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8 **In The First Judicial District Court of the State of Nevada**
9 **In and for Carson City**

10
11 JED MARGOLIN, an individual,
12 Plaintiff,

13 vs.

14 OPTIMA TECHNOLOGY CORPORATION,
a California corporation, OPTIMA
15 TECHNOLOGY CORPORATION, a Nevada
16 corporation, REZA ZANDIAN
aka GOLAMREZA ZANDIANJAZI
17 aka GHOLAM REZA ZANDIAN
aka REZA JAZI aka J. REZA JAZI
18 aka G. REZA JAZI aka GHONONREZA
ZANDIAN JAZI, an individual, DOE Companies
19 1-10, DOE Corporations 11-20, and DOE
20 Individuals 21-30,

21 Defendants.

Case No.: 090C00579 1B

Dept. No.: 1

**REPLY IN SUPPORT OF MOTION
FOR ORDER ALLOWING COSTS
AND NECESSARY
DISBURSEMENTS AND
MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT
THEREOF**

22 **I. Postjudgment Costs**
23

24 Zandian does not dispute Margolin is allowed postjudgment costs under NRS 18.160
25 and NRS 18.170. Zandian only requests that the Court reduce the photocopy charges from
26 \$0.25 to \$0.15 per page.¹ See Defendants' Motion to Retax and Settle Costs ("Opposition"),
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¹ Zandian does not dispute the Research, Witness Fees (Subpoenas) or Process service/courier fees.

1 filed 4/30/14, 3:4-15. Zandian looks to the “FedEx Office” in Carson City to demonstrate that
2 the rate of \$0.25 per page is too high. *Id.* (citing Affidavit of Jano Barnhurst). Zandian’s
3 counsel fails to mention what it charges for copies. Also, the FedEx Office is not a law firm
4 and is not a proper example for determining the reasonableness of copy charges in a civil
5 lawsuit.

6 The First Judicial District Court’s own Fee Schedule, which shows the Court charges
7 \$0.50 per page for copies, is a better exemplar of what reasonable copy charges should be in
8 this matter. *See* Declaration of Adam McMillen in Support of Reply (“McMillen Decl.”),
9 dated 5/12/14, Exhibit 1, filed herewith. The rate of \$0.25 per page is half of what the Court
10 charges for legal copies and is reasonable under the circumstances. Therefore, Margolin’s
11 copy charges should not be reduced and should be awarded in full.
12

13 II. Postjudgment Attorney’s Fees

14 Zandian believes “there is no applicable statute or rule and the parties did not enter into
15 an agreement which afforded attorney’s fees.” *See* Opposition at 3:18-22. However, as
16 demonstrated in the Motion for Order Allowing Costs and Necessary Disbursements, Margolin
17 should be awarded his postjudgment fees pursuant to the Deceptive Trade Practices statute.
18

19 a. NRS 598.0999(2) does allow an award of attorney’s fees

20 NRS 598.0999(2) states as follows:

21 Except as otherwise provided in NRS 598.0974, **in any action brought**
22 **pursuant to the provisions of NRS 598.0903 to 598.0999**, inclusive, if the
23 court finds that a person has willfully engaged in a deceptive trade practice, the
24 district attorney of any county in this State or the Attorney General **bringing**
25 **the action** may recover a civil penalty not to exceed \$5,000 for each violation.
The court **in any such action** may, in addition to any other relief or
reimbursement, award reasonable attorney’s fees and costs.

26 NRS 598.0999(2) (emphasis added).

27 The “provisions of NRS 598.0903 to 598.0999” encompasses the entire Deceptive
28 Trade Practices statute. The language, “any action brought pursuant to the provisions of NRS

1 598.0903 to 598.0999,” does not limit Deceptive Trade Practices actions to district attorneys
2 or the Attorney General. *See also Betsinger v. DR Horton, Inc.*, 232 P. 3d 433 (Nev. 2010) (an
3 example of a Deceptive Trade Practices action not brought by district attorney or Attorney
4 General). The only limitation in NRS 598.0999(2) relates to the district attorney’s and the
5 Attorney General being able to pursue the \$5,000 civil penalty. In contrast, the last sentence
6 of NRS 598.0999(2) stands alone and does not limit attorney fee awards to district attorneys or
7 the Attorney General and allows the Court, in any Deceptive Trade Practices action, to “award
8 reasonable attorney’s fees and costs.” NRS 598.0999(2).
9

10 Zandian’s argument that NRS 598.0999(2) does not permit an award of attorney’s fees
11 because it is limited to an action brought by the district attorney or the Attorney General is
12 clearly erroneous.

