



FILED  
IN THE MONTGOMERY COUNTY COMMON PLEAS COURT  
Civil Division  
2006 OCT 23 PH 3: 57

DAVE HOLEY  
CLERK OF COURT  
MONTGOMERY COUNTY

06 8379

U.S. DIAMOND & GOLD D/B/A  
STAFFORD'S JEWELERS  
2535 MIAMISBURG-CENTERVILLE ROAD )  
CENTERVILLE, OHIO 45459 )

AND )

JOHN STAFFORD )  
2487 INDIAN WELLS TRAIL )  
XENIA, OHIO 45385 )

Plaintiffs, )

vs. )

THE JULIUS KLEIN DIAMONDS LLC )  
20 WEST 47<sup>TH</sup> STREET, 9<sup>TH</sup> FLOOR )  
NEW YORK, NEW YORK 10036 )

AND )

JEWELER'S MUTUAL INSURANCE )  
COMPANY )  
24 JEWELERS PARK DRIVE )  
NEENAH, WISCONSIN 54956, )

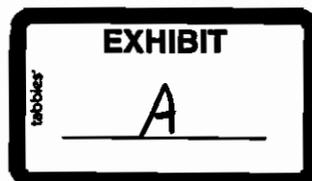
Defendants. )

COMPLAINT FOR NEGLIGENCE,  
BREACH OF CONTRACT, UNJUST  
ENRICHMENT, CONVERSION, CIVIL  
LIABILITY FOR CRIMINAL ACTS,  
FRAUD, REPLEVIN, &  
DECLARATORY JUDGMENT

JURY DEMAND ENDORSED HEREON

**COMPLAINT FOR NEGLIGENCE, BREACH OF CONTRACT, UNJUST  
ENRICHMENT, CONVERSION, CIVIL LIABILITY FOR CRIMINAL  
ACTS, FRAUD, REPLEVIN, & DECLARATORY JUDGMENT**

For its Complaint against Defendant, Julius Klein Diamonds LLC, (hereinafter "JKD") and Defendant, Jewelers Mutual Insurance Company, (hereinafter "Jewelers Mutual), Plaintiff, U.S. Diamond & Gold d/b/a Stafford's Jewelers, (hereinafter "Stafford's Jewelers"), and Plaintiff, John Stafford, state as follows:



424378.1

**INTRODUCTION**

This is an action for damages against Defendant JKD caused by either its breach of contract, unlawful conversion through theft, obtainment by fraud, and/or negligent handling of a 5.56 carat, fancy intense pink diamond (hereinafter the "Pink Diamond") owned originally by John Stafford and then sold by Mr. Stafford to Stafford's Jewelers. Additionally, this is an action for breach of contract and Declaratory Judgment pursuant to Ohio Revised Code Chapter 2721 and Rule 57 of the Ohio Rules of Civil Procedure for the purposes of determining and resolving an actual and justiciable controversy that now exists between Stafford's Jewelers and Jewelers Mutual.

**INTRODUCTION**

1. Stafford's Jewelers is an Ohio corporation with its principal place of business in Miami Township, Centerville, Ohio. Stafford's Jewelers is an independently owned and operated diamond wholesaler and retailer of diamond and other fine jewelry. It operates a retail store in Miami Township, Centerville, Ohio and has done so for 21 years.

2. John Stafford is a resident of the State of Ohio and the sole shareholder and President of Stafford's Jewelers.

3. JKD is a New York for-profit corporation, international in scope, with its principal place of business in New York, New York. JKD is a manufacturer and distributor of diamonds and diamond jewelry. JKD has several associated companies, which include: JKD South Africa Ltd.; Julius Klein Eliaz Diamonds Europe BVBA; JKD West LLC; Julius Klein Eliaz Diamonds Asia Ltd.; Julius Klein Eliaz Diamonds Ltd.; and Ritani LLC. JKD regularly advertises in various national and international trade magazines circulated in Ohio, which include, but are not limited to: *Rapport Diamond Report*; *Jewelers Circular Keystone*, *Professional Jeweler*, *Modern*

*Jeweler*, and *Index Magazine*. JKD operates a website, <<http://www.juliusklein.com>>, which is accessible from anywhere an Internet connection is available and jewelers can register on JKD's website to view and purchase from JKD's inventory.

