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8 *Attorneys for Plaintiff Jed Margolin*

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11 **In The First Judicial District Court of the State of Nevada**  
12 **In and for Carson City**

13 JED MARGOLIN, an individual,

14 Plaintiff,

15 vs.

16 OPTIMA TECHNOLOGY CORPORATION,  
17 a California corporation, OPTIMA  
18 TECHNOLOGY CORPORATION, a Nevada  
19 corporation, REZA ZANDIAN  
20 aka GOLAMREZA ZANDIANJAZI  
21 aka GHOLAM REZA ZANDIAN  
22 aka REZA JAZI aka J. REZA JAZI  
23 aka G. REZA JAZI aka GHONONREZA  
24 ZANDIAN JAZI, an individual, DOE Companies  
25 1-10, DOE Corporations 11-20, and DOE  
26 Individuals 21-30,

27 Defendants.

**Case No.: 090C00579 1B**

**Dept. No.: 1**

**REPLY IN SUPPORT OF MOTION  
FOR WRIT OF EXECUTION**

28 Plaintiff Jed Margolin (“Plaintiff”), by and through his attorneys of record, hereby files the following Reply in Support of Motion for Writ of Execution:

**I. Default Judgment Amount**

The proposed writs of execution include \$900,000 in principal, \$83,761.25 in attorneys’ fees, \$488,545.89 in interest and \$25,021.96 in costs, making a total amount of \$1,497,329.10. *See* Exhibit 2 to Motion for Writ of Execution, filed 6/18/14. These numbers

1 were derived from the Application for Default Judgment. *See* Application for Default  
2 Judgment, filed 4/17/13. The applicable Default Judgment states the total amount of the  
3 judgment as \$1,495,775.74. *See* Default Judgment, dated 6/24/13. Defendant correctly points  
4 out the \$1,553.36 discrepancy between the total amount of the judgment indicated on the  
5 proposed writs of execution and the Default Judgment. Plaintiff agrees this is an inadvertent  
6 error. The proposed writs of execution have been changed to reflect the correct amount of the  
7 Default Judgment, \$1,495,775.74, entered on June 24, 2013. *See* Exhibit 1. Therefore, there  
8 is no discrepancy between the Default Judgment and the Writs of Execution and the Plaintiff's  
9 Motion should be granted.

## 10 **II. Post-Judgment Interest**

11 With regard to post-judgment interest, Defendant argues that interest should no longer  
12 accrue from the date of the judgment since interest has been awarded from June 27, 2013 to  
13 April 18, 2014. Defendant also argues that interest should not accrue from the date of the  
14 Default Judgment on fees and costs incurred after the Default Judgment.

15 The Order on Motion for Order Allowing Costs and Necessary Disbursements, dated  
16 May 19, 2014, expressly states that the post-judgment interest, fees and costs of \$96,287.07  
17 "shall be added to the judgment." Contrary to Defendants' arguments, Mr. Margolin is not  
18 asking the Court to award him interest upon interest. As such, without waiving any rights,  
19 Plaintiff has changed the writs of execution to calculate any post-judgment interest on the  
20 original Default Judgment from April 19, 2014 forward, without including the \$63,684.40 in  
21 interest that accrued from June 27, 2013 to April 18, 2014, and without including interest on  
22 the post-judgment fees and costs.<sup>1</sup> *See* Exhibit 1. Therefore, Defendant's arguments of  
23 "double dipping" and/or "retroactive calculation" of interest are moot and the Plaintiff's  
24 Motion should be granted.

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28 <sup>1</sup> Plaintiff is not abandoning his rights or interest in the Order on Motion for Order Allowing Costs and Necessary Disbursements, dated May 19, 2014, as that is a valid and binding order of this Court.

1                   **III.     The Court Has Jurisdiction To Grant The Motion**

2                   Defendant incorrectly argues that since he has appealed the denial of his motion to set  
3                   aside the Default Judgment and the order granting post-judgment fees, costs and interest, “all  
4                   aspects of this case are now pending before the Nevada Supreme Court” and this Court has  
5                   been divested of jurisdiction to grant Plaintiff’s Motion for Writ of Execution. In other words,  
6                   Defendant argues that there is an automatic stay in place as a result of his filing a notice of  
7                   appeal. Defendant cites *Foster v. Dingwall*, 126 Nev. Adv. 5, 228 P.3d 453, 454-55 (2010) to  
8                   support his position.