13 Since NRS 598.0999(2) does not exclude postjudgment attorney fees, Margolin’s
14 attorney’s fees should be awarded for having to incur fees enforcing the judgment on the
15 deceptive trade practices claim. *See Barney v. Mt. Rose Heating & Air Conditioning*, 124
16 Nev. 821, 825-6, 192 P.3d 730, 733-4 (2008) (mechanic lien statute did not expressly provide
17 for attorney fees incurred postjudgment, however, statute did not expressly exclude
18 postjudgment attorney fees from its purview and was liberally interpreted to allow
19 postjudgment attorney fees “so as to further the lien statutes’ purpose to ensure that contractors
20 are paid in whole for their work.”); *see also Rosen v. LegacyQuest*, A136985, 2014 WL
21 1372114 (Cal. Ct. App. Mar. 21, 2014) (judgment creditor, who had recovered statutory
22 attorney fees in connection with underlying judgment, authorized to recover attorney fees
23 incurred in enforcing underlying judgment under the statute authorizing recovery of judgment
24 creditor’s “reasonable and necessary costs of enforcing a judgment,” since the statute
25 authorizing the underlying attorney fee award established that the fee award was “otherwise
26 provided by law” within meaning of the fee statute) (an attorney fee award properly includes
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28

1 the reasonable fees incurred in seeking the fees); *see also Ketchum v. Moses* (2001) 24 Cal.4th
2 1122, 104 Cal.Rptr.2d 377, 17 P.3d 735 (judgment creditor entitled to fees incurred in
3 enforcing the right to mandatory fees under statute).

4 **b. Margolin's attorneys' fees are reasonable**

5 Without providing any foundation, Zandian claims Margolin's fees are inflated. *See*
6 *Opposition* at 5:11-6:12. Zandian's only stated basis for this argument is that "[t]his case has
7 been a series of default judgments and did not require years of legal work focused on a
8 specialty in intellectually property." *See id.* at 5:13-14.

9
10 Zandian ignores the fact that this matter is predicated upon Zandian's fraudulent
11 assignment of Margolin's intellectual property rights. While Zandian purposely avoided
12 appearing and litigating the claims at issue, the nature of this matter required specialized skill
13 and required a significant amount of time and attention by the attorneys involved.

14 The patent and deceptive trade practices issues, and the unique facts surrounding them,
15 involved careful consideration and research. Despite what Defense counsel says, patent and
16 deceptive trade practices litigation is a niche practice that requires a high degree of legal skill
17 and care in order to be performed properly and effectively. Each of these causes of action,
18 coupled with the unique facts of this matter, required thorough research and careful analysis.
19 Again, undersigned counsel billed at an hourly rate of \$300, which counsel contends is
20 reasonable for intellectual property litigation.

21
22 The postjudgment collection efforts have thus far included attempting to find Zandian's
23 collectible assets, including researching and investigating his property in Nevada and
24 California and moving for a debtor's examination. Considering Zandian's elusive behavior,
25 shell games, and elaborate financial arrangements with a multitude of companies and
26 individuals, Margolin has been forced to incur a significant amount of attorney's fees in
27 attempting to collect on the judgment. Tellingly, Zandian does not address these postjudgment
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1 collection issues in his Opposition.

2 Also, undersigned counsel is charging \$300 per-hour, which is more than reasonable.

3 According to all of the *Brunzell* factors, as outlined in the Motion, Margolin should be
4 awarded his postjudgment attorney's fees incurred in collecting on the judgment. *See Brunzell*
5 *v. Golden Gate National Bank*, 455 P.2d 31, 85 Nev. 345 (1969) and *Shuette v. Beazer Homes*
6 *Holdings Corp.*, 124 P. 3d 530, 121 Nev. 837 (2005).