4. JKD is one of only nine (9) Diamond Trading Company (hereinafter "DTC") sight holders in the United States. To be a DTC sight holder, the sight holder must, at least ostensibly, comply fully with DTC's Diamond Best Practices Standards. A DTC sight holder holds itself out as a diamantaire of the highest quality. As a retailer, particularly an independent one, Stafford's Jewelers is dependent upon the integrity of sight holders, such as JKD. Yet, over the past two years DTC sight holders have been embroiled in a scandal known as the "bribe-for-cert-upgrade" scandal. The scandal stems from activities of certain sight holders who have allegedly bribed the Gemological Institute of America ("GIA") to certify inaccurately diamonds at higher grades, thus resulting in prices that do not reflect a diamond's actual worth.

5. The United States diamond industry is dominated and controlled by a handful of DTC sight holders. The industry itself, including purchases and sales between DTC sight holders and retailers, is oftentimes conducted in an extremely confidential setting with deals for large dollar amounts regularly sealed with nothing more than a handshake. A strong personal relationship between diamond dealers and retailers, developed over many years, is the hallmark of a fruitful diamond trade. Trust between dealers and retailers is of the utmost importance.

6. Jewelers Mutual is an insurance company headquartered in Neenah, Wisconsin and licensed to do business in the State of Ohio. Jewelers Mutual does business in Ohio, including in Montgomery County.

7. This Court has jurisdiction over JKD because it has had multiple and significant contacts with Ohio by virtue of its communications and direct solicitations of business with Stafford's Jewelers, contracts entered into with Stafford Jewelers in Ohio, shipments made to Stafford's Jewelers in Ohio as well as JKD's tortious conduct, which caused injury in Ohio to Stafford's Jewelers and John Stafford.

**JOHN STAFFORD, STAFFORD'S JEWELERS, & JKD: THE RELATIONSHIP**

8. In 1996, Prestige Diamond, a diamantaire in Los Angeles, California, contacted Stafford's Jewelers to initiate a business relationship. Zuri Mesica was the president of Prestige Diamond. The relationship consisted of contracts entered into between Stafford's Jewelers and Prestige Diamond for the sale of diamonds. Diamonds were both purchased by Stafford's Jeweler's from Prestige Diamond and sold by Stafford's Jewelers to Prestige Diamond. Shipments of merchandise were made by Prestige Diamond to Stafford's Jewelers in Centerville, Ohio.

9. This relationship between Stafford's Jewelers and Prestige Diamond continued throughout 1997 to 2002. Throughout this time period, Mr. Mesica and Mr. Stafford developed both a business relationship and friendship. Mr. Stafford placed tremendous trust in Mr. Mesica. In 2002, Prestige Diamond became a part of JKD. This newly formed division of JKD was called JKD West LLC.

10. In 2004, due to Mr. Stafford's business relationship and friendship with Mr. Mesica, Stafford's Jewelers began to conduct significant business with JKD in New York. This business included in excess of six contracts entered into for the purchase or "memo" of diamonds between the two in amounts ranging from several thousand dollars to hundreds of thousands of dollars

(with a total amount exceeding \$450,000.00). To accomplish these transactions various facsimiles and telephone calls were made between JKD in New York and Stafford's Jewelers in Miami Township, Centerville, Ohio. On occasion, Mr. Mesica would assist in facilitating the transactions.

11. In 2005, Stafford's Jewelers continued to conduct business with JKD in New York. This business included extensive and consistent shipments of merchandise purchased by Stafford's Jewelers in Miami Township, Centerville, Ohio from JKD in New York. The dollar amount of items purchased or obtained on "memo" was again high. The shipments were made from JKD's New York office to Stafford Jeweler's in Miami Township, Centerville, Ohio. To accomplish these transactions, various facsimiles and telephone calls were made between JKD in New York and Stafford's Jewelers in Miami Township, Centerville, Ohio. In excess of ten shipments were made from JKD's New York office to Stafford's Jewelers in Miami Township, Centerville, Ohio. Again, Mr. Mesica would, as needed, assist in these transactions.