9                   However, there is no automatic stay with regards to enforcement of judgments, as the  
10                  *Foster* opinion states:

11                  This court has repeatedly held that the timely filing of a notice of appeal  
12                  “divests the district court of jurisdiction to act and vests jurisdiction in this  
13                  court.” *Mack–Manley v. Manley*, 122 Nev. 849, 855, 138 P.3d 525, 529 (2006)  
14                  (quoting *Rust v. Clark Cty. School District*, 103 Nev. 686, 688, 747 P.2d 1380,  
15                  1382 (1987)). We have further held that when an appeal is perfected, the district  
16                  court is divested of jurisdiction to revisit issues that are pending before this  
17                  court, **[but] the district court retains jurisdiction to enter orders on matters**  
18                  **that are collateral to and independent from the appealed order, i.e.,**  
19                  **matters that in no way affect the appeal's merits.** *Mack–Manley*, 122 Nev. at  
20                  855, 138 P.3d at 529–30.

21                  *Foster*, 126 Nev. Adv. Op. 5, 228 P.3d at 454-55 (emphasis added). Since enforcement of the  
22                  judgment is collateral to and independent from the appealed orders in this matter and in no  
23                  way affect the appeals’ merits, this Court retains jurisdiction to grant the motion for writ of  
24                  execution.

25                  Further, there is no such thing in the State of Nevada as an automatic stay of  
26                  enforcement of judgments by simply filing a notice of appeal. *See* NRCP 62(d) (“When an  
27                  appeal is taken the appellant by giving a supersedeas bond may obtain a stay subject to the  
28                  exceptions contained in subdivision (a) of this rule. The bond may be given at or after the time  
                    of filing the notice of appeal. The stay is effective when the supersedeas bond is filed.”); *see*  
                    also NRAP 8(a)(1)(A) (“A party must ordinarily move first in the district court for the

1 following relief: (A) a stay of the judgment or order of, or proceedings in, a district court  
2 pending appeal or resolution of a petition to the Supreme Court for an extraordinary writ; (B)  
3 approval of a supersedeas bond; or (C) an order suspending, modifying, restoring or granting  
4 an injunction while an appeal or original writ petition is pending.”); *State ex rel. Pub. Serv.*  
5 *Comm'n v. First Judicial Dist. Court, in & for Carson City*, 94 Nev. 42, 44, 574 P.2d 272, 273  
6 (1978) *abrogated by Nelson v. Heer*, 121 Nev. 832, 122 P.3d 1252 (2005) (“In the ordinary  
7 course of civil appeals, an appellant must comply with Rule 8(a) which provides that an  
8 application for stay of a judgment or order must typically be made to the district court. This  
9 application, as well, must concurrently comply with Rule 62(d) requiring a supersedeas  
10 bond.”); *Kantor v. Kantor*, 116 Nev. 886, 895, 8 P.3d 825, 830 (2000) (“where the issue is  
11 ‘entirely collateral to and independent from that part of the case taken up by appeal, and in no  
12 way affected the merits of the appeal [,]’ this court has allowed district courts to grant relief  
13 while the case was on appeal.”) (citing *Bongiovi v. Bongiovi*, 94 Nev. 321, 322, 579 P.2d  
14 1246, 1247 (1978)). In other words, the fact that an appeal has been filed from an order does  
15 not affect the enforceability of that order or to litigation of matters collateral to the appeal.  
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18 The way to stop the district court from enforcing existing orders is to post a  
19 supersedeas bond “in an amount that will permit full satisfaction of the judgment” and then  
20 request a stay of enforcement in accordance with NRCP 62(d). *McCulloch v. Jeakins*, 99 Nev.  
21 122, 659 P.2d 302 (1983); *see also State ex rel. Pub. Serv. Comm'n v. First Judicial Dist.*  
22 *Court, in & for Carson City*, 94 Nev. 42, 44, 574 P.2d 272, 273 (1978) *abrogated by Nelson v.*  
23 *Heer*, 121 Nev. 832, 122 P.3d 1252 (2005) (same). NRCP 62 clearly states that there is no  
24 stay of enforcement against a judgment on appeal unless a supersedeas bond is on file.  
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26 Accordingly, Defendant’s argument that this Court has been divested of jurisdiction to  
27 grant the motion for writ of execution is without merit and should be rejected.

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**IV. Conclusion**

Based on the foregoing and Plaintiff's Motion, Plaintiff hereby requests that the Court direct the Court Clerk to issue Writs of Execution, copies of which are attached hereto as Exhibit 1, so that the Washoe County Sheriff and the Clark County Constable/Sheriff may assist Plaintiff in executing the Default Judgment against Defendants. The original Writs of Execution are being submitted concurrently. If those properties are not enough to satisfy the Judgment, Plaintiff requests that the Court order and direct that any further appropriate writs of execution that are provided to the Court Clerk by Plaintiff also be issued, until the Judgment is satisfied.

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

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

DATED: July 17, 2014.

WATSON ROUNDS

By: \_\_\_\_\_  
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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 WRIT OF EXECUTION, 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: July \_\_, 2014

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Nancy Lindsley

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### INDEX OF EXHIBITS

<b>Exhibit No.</b>	<b>Description</b>	<b>Pages</b>
1	Writs of Execution (10–Washoe County; 2 Clark County)	37