7 **c. Margolin is entitled to his postjudgment fees not incurred on appeal**

8 Margolin concedes that he is not currently entitled to attorney's fees that are incurred
9 on appeal. *See Bd. of Gallery of History, Inc. v. Datecs Corp.*, 116 Nev. 286, 288, 994 P.2d
10 1149, 1150 (2000). However, as stated in the Motion and above, Margolin is entitled to his
11 postjudgment attorney's fees, including those incurred in executing on the judgment.
12

13 Therefore, Margolin has revised the fees he is requesting to reflect only those fees that have
14 been incurred, postjudgment, with regards to execution of the judgment, for a total of
15 \$31,247.50 in fees. *See* McMillen Decl., ¶¶ 4-5 and Exhibits 2-3.

16 **III. Postjudgment Interest**

17 Zandian argues it is premature for Margolin to request an order stating what the current
18 amount of accrued postjudgment interest is at this time. *See* Opposition at 6:4-5. Zandian
19 provides no legal basis for his position. Further, Zandian does not argue that Margolin is not
20 entitled to postjudgment interest.
21

22 “The purpose of post-judgment interest is to compensate the plaintiff for loss of the use
23 of the money awarded in the judgment ‘without regard to the elements of which that judgment
24 is composed.’” *Albert H. Wohlers & Co. v. Bartgis*, 114 Nev. 1249, 1269, 969 P.2d 949, 963
25 (1998) (citing *Ainsworth v. Combined Ins. Co.*, 105 Nev. 237, 244, 774 P.2d 1003, 1009
26 (1989); *see also Waddell v. L.V.R.V. Inc.*, 122 Nev. 15, 26, 125 P.3d 1160, 1167 (2006)
27 (“[t]he purpose of post-judgment interest is to compensate the plaintiff for loss of the use of
28

1 the money awarded in the judgment' without regard to the various elements that make up the
2 judgment.”).

3 Zandian has not provided a supersedeas bond to stop execution of the judgment and
4 Margolin is entitled to postjudgment interest until the judgment is satisfied. *See* NRCPC 62(d)
5 (by giving a supersedeas bond party may obtain stay of execution); *see also* NRS 17.130(2)
6 (interest accrues until judgment satisfied). Therefore, because the original judgment was
7 entered in Nevada and the judgment set the interest rate at the legal rate of interest according
8 to NRS 17.130, the interest rate is 5.25 percent per-annum, or \$215.15 per-day. Accordingly,
9 Margolin is owed simple interest at 5.25 percent or \$215.15 per- day from June 27, 2014, the
10 date of notice of entry of the judgment, through April 18, 2014. It is 296 days from June 27,
11 2013 to April 18, 2014. Multiplying 296 days by \$215.15 equals \$63,684.40 in accrued
12 interest.²

13
14 **IV. Conclusion**

15 Based upon the above, Margolin respectfully requests that the Motion for Order
16 Allowing Costs and Necessary Disbursements be granted in full.

17
18 **AFFIRMATION PURSUANT TO NRS 239B.030**

19 The undersigned does hereby affirm that the preceding document does not contain the
20 social security number of any person.

21 DATED: May 12, 2014.

WATSON ROUNDS

22 By: 

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Adam P. McMillen (10678)

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28 ² Interest continues to accrue until the judgment is satisfied. *See* NRS 17.130(2).

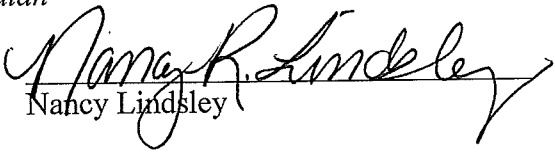
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CERTIFICATE OF SERVICE

Pursuant to NRCPC 5(b), I certify that I am an employee of Watson Rounds, and that on this date, I deposited for mailing, in a sealed envelope, with first-class postage prepaid, a true and correct copy of the foregoing document, **REPLY IN SUPPORT OF MOTION FOR ORDER ALLOWING COSTS AND NECESSARY DISBURSEMENTS AND MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT THEREOF**, addressed as follows:

Jason D. Woodbury
Severin A. Carlson
Kaempfer Crowell
510 West Fourth Street
Carson City, Nevada 89703
Attorneys for Defendant, Reza Zandian

Dated: May 12, 2014


Nancy Lindsley