12. In 2006, Stafford's Jewelers continued to conduct business with JKD. This business included, but is not limited to, a shipment of merchandise purchased by Stafford's Jewelers from JKD. The shipment was made on or about January 5, 2006, from JKD's New York office to Stafford Jeweler's in Miami Township, Centerville, Ohio. This was the final shipment made by JKD's New York office to Stafford's Jewelers in Miami Township, Centerville, Ohio before the incident giving rise to this Complaint.

13. As a result of these significant transactions between Stafford's Jewelers and JKD as well as his past and ongoing relationship with Mr. Mesica, Mr. Stafford believed in the integrity of JKD. The relationship between Stafford Jewelers and Mr. Stafford and the principals of JKD

was essentially a business relationship. Yet, Mr. Stafford held JKD in high esteem, believing it to be a diamantaire actually worthy of a DTC sight license. In fact, when Mr. Stafford heard of the GIA "bribe-for-cert-upgrade" scandal, he was deeply concerned that JKD's reputation, if indeed involved, might be tarnished. He actually encouraged JKD to "go on the offensive" and even went so far as to draft a letter for JKD for publication in trade journals. The letter, drafted by Mr. Stafford, denied any involvement by JKD in the scandal and reiterated JKD's "honesty" and "integrity" in the business. Mr. Stafford e-mailed the letter to Mr. Mesica. When he heard nothing in response, Mr. Stafford inquired about the status of the letter; he was advised that JKD's attorneys did not recommend the letter be published.

#### **THE "PINK DIAMOND"**

14. Sometime in 2005, Mr. Stafford acquired a 5.56 natural, "fancy", "intense" pink diamond (hereinafter the "Pink Diamond"). Mr. Stafford valued the Pink Diamond at between \$1,500,000 and \$2,000,000.00. After purchasing the Pink Diamond, Mr. Stafford placed it in his personal safe at Stafford's Jewelers.

15. In November and December 2005, Stafford's Jewelers contacted Mr. Mesica, his friend and trusted business colleague, to discuss the Pink Diamond and JKD's potential interest in purchasing it. Mr. Mesica indicated that JKD would be interested in purchasing the Pink Diamond, but that JKD would need to see the Pink Diamond first. At all times relevant to this matter, Mr. Mesica acted as the agent for JKD in New York.

16. On or about February 10, 2006, Mr. Stafford and Mr. Mesica discussed the Pink Diamond. It was determined that Stafford's Jewelers, due to its location in Miami Township, Centerville, Ohio, should ship the Pink Diamond to JKD in New York so that JKD could either

(1) evaluate and purchase the Pink Diamond or (2) if not interested in buying the Pink Diamond, certify it for Stafford's Jewelers and return it.

17. In addition to sending the Pink Diamond to JKD in New York, it was determined that Stafford's Jewelers would also send a necklace. The necklace had previously been purchased from JKD by Stafford's Jewelers. The purpose of sending the necklace was to have JKD's New York office re-rhodiumed it. The value of this necklace was approximately \$300,000.00 to \$400,000.00. After re-rhodiuming the necklace, JKD was to send the necklace to JKG West.

18. The Pink Diamond remained in Mr. Stafford's possession at Stafford's Jewelers until on or about February 13, 2006. At that time, he transferred ownership of the Pink Diamond from himself personally to Stafford's Jewelers. On or about February 13, 2006, at approximately 9:00 A.M., Stafford's Jewelers made a call for a Brink's pick-up. The two items to be picked-up were the Pink Diamond and the necklace. Mr. Stafford alerted Mr. Mesica that he was shipping the Pink Diamond and necklace to JKD in New York.

