in the future.

COUNT II
FALSE LIGHT INVASION OF PRIVACY
PLAINTIFF v. ALL DEFENDANTS

22. Plaintiff repeats and realleges each and every allegation set forth in paragraphs 1 through 21 hereof with the same force and effect as if fully set forth herein.

23. In posting the vile, untrue online statements and videos, Defendants— inclusive of Robert Schwartz and Merrill Jewelers—gave publicity to a matter concerning Plaintiff that placed Plaintiff before the public in a false light.

24. The false light in which Plaintiff was placed—that Plaintiff was a “shifty jeweler” who engaged in deceptive business practices—would be highly offensive to a reasonable person, especially a buyer of high-end jewelry.

25. Defendants had knowledge of or acted in reckless disregard as to the falsity of the publicized matter and the false light in which Plaintiff would be placed.

26. Plaintiff has been harmed by the distasteful, false statements and harassing video postings in that these untrue statements and video postings have adversely affected Plaintiff’s stellar, renowned reputation in the high-end jewelry community and caused Plaintiff to suffer humiliation and loss of clients.

27. Such incredible harm occurred in both the State of New Jersey and the Commonwealth of Pennsylvania, inclusive of the City of Philadelphia.

WHEREFORE, Plaintiff Arlington Jewelers respectfully requests that this Honorable Court enter judgment in its favor and against both Defendants, jointly and severally, in an amount substantially in excess of the jurisdictional amount required to guarantee a jury trial, together with interest and costs, attorney fees, and punitive damages in an amount which will punish the Defendants for their conduct and deter them and others similarly situated from similar acts in the future.

COUNT III
COMMERCIAL DISPARAGEMENT
PLAINTIFF v. ALL DEFENDANTS

28. Plaintiff repeats and realleges each and every allegation set forth in paragraphs 1 through 27 hereof with the same force and effect as if fully set forth herein.

29. In posting the online statements and videos adumbrated and detailed above, Defendants—inclusive of Robert Schwartz and Merrill Jewelers—published false, disparaging statements concerning Plaintiff's business.

30. Defendants intended to cause or reasonably should have recognized that the publication would cause pecuniary loss.

31. Defendants knew that the online statements and videos were false or acted in reckless disregard of their truth or falsity.

32. Plaintiff has been harmed by Defendants' online statements and videos in that these online statements and videos have adversely affected Plaintiff's

reputation and caused Plaintiff to suffer pecuniary loss, humiliation, and loss of clients.

33. Such incredible harm occurred in both the State of New Jersey and the Commonwealth of Pennsylvania, inclusive of the City of Philadelphia.

WHEREFORE, Plaintiff Arlington Jewelers respectfully requests that this Honorable Court enter judgment in its favor and against both Defendants, jointly and severally, in an amount substantially in excess of the jurisdictional amount required to guarantee a jury trial, together with interest and costs, attorney fees, and punitive damages in an amount which will punish the Defendants for their conduct and deter them and others similarly situated from similar acts in the future.

COUNT IV
INTENTIONAL INTERFERENCE WITH
EXISTING BUSINESS RELATIONS
PLAINTIFF v. ALL DEFENDANTS

34. Plaintiff repeats and realleges each and every allegation set forth in paragraphs 1 through 33 hereof with the same force and effect as if fully set forth herein.

35. As set forth in detail above, the Defendants interfered with the existing and prospective contractual relations of Plaintiff Arlington Jewelers and potential customers through their misrepresentations and falsehoods, in an effort to maintain their standing and customer base over Plaintiff in the integrated New York City–New Jersey–Greater Philadelphia marketplace for high-end jewelry.

36. Defendants have no privilege or justification for their harassing and malicious conduct, which was undertaken with the intent to harm Plaintiff's

existing and prospective business relations and/or with a reckless indifference to Plaintiff's existing and prospective business relations as well.

37. The Defendants tortious misconduct caused and continues to cause irreparable financial damages to Plaintiff which includes lost customer sales and irreparable harm to Plaintiff's reputation.

38. Defendants are liable for all damages caused to Plaintiff for intentionally interfering with the business and contractual relations of Plaintiff identified herein.

39. Defendants conduct was intentional, outrageous, malicious, and made with a conscious disregard for the rights of Plaintiff and in furtherance of Defendants' scheme to deprive Plaintiff of its market share in the integrated New York City–New Jersey–greater Philadelphia marketplace for high-end jewelry.

40. Such harm occurred in both the State of New Jersey and the Commonwealth of Pennsylvania, inclusive of the City of Philadelphia.

WHEREFORE, Plaintiff Arlington Jewelers respectfully requests that this Honorable Court enter judgment in its favor and against both Defendants, jointly and severally, in an amount substantially in excess of the jurisdictional amount required to guarantee a jury trial, together with interest and costs, attorney fees, and punitive damages in an amount which will punish the Defendants for their conduct and deter them and others similarly situated from similar acts in the future.

