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6 **UNITED STATES DISTRICT COURT**  
7 **DISTRICT OF NEVADA**

8 THEODORE TRAPP, on his own behalf and  
9 on behalf of all others similarly situated,

10 Plaintiff,

11 v.

Case No.: 2:09-cv-00995-LDG-PAL

**REPLY IN SUPPORT OF DEFENDANT  
D.2801 WESTWOOD, INC. D/B/A  
TREASURES' MOTION TO DISMISS  
UNDER RULE 12(b)(6) OR FOR MORE  
DEFINITE STATEMENT UNDER RULE  
12(e)**

12 BIG POPPA'S, LLC, A Nevada limited  
13 liability company d/b/a BADDA BING  
14 MEN'S CLUB; SKY TOP VENDING, INC.,  
15 a Nevada Corporation d/b/a CAN CAN  
16 ROOM; LA FUENTE, INC., a Nevada  
17 corporation d/b/a CHEETAH's; C.P.FOOD  
18 AND BEVERAGE, INC., a Nevada  
19 corporation d/b/a CLUB PARADISE; DÉJÀ  
20 VU SHOWGIRLS OF LAS VEGAS, LLC, a  
21 Nevada limited liability company d/b/a DÉJÀ  
22 VU SHOWGIRLS; PALOMINO CLUB,  
23 INC.; SHAC, LLC, a Nevada limited liability  
24 company d/b/a SAPPHIRE; K-KEL, INC., a  
25 Nevada corporation d/b/a SPEARMINT  
26 RHINO; D.2801 WESTWOOD, INC., a  
27 Nevada corporation d/b/a TREASURES;  
28 LITTLE DARLINGS OF LAS VEGAS, LLC,  
a Nevada limited liability company d/b/a  
LITTLE DARLINGS; O.G. ELIADES, A.D.,  
LLC, a Nevada limited liability company d/b/a  
OLYMPIC GARDENS; LAS VEGAS  
ENTERTAINMENT, LLC, a Nevada limited  
liability company d/b/a LARRY FLYNT's  
HUSTLER CLUB; MICHAEL A. SALTMAN  
d/b/a MINXX; RICK'S LAS VEGAS; FRIAS  
MANAGEMENT, LLC, a Nevada limited  
liability company d/b/a ACE CAB  
COMPANY and A-NORTH LAS VEGAS  
CAB; WESTERN CAB COMPANY, a  
Nevada corporation d/b/a WESTERN CAB

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1 COMPANY and WESTERN LIMOUSINE,  
2 NEVADA CHECKER CAB  
3 CORPORATION, a Nevada corporation d/b/a  
4 CHECKER CAB COMPANY;; NEVADA  
5 STAR CABCORPORATION, a Nevada  
6 corporation d/b/a STAR CAB COMPANY;  
7 NEVADA YELLOW CAB CORPORATION,  
8 a Nevada corporation d/b/a YELLOW CAB  
9 COMPANY; LUCKY CAB COMPANY OF  
10 NEVADA, a Nevada corporation d/b/a  
11 LUCKY TRANS; SUN CAB, INC., a Nevada  
12 limited liability company d/b/a CLS  
13 TRANSPORATION LAS VEGAS; ON  
14 DEMAND SEDAN SERVICES, LLC, a  
15 Nevada limited liability company d/b/a ODS  
16 LIMOUSINE and ODS CHAUFFEURED  
17 TRANSPORTATION; BLS LIMOUSINE  
18 SERVICE OF LAS VEGAS, INC., a Nevada  
19 corporation d/b/a BLS LIMOUSINE  
20 SERVICE OF LAS VEGAS; DESERT CAB,  
21 INC., a Nevada corporation d/b/a DESERT  
22 CAB COMPANY and ODYSSEY  
23 LIMOUSINE; BELL TRANS A NEVADA  
24 CORPORATION, a Nevada corporation d/b/a  
25 BELL TRANS; TONY CHONG, an  
26 individual; and DOE EMPLOYEES 1-1000;

Defendants.

18 Defendant D.2801 Westwood, Inc., d/b/a Treasures (“Treasures”), files this Reply in  
19 support of its motion to dismiss the Complaint with prejudice pursuant to Fed. R. Civ. P. 8 and  
20 12(b)(6) on the grounds that it fails to state a claim against Treasures upon which relief can be  
21 granted, or, in the alternative, for a more definite statement pursuant to Fed. R. Civ. P. 12(e).

22 Dated October 23, 2009.

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/s/ Ross C. Goodman

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*Attorneys for Defendant  
D.2801 Westwood, Inc. d/b/a Treasures*