19. Stafford's Jewelers placed the Pink Diamond into parcel paper and a "memo" was stapled to the parcel paper (a "memo" is a memorandum typical in the industry which is contained in the shipment of diamonds used to describe what is in the package). The "memo" was addressed to JKD's New York office. It read in pertinent part: "5.56ct Natural fancy intense Pink . . . Cushion /VS2 . . . Dear Saul, Please give . . . to Mr. Klein and see if he has any interest in buying . . . is not certified . . . but . . . will grade out Fancy intense [sic] Pink (no modifiers) VS2 . . . have not shown this stone to anyone else . . . has not been 'shopped around' . . . if . . . no interest, please send . . . back Brinks insured for \$1,500,000.00 or just send back a check (hopefully) . . ."

20. The Pink Diamond was then placed into a legal size envelope and put into a clear plastic letter pouch supplied by United Parcel Service ("UPS"). This letter pouch was then attached to the inside of a standard UPS box. The box was filled with large plastic bubble packing and sealed with clear plastic packing tape. The box was then placed inside a Brinks' shipping bag and sealed with a Brinks' numbered plastic seal tag.

21. Brinks arrived at Stafford's Jewelers on or about February 13, 2006, at approximately 3:00 P.M. to pick-up the two packages – that being the package containing the Pink Diamond and the package containing the necklace to be re-rhodiumed. These two shipments were entered into Stafford's Jewelers' shipping logs.

22. Stafford's Jewelers purchased \$1,500,000.00 in shipping insurance through Brinks to insure the Pink Diamond.

23. The following day, on or about February 14, 2006, at approximately 12:15 P.M., Mr. Mesica called Mr. Stafford at Stafford's Jewelers in Miami Township, Centerville, Ohio to inform him that the Pink Diamond package arrived but there was no Pink Diamond.

24. Mr. Stafford was shocked. He questioned Mr. Mesica regarding the condition of the Brinks' shipping bag and other details, but Mr. Mesica could not provide the requested details and suggested that Mr. Stafford call an individual known as "Heim" – the individual in charge of shipping and receiving at JKD's New York office. Mr. Mesica provided Mr. Stafford with "Heim's" telephone number and Mr. Stafford immediately called Heim who told Mr. Stafford that the box arrived opened and was empty. Mr. Stafford expressed disbelief over how this could have happened.

25. Mr. Stafford frantically told "Heim" to look at the box to determine how it had been opened. Initially "Heim" stated that the Brinks' shipping bag had not been tampered. Mr. Stafford insisted to "Heim" that the box could not have been opened if the bag was not tampered and Mr. Stafford then demanded that "Heim" investigate further into the condition of the Brinks' shipping bag.

26. Ultimately, after several more minutes of questioning "Heim," "Heim" completely changed his story and said that the Brinks' shipping bag did reveal signs of tampering. Mr. Stafford could not understand how "Heim" initially missed the obvious signs of tampering.

27. Mr. Stafford, who was now more upset, insisted that "Heim" call the police as well as show the bag to Mr. Monty Klein, President of JKD. "Heim" advised Mr. Stafford that Mr. Klein had already been notified of the situation and that Mr. Klein had discussed the situation with Brinks. "Heim" assured Mr. Stafford that Brinks would be in contact with him to address the situation and the next steps to be taken.

28. "Heim" also told Mr. Stafford that JKD's New York office video records all activity in its shipping room and that JKD had nothing to do with the missing Pink Diamond.

29. Mr. Stafford then called Mr. Mesica to alert him to what he had just learned about the incident from "Heim." Mr. Mesica told Mr. Stafford that given the high value of the Pink Diamond, he assumed the New York Police Department had been notified as well as the New York office of the FBI and that JKD would get to the bottom of this.

30. By 1:15 P.M. on the same day, Mr. Stafford still had not heard from Brinks and became concerned that JKD did not contact Brinks as initially reported by "Heim." Discouraged by the

unfolding events, Mr. Stafford called Brinks instead of waiting. Brinks informed him that JKD's New York office had signed for the package and Brinks advised that it would conduct its own internal investigation. Brinks further noted that JKD's signature was an indication on JKD's part that nothing was wrong with the bag when it arrived at JKD in New York.