COUNT V
INTENTIONAL INTERFERENCE WITH
PROSPECTIVE CONTRACTUAL RELATIONS
PLAINTIFF v. ALL DEFENDANTS

41. Plaintiff repeats and realleges each and every allegation set forth in paragraphs 1 through 40 hereof with the same force and effect as if fully set forth herein.

42. Defendants were aware that Plaintiff's business depends on the perceived and known quality of its jewelry in addition to the prices and value of its jewelry.

43. Defendants were also aware that Plaintiff's jewelry business depends on past customers and online reviews for sales to the small community of potential customers of high-end jewelry in the integrated New York City–New Jersey–Greater Philadelphia marketplace for high-end jewelry.

44. The Defendants' intentional and willfully indifferent conduct interfered with Plaintiff Arlington Jewelers prospective contractual relations through their misrepresentations, solicitations, and other communications which it/they knew were false and would create a culture of negativity surrounding Arlington Jewelers.

45. Defendants possessed no privilege or justification for their intentional, reckless misconduct undertaken with malicious indifference to Plaintiff.

46. Defendants' tortious misconduct caused and continues to cause compensatory damages and irreparable harm to Plaintiff by, *inter alia*, preventing and depriving it of new customers and business relationships, which Arlington Jewelers would have acquired but for Defendants' unjustified and tortious interference.

47. Defendants are liable for all damages caused to Plaintiff for intentionally interfering with Plaintiff's prospective clients and business relationships.

WHEREFORE, Plaintiff Arlington Jewelers respectfully requests that this Honorable Court enter judgment in its favor and against both Defendants, jointly and severally, in an amount substantially in excess of the jurisdictional amount

required to guarantee a jury trial, together with interest and costs, attorney fees, and punitive damages in an amount which will punish the Defendants for their conduct and deter them and others similarly situated from similar acts in the future.

COUNT VI
COMMON LAW FRAUD AND MISREPRESENTATIONS
PLAINTIFF v. ALL DEFENDANTS

48. Plaintiff repeats and realleges each and every allegation set forth in paragraphs 1 through 47 hereof with the same force and effect as if fully set forth herein.

49. The material misrepresentations and omissions by Defendants, as specified above, upon which they intended consumers of high-end jewelry to rely on, and upon which consumers of high-end jewelry did rely on, constituted fraud and/or negligent misrepresentation under the common law of the Commonwealth of Pennsylvania.

50. As a result of Defendants' fraud, Plaintiff has suffered damages as set forth above, and is entitled to recover those damages from Defendants.

WHEREFORE, Plaintiff requests judgment against each of the Defendants in the form of money damages in an amount in excess of \$50,000, and such other relief as this Honorable Court shall deem appropriate.

NOTICE OF PRESERVATION OF EVIDENCE

PLAINTIFF HEREBY DEMANDS AND REQUESTS THAT DEFENDANTS TAKE NECESSARY ACTIONS TO ENSURE THE PRESERVATION OF ALL DOCUMENTS, COMMUNICATIONS, WHETHER ELECTRONIC OR OTHERWISE, ITEMS AND THINGS IN THEIR POSSESSION OR CONTROL, OR ANY ENTITY OVER WHICH ANY PARTY TO THIS ACTION HAS CONTROL, OR FROM WHOM ANY PARTY TO THIS ACTION HAS ACCESS TO, ANY DOCUMENTS, ITEMS, OR THINGS WHICH MAY IN ANY MANNER BE RELEVANT TO OR RELATE TO THE SUBJECT MATTER OF THE CAUSES OF ACTION AND/OR THE ALLEGATIONS OF THIS COMPLAINT.

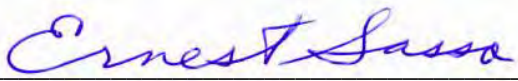
DEMAND FOR JURY TRIAL

Plaintiff Arlington Jewelers respectfully requests and demands a jury trial on all triable issues.

Dated: May 5, 2021

Respectfully submitted,

LECHTER & SASSO, P.C.

By: 

Ernest Sasso, Esquire
Attorney I.D. No. 34883
Lynne Kessler Lechter, Esquire
Attorney I.D. No. 59815
1845 Walnut Street, 25th Floor
Philadelphia, Pennsylvania 19103-4725
(215) 564-6000 [Telephone]
sasso@lechtersasso.com [E-Mail]
lechter@lechtersasso.com [E-Mail]

Attorneys for Plaintiff, Arlington Jewelers

VERIFICATION

I, Ernest Sasso, Esquire, hereby state that I am the attorney for Arlington Jewelers, the Plaintiff in this action, and declare that the facts set forth in the foregoing Complaint are true and correct to the best of my knowledge, information and belief. I understand that this statement is made subject to the penalties of 18 Pa. C.S. § 4904 relating to unsworn falsifications to authorities.

LECHTER & SASSO, P.C.



Dated: May 5, 2021

By: Ernest Sasso, Esquire