MEMORANDUM OF POINTS AND AUTHORITIES

1  
2  
3 Plaintiff attempts to save dismissal of the Complaint by relying on the juridical link  
4 doctrine in *LaMar v. H & B Novelty & Loan Co.* 489 F.2d 461, 464 (9<sup>th</sup> Cir. 1973). *See,*  
5 Plaintiff's Response in Opposition (Dkt. 204) at 3. In *La Mar*, the court indicated the juridical  
6 link doctrine was an exception to the general principle that "a plaintiff who has no cause of  
7 action against the defendant can not 'fairly and adequately protect the interests' of those who do  
8 have such cases of action." *See, LaMar*, 489 F.2d at 466. The court explained that this general  
9 principle does not apply when "all defendants are juridically related in a manner that suggests a  
10 single resolution of the dispute would be expeditious." *Id.* However, standing was assumed in  
11 *La Mar*, and the juridical link doctrine was used to determine the typicality and adequate  
12 representation requirements of Federal Civil Rule 23, which governs class action lawsuits in  
13 federal courts. *Id.* at 464 (adding "plaintiffs here are not entitled to bring a class action against  
14 defendants with whom they had no dealing"). Specifically, "the juridical link doctrine has no  
15 bearing on the issue of standing." *Matte v. Sunshine Mobile Homes, Inc.*, 270 F.Supp.2d 805, 822  
16 (W.D.La.2003) (stating that the juridical link doctrine is relevant not to standing but to class  
17 certification in the sense that it provides an "exception to the Rule 23(a) requirement of  
18 'typicality' and/or 'adequacy of representation' in class actions against multiple defendants").  
19  
20

21 As the United States Supreme Court has noted, "[t]hat a suit may be a class action ... adds  
22 nothing to the question of standing, for even named plaintiffs who represent a class 'must allege  
23 and show that they personally have been injured, not that injury has been suffered by other,  
24 unidentified members of the class to which they belong and which they purport to represent.' "  
25 *Simon v. E. Kentucky Welfare Rights Org.*, 426 U.S. 26, 40 n. 20, 96 S.Ct. 1917, 48 L.Ed.2d 450  
26 (1976) (quoting *Warth v. Seldin*, 422 U.S. 490, 502, 95 S.Ct. 2197, 45 L.Ed.2d 343 (1975)).  
27  
28 Moreover, even though a few courts have applied the juridical link doctrine to the issue of

1 standing, that approach is incorrect because it was intended to be applied only in the context of  
2 class certification. See, *In re Eaton Vance Corp. Sec. Litig.*, 220 F.R.D. 162, 170-71  
3 (D.Mass.2004) (explaining that juridical link doctrine "is better used to address Rule 23 issues,  
4 rather than in the Court's analysis of Article III standing"). Accordingly, the juridical link  
5 doctrine does not provide Plaintiff with standing to sue Treasures because of stating a claim  
6 against Spearmint Rhino.  
7

8 Further, Plaintiff ignores his requirement under *Iqbal* to plead factual content sufficient  
9 enough to draw a reasonable inference that Treasures is somehow liable for the purported  
10 misrepresentations made by taxi and limousine drivers. Indeed, Plaintiff concedes that the  
11 Complaint does not allege any facts which would constitute a claim for relief against Treasures  
12 under Nevada's R.I.C.O. Statute or Deceptive Trade Practices Act. Even if there existed some  
13 factual content sufficient to draw an inference against Treasures, Plaintiff defends his failure to  
14 comply with the heightened pleading requirements under Fed. R. Civ. P. 9(b) for allegations  
15 sounding in fraud by claiming that the true nature of the Complaint deals with the taking of  
16 property. Contrary to this disingenuous claims, Plaintiff consistently alleges throughout the  
17 Complaint that unknown drivers *fraudulently and misleadingly* engaged in the diversion of  
18 customers. *See*, Compl. ¶ 4 (emphasis added); *see also* Compl. ¶ 5 ("drivers routinely falsely tell  
19 their customers"); Compl. ¶ 5 ("deceive or attempt to deceive any passenger from his intended  
20 destination"); Compl. ¶ 48 ("defendant driver will attempt to dive customers by knowingly  
21 making false representation regarding the quality of service"); Compl. ¶ 66 ( Plaintiff was  
22 "mislead into believing" that his chosen destination was undesirable); Compl. ¶ 88 (the driver  
23 defendant through "false pretense, knowingly and designedly, and with the intent to cheat or  
24 defraud" the customer); Compl. ¶ 89 (these acts all shared the common methods of "fraud,  
25 deception and false pretense"); Compl. ¶90 ("the fraud perpetrated and the gains obtained");  
26 Compl. ¶ 90 ("the money was taken through fraud/deceit"); and Compl. ¶ 90 (a person who  
27 knowingly and designedly by any false pretenses obtains property with the intent to cheat or  
28 defraud the other person").

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The obvious point is that the taking of property was allegedly committed through *fraud, deception and false pretenses*, and, Plaintiff cannot, therefore, escape the heightened pleading requirements. The purpose of the requirement is even more evident given Plaintiff's failure to allege two predicate acts against Treasures, as required under Nevada's Civil R.I.C.O. statutes, much less a single cab ride.

For these reasons, Plaintiff fails to state a claims against Treasures, much less, any facts against Treasures, much less, plead factual content sufficient enough to draw a reasonable inference that Treasures is liable for the purported misrepresentations made by unknown taxi and limousine drivers.

Respectfully submitted this 23<sup>rd</sup> day of October, 2009.

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CERTIFICATE OF MAILING

I hereby certify that on the 26<sup>th</sup> day of October, 2009 the foregoing **REPLY IN SUPPORT OF DEFENDANT D.2801 WESTWOOD, INC. D/B/A TREASURES' MOTION TO DISMISS UNDER RULE 12(b)(6) OR FOR MORE DEFINITE STATEMENT UNER RULES 12(e)** was electronically served upon all attorneys of record in this matter.

/s/ Ross C. Goodman

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