31. Brinks' investigation spanned over thirty (30) days and concluded on March 17, 2006, with a letter to Stafford's Jewelers denying any responsibility for the loss of the Pink Diamond. Brinks reported that the package was picked up sealed from Stafford's Jewelers, placed in a sealed container for transportation to New York by UPS, and that upon arriving in New York, the container and package were both still sealed. In conclusion, Brinks stated, "our investigation has revealed no evidence of indication that the shipment was tampered with while in our possession." Mr. Stafford was left with the disconcerting conclusion that his trust in JKD was woefully misplaced.

#### **STAFFORD JEWELERS & JEWELERS MUTUAL**

32. Mr. Stafford kept calling JKD's New York office during the month of February 2006, about the events surrounding the day Stafford's Jewelers' Pink Diamond went missing, but JKD refused further communication, asserting that the problem was between Mr. Stafford and Brinks.

33. Jewelers Mutual issued to Stafford's Jewelers a Comprehensive Jewelers Block Policy, number 912223 (the "Policy") covering the period from September 19, 2005 to September 15, 2006.

34. A true and correct copy of the Policy is attached hereto as Exhibit A.

35. On May 15, 2006 Stafford's Jewelers submitted to Jewelers Mutual a Sworn Statement in Proof of Loss as it related to the Pink Diamond.

36. On June 29, 2006, Jewelers Mutual denied coverage to Stafford's Jewelers for the loss of the Pink Diamond.

**COUNT ONE AGAINST DEFENDANT JULIUS KLEIN DIAMONDS LLC  
NEGLIGENCE**

37. Plaintiffs, Stafford's Jewelers and John Stafford, restate and reallege the allegations in the Complaint at paragraphs 1 through 36 as though fully restated herein.

38. Defendant JKD had a duty to handle Stafford's Jeweler's Pink Diamond with the degree of care exercised by a DTC sight holder.

39. Defendant JKD breached that duty.

40. As a result of this breach, JKD proximately caused the loss of the Pink Diamond.

41. JKD's actions have caused Plaintiffs, Stafford's Jewelers and John Stafford, to suffer actual damages in an amount to be determined at trial, but believed to be in excess of \$25,000.00.

42. JKD's actions against Plaintiffs, Stafford's Jewelers and John Stafford, were intentional, knowing, malicious, reckless, and in conscious disregard of Plaintiffs, Stafford's Jewelers' and John Stafford's, rights. Accordingly, Plaintiffs, Stafford's Jewelers and John Stafford, are entitled to recover punitive damages in an amount to be determined at trial, but in excess of \$25,000.00, as well as attorneys' fees and costs and pre and post judgment interest.

**COUNT TWO AGAINST DEFENDANT JULIUS KLEIN DIAMONDS LLC  
BREACH OF CONTRACT**

43. Stafford's Jewelers and John Stafford, restate and reallege the allegations in the Complaint at paragraphs 1 through 42 as though fully restated herein.

44. Stafford's Jewelers entered into a contract with JKD when it shipped the Pink Diamond to New York for JDK to either purchase or certify.

45. JKD breached said contract by failing to purchase or certify and, if certified, return the Pink Diamond to its rightful owner, Stafford's Jewelers.

46. JKD's breach of contract has caused Plaintiffs, Stafford's Jewelers and John Stafford, to suffer actual damages in an amount to be determined at trial, but believed to be in excess of \$25,000.00.

47. JKD's actions against Plaintiffs, Stafford's Jewelers and John Stafford, were intentional, knowing, malicious, reckless, and in conscious disregard of Plaintiffs, Stafford's Jewelers' and John Stafford's, rights. Accordingly, Plaintiffs, Stafford's Jewelers and John Stafford, are entitled to recover punitive damages in an amount to be determined at trial, but in excess of \$25,000.00, as well as attorneys' fees and costs and pre and post judgment interest.

