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LEGAL FACTS ABOUT LAB REPORTS

Global Jewelry Claims Associates July 27, 2020

Legal Facts About Gem Lab Reports

Court rulings have defined lab reports as “hearsay evidence”

Gem Lab Reports! The international jewelry industry has developed an insatiable demand for lab reports. In fact, the industry cannot operate without them. Dealers claim they cannot sell a diamond without them. Colored gemstone dealers tout their inventory to be “certified” by one lab or another. But what is the real story behind the big gemological labs turning out these “reports”? As it turns out, the story is not pretty. In fact, it’s gem lab report fantasy. It is time that we tell the Legal Facts About Gem Lab Reports.

In a past issue of National Jeweler, it was disclosed that the HRD Antwerp, perhaps the world’s most trusted authority in diamond grading, had to fire four of its diamond graders for an “unprofessional act” that had to do with bribery; selling higher diamond grades to big money

dealers. In the end, reports state that these graders went to jail. GIA diamond graders at the GIA New York trade lab were caught doing the same thing a few years ago, but with a much different outcome.

The problem with that case is that the GIA shielded the GIA employees responsible for the act. It has been reported that the graders responsible for the GIA bribery scandal are still grading diamonds for other labs, since the GIA refused to disclose the perpetrator's names, and took steps to thwart legal investigations of the matter. More recently, the GIA had to withdraw over 1000 grading reports done in their lab in India due to hacking of their system to alter grading reports. The bottom line is that we now have the two biggest names in diamond grading certificates experiencing the common problem of a growing lack of trust in their grading reports.

This presents two important questions: (1) What proof do the labs offer that these are not a wide spread problems with their certificates? (2) What guarantee do the major labs provide that the information contained in their reports is accurate?

The answer to both questions.....and read this carefully: **None.** Consumers have no guarantee of the accuracy of any grading report from any of the major labs, including the GIA, HRD, IGI, EGL, et al. Why? Because there exists no enforceable uniform standards or oversight of the gem labs anywhere in the world. The gem labs operate a billion dollar industry in a legal void.

Case History and Evidence

There are two main issues that point to the problem that a major lab report is not worth the paper it is written on:

#1. No lab report offers any legal protection for buyers or sellers. This was demonstrated in the case of Direct Shopping Network -v- Robert James, Colored Stone Magazine, et.al. The AGTA GTC reports on Tibet andesine. In Art Garabedian's legal declaration he submitted AGTA GTC reports of Tibet andesine being natural and untreated as the basis of the claims by Direct Shopping Network that the gemstones they sold were natural and untreated. However, in the California District and Appeals court these lab reports were summarily dismissed as "hearsay" evidence and not allowed as evidence. Why? Because the people who signed the reports refused to appear in court to testify regarding the validity of the reports. This invoked the "hearsay" rule and the reports were disallowed.

Another case is that Hilou -v- Heritage Auctions. The GIA issued two diamond grading reports under the same report number and of the same diamond, but one report called the diamond natural in color, the other called it HPHT treated color. When legal actions ensued the GIA wrote a letter admitting their error, but the GIA refused to appear in court on behalf of their erroneous report.

#2. The lab reports offer no guarantee of accuracy, and claim no responsibility even in the case of errors, omissions and proven negligence. I quote from the back of the GIA reports:

“GIA and its employees and agents shall not be liable for any loss, damage or expense resulting from any error in or omission from this report or from the issuance of or use of this report or any inscription, even if the loss, damage or expense was caused by or resulted from the negligence or other fault of GIA or any of its employees”!

In other words:

If we make an error that causes damage, we are not responsible.

If we omit a fact that causes damage, we are not responsible.

If our staff is found to be negligent in doing their work,..we are not responsible.

This type of disclaimer is not limited to the GIA but also to every major lab world-wide. This is the state of our industry. On this basis are virtually all of the diamonds and colored gemstones of the world markets being sold to consumers with lab certificates.

Ten Things Consumers and Dealers Need to Know About Lab Reports

1. Lab reports do not cover you in the event of a lawsuit. Even if the report was in error, you will bear the cost and liability for damages caused by the lab's error.
2. In the event of a lawsuit regarding a claim you made based on a lab report, the labs will not show up in court to stand behind you. You are on your own.
3. The labs do not guarantee the accuracy of the information in their documents. In fact, they specifically state just the opposite. No lab guarantees the accuracy of their lab reports.
4. The labs cannot accurately identify the origin of colored gemstones to a legal standard.
5. Diamond graders in major labs have been caught selling higher grades on certificates.
6. It is common that diamonds from one lab will grade totally different as the same diamond in a different lab.
7. It is known that a diamond graded by one lab can be submitted to the same lab at a later date and get a different grade.
8. All diamond grades are subjective opinions.
9. If a gem lab report makes an error, the dealer or jeweler has to pay for it.
10. World-wide...there are no standards or oversight of any kind by any government or industry of any major gem lab. None.

It is unfortunate that the jewelry industry has abdicated it's responsibility to consumers and allowed these big gem labs to do the thinking for them, and then look the other way when these labs fail in their responsibility. How many of you could do your job and then issue your customer a disclaimer that you are not responsible for any errors in your work? The idea is absurd to the point of pure stupidity. And yet, this is exactly what is allowed from the world wide gem lab

organizations.

“We are not responsible if we make a mistake, even if it’s our own negligence.”

What a concept? What an industry these labs have built up? They created a situation where the industry has convinced consumers that they must have a lab report in order to be protected, and then these same labs slough off any responsibility to consumers for the accuracy of their reports.

Would you do business with someone who said they are not responsible for any errors or damages caused by their errors, even if they are negligent? Seriously? Would you do business with someone who put that disclaimer on all of their work? Your doctor? Your insurance agent? Your car dealer? Then why your jeweler or gem dealer?

Real professionals know their products.

Real professionals stand behind their work.

Real professionals take responsibility for the quality and accuracy of their work.

No major gem lab does any of these, and home town jewelers and the consumer have to pay for the lab’s lack of ethics and responsibility.

It is time this industry or the governments created some kind of uniform standards and oversight of the gem lab industry.

In fact, it is way past time!

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