**COUNT THREE AGAINST DEFENDANT JULIUS KLEIN DIAMONDS LLC  
UNJUST ENRICHMENT**

48. Plaintiffs, Stafford's Jewelers and John Stafford, restate and reallege the allegations in the Complaint at paragraphs 1 through 47 as though fully restated herein.

49. JKD has wrongfully misappropriated and unjustly retained the Pink Diamond without compensating Plaintiff Stafford's Jewelers.

50. JKD's actions have caused Plaintiffs, Stafford's Jewelers and John Stafford, to suffer actual damages in an amount to be determined at trial, but believed to be in excess of \$25,000.00.

51. JKD's actions against Plaintiffs, Stafford's Jewelers and John Stafford, were intentional, knowing, malicious, reckless, and in conscious disregard of Plaintiffs, Stafford's Jewelers' and John Stafford's, rights. Accordingly, Plaintiffs, Stafford's Jewelers and John Stafford, are entitled to recover punitive damages in an amount to be determined at trial, but in excess of \$25,000.00, as well as attorneys' fees and costs and pre and post judgment interest.

**COUNT FOUR AGAINST DEFENDANT JULIUS KLEIN DIAMONDS LLC  
CONVERSION**

52. Plaintiffs, Stafford's Jewelers and John Stafford, restate and reallege the allegations in the Complaint at paragraph 1 through 51 as though fully restated herein.

53. As a result of the actions described herein, JKD wrongfully, maliciously, and willfully converted and executed dominion and control over the Pink Diamond.

54. JKD's actions are inconsistent with Stafford Jewelers' rights with respect to the Pink Diamond.

55. JKD is not entitled to retain any value or consideration, monetary or otherwise, obtained or flowing from their wrongful retention or use the Pink Diamond.

56. JKD's actions have caused Plaintiffs, Stafford's Jewelers and John Stafford, to suffer actual damages in an amount to be determined at trial, but believed to be in excess of \$25,000.00.

57. JKD's actions against Plaintiffs, Stafford's Jewelers and John Stafford, were intentional, knowing, malicious, reckless, and in conscious disregard of Plaintiffs, Stafford's Jewelers' and John Stafford's, rights. Accordingly, Plaintiffs, Stafford's Jewelers and John Stafford, are entitled to recover punitive damages in an amount to be determined at trial, but in excess of \$25,000.00, as well as attorneys' fees and costs and pre and post judgment interest.

**COUNT FIVE AGAINST DEFENDANT JULIUS KLEIN DIAMONDS LLC  
CIVIL LIABILITY FOR CRIMINAL ACTS**

58. Plaintiffs, Stafford's Jeweler and John Stafford, restate and reallege the allegations in the Complaint at paragraphs 1 through 57 as though fully restated herein.

59. JKD committed certain theft offenses as defined by Ohio Revised Code § 2913.01(A) when it stole the Pink Diamond.

60. Pursuant to Ohio Revised Code § 2307.60, JKD is civilly liable for its criminal acts.

61. JKD's actions have caused Plaintiffs, Stafford's Jewelers and John Stafford, to suffer actual damages in an amount to be determined at trial, but believed to be in excess of \$25,000.00.

62. JKD's actions against Plaintiffs, Stafford's Jewelers and John Stafford, were intentional, knowing, malicious, reckless, and in conscious disregard of Plaintiffs, Stafford's Jewelers' and John Stafford's, rights. Accordingly, Plaintiffs, Stafford's Jewelers and John Stafford, are

entitled to recover punitive damages in an amount to be determined at trial, but in excess of \$25,000.00, as well as attorneys' fees and costs and pre and post judgment interest.

**COUNT SIX AGAINST DEFENDANT JULIUS KLEIN DIAMONDS LLC  
FRAUD**

63. Plaintiffs, Stafford's Jewelers and John Stafford, restate and reallege the allegations in the Complaint at paragraph 1 through 62 as though fully restated herein.

64. JKD made false representations to Plaintiffs, Stafford's Jewelers and John Stafford concerning the events surrounding the loss of the Pink Diamond, specifically through denials made by "Heim" on February 13, 2006 that JKD had nothing to do with the loss of the Pink Diamond.

65. JKD knew the falsity of these representations at the time they were made.

66. JKD made these false representations with the intent those Plaintiffs, Stafford's Jewelers and Mr. Stafford, would rely upon them.

67. Plaintiffs, Stafford's Jewelers and John Stafford, rightly relied upon those misrepresentations to their detriment.

68. JKD's actions have caused Plaintiffs, Stafford's Jewelers and John Stafford, to suffer actual damages in an amount to be determined at trial, but believed to be in excess of \$25,000.00.

69. JKD's actions against Plaintiffs, Stafford's Jewelers and John Stafford, were intentional, knowing, malicious, reckless, and in conscious disregard of Plaintiffs, Stafford's Jewelers' and John Stafford's, rights. Accordingly, Plaintiffs, Stafford's Jewelers and John Stafford, are

entitled to recover punitive damages in an amount to be determined at trial, but in excess of \$25,000.00, as well as attorneys' fees and costs and pre and post judgment interest.

**COUNT SEVEN AGAINST DEFENDANT JULIUS KLEIN DIAMONDS LLC  
REPLEVIN**

70. Plaintiffs, Stafford's Jewelers and John Stafford, restate and reallege the allegations in the Complaint at paragraph 1 through 69 as though fully restated herein.

71. The Pink Diamond rightfully belongs to Stafford's Jewelers.

72. Stafford's Jewelers is entitled to the possession of the Pink Diamond.

73. JKD has wrongfully detained the Pink Diamond.

74. Pursuant to Chapter 2737 of the Ohio Revised Code, the Pink diamond, if still in the possession of Defendant JKD, must be returned to Stafford's Jewelers.

**COUNT EIGHT AGAINST DEFENDANT JEWELERS MUTUAL  
DECLARATORY JUDGMENT**

75. Plaintiffs, Stafford's Jewelers and John Stafford restate, and reallege the allegations in the Complaint at paragraph 1 through 74 as though fully restated herein.

76. Jewelers Mutual has denied coverage for the claim of loss of the Pink Diamond. The claim was made pursuant to the Policy. By doing so, Jewelers Mutual has failed to honor its obligation to pay for losses incurred by Plaintiff Stafford's Jewelers as required by the Policy.

77. Plaintiff, Stafford's Jewelers, has complied with all applicable terms and conditions of the Policy.

78. The Pink Diamond loss involves claims and damages covered by the Policy. Accordingly, Plaintiff, Stafford's Jewelers, is entitled to payment for damages as provided in the Policy.

79. There is an actual and justiciable controversy between Stafford's Jewelers and Jewelers Mutual concerning their respective rights and obligations under the Policy.

80. Pursuant to R.C. Chapter 2721 and Civ. R. 57, Plaintiff, Stafford's Jewelers, respectfully request this Court declare that Jewelers Mutual is obligated to provide coverage under the Policy to Stafford's Jewelers for the loss of the Pink Diamond.

**COUNT NINE AGAINST DEFENDANT JEWELERS MUTUAL  
BREACH OF CONTRACT**

81. Plaintiffs, Stafford's Jewelers and John Stafford, restate and reallege the allegations in the Complaint at paragraph 1 through 80 as though fully restated herein.

82. Plaintiff, Stafford's Jewelers, is a named insured under the Policy. In exchange for premium payments, Jewelers Mutual agreed to reimburse Plaintiff, Stafford's Jewelers, for certain losses up to certain coverage limits. Jewelers Mutual is therefore obligated to reimburse Plaintiff, Stafford's Jewelers, for the Pink Diamond in an amount contemplated under the Policy.

83. Jewelers Mutual has breached the Policy by refusing to reimburse Plaintiff, Stafford's Jewelers, for the loss of the Pink Diamond. This breach has deprived Plaintiff, Stafford's Jewelers, of the benefits of the insurance coverage purchased.

84. As a result of Jewelers Mutual's repudiation of its contractual obligations under the Policy, Plaintiff, Stafford's Jewelers, has suffered the loss of monies owed to it under the terms of the Policy.

85. The total amount of damages resulting from Jewelers Mutual's breach exceeds \$25,000.

**PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiffs, Stafford's Jewelers and John Stafford, hereby demand judgment in its favor and against Defendant, JKD, and Defendant, Jewelers Mutual, as follows:

- a. For Count One (Negligence) that Plaintiffs, Stafford's Jewelers and John Stafford, be awarded by Defendant JKD: compensatory damages and special damages in an amount in excess of \$25,000.00 as will be further proved at trial; punitive and/or exemplary damages, in a just and proper amount determined at trial, but reasonably believed to substantially exceed \$25,000.00; pre and post judgment interest; attorneys' fees and costs;
- b. For Count Two (Breach of Contract) that Plaintiffs, Stafford's Jewelers and John Stafford, be awarded by Defendant JKD: compensatory damages and special damages in an amount in excess of \$25,000.00 as will be further proved at trial; punitive and/or exemplary damages, in a just and proper amount determined at trial, but reasonably believed to substantially exceed \$25,000.00; pre and post judgment interest; attorneys' fees and costs;
- c. For Count Three (Unjust Enrichment) that Plaintiffs, Stafford's Jewelers and John Stafford, be awarded by Defendant JKD: compensatory damages and special damages in an amount in excess of \$25,000.00 as will be further proved at trial; punitive and/or exemplary damages, in a just and proper amount determined at trial, but reasonably

- believed to substantially exceed \$25,000.00; pre and post judgment interest; attorneys' fees and costs;
- d. For Count Four (Conversion) that Plaintiffs, Stafford's Jewelers and John Stafford, be awarded by Defendant JKD: compensatory damages and special damages in an amount in excess of \$25,000.00 as will be further proved at trial; punitive and/or exemplary damages, in a just and proper amount determined at trial, but reasonably believed to substantially exceed \$25,000.00; pre and post judgment interest; attorneys' fees and costs;
- e. For Count Five (Civil Liability for Criminal Acts) that Plaintiffs, Stafford's Jewelers and John Stafford, be awarded by Defendant JKD: compensatory damages and special damages in an amount in excess of \$25,000.00 as will be further proved at trial; punitive and/or exemplary damages, in a just and proper amount determined at trial, but reasonably believed to substantially exceed \$25,000.00; pre and post judgment interest; attorneys' fees and costs;
- f. For Count Six (Fraud) that Plaintiffs, Stafford's Jewelers and John Stafford, be awarded by Defendant JKD: compensatory damages and special damages in an amount in excess of \$25,000.00 as will be further proved at trial; punitive and/or exemplary damages, in a just and proper amount determined at trial, but reasonably believed to substantially exceed \$25,000.00; pre and post judgment interest; attorneys' fees and costs;
- g. For Count Seven (Replevin) that Defendant JKD return the Pink Diamond to Stafford's Jewelers in the exact condition as when shipped and that Plaintiffs, Stafford's Jewelers and John Stafford, be awarded by Defendant JKD: punitive and/or exemplary damages,

in a just and proper amount determined at trial, but reasonably believed to substantially exceed \$25,000.00; pre and post judgment interest; attorneys' fees and costs;

- h. Count Seven (Declaratory Judgment) that Defendant Jewelers Mutual pay an amount to be proved at trial in excess of \$25,000.00 for its denial of coverage;
- i. Count Eight (Breach of Contract) that Defendant Jewelers Mutual provide coverage, in an amount to be proved at trial in excess of \$25,000.00, pursuant to the terms of the Policy for the loss of the Pink Diamond; and

j. That Plaintiffs, Stafford's Jewelers and John Stafford, be granted such other and further relief as the Court deems appropriate.

Respectfully submitted,

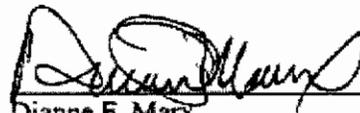


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d/b/a Stafford's Jewelers

**JURY DEMAND**

Plaintiffs demand a jury trial on all issues of liability and damages raised in this  
Complaint.



Dianne F. Marx