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JED MARGOLIN

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8 IN THE FIRST JUDICIAL COURT OF THE STATE OF NEVADA  
9 IN AND FOR CARSON CITY

10  
11 JED MARGOLIN, an individual,

Case No.: 090C00579 1B

12 Plaintiff,

Dept. No.: 1

13 vs.

**MOTION FOR ORDER TO SHOW CAUSE  
REGARDING CONTEMPT  
AND EX PARTE MOTION FOR  
ORDER SHORTENING TIME**

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

21 Defendants.

22 Plaintiff Jed Margolin requests this Court issue an Order requiring Reza Zandian  
23 (“Zandian”) to show cause why he should not be held in contempt of court for having violated the  
24 Court’s November 6, 2015 Order Granting Plaintiff’s Motion for Debtor Examination and to  
25 Produce Documents. In that Order, Zandian was ordered to produce to Plaintiff’s counsel on or  
26 before December 21, 2015, certain documents related to Zandian’s financial affairs. No such  
27 documents have been produced.  
28

1           On January 7, 2016, this Court issued an Amended Order Granting Motion to Withdraw  
2 as Counsel. In pertinent part, that Order requires Zandian to comply with the November 6, 2015  
3 Order “as to appearing at a Judgment Debtor’s Examination at a specific location chosen by  
4 Plaintiff” in February 2016 and that Zandian’s failure to comply with the January 7, 2016 Order  
5 will result in the Court issuing an Order to Show Cause as to why Zandian should not be held in  
6 contempt. The January 7, 2016 Order did not address the document production of the November  
7 6, 2015 Order, presumably because the December 21, 2015 deadline had already passed.  
8 Nevertheless, the documents have not been produced and without the documents the debtor’s  
9 examination will be less effective.

11           In addition, the Nevada Supreme Court recently stated in its January 7, 2016 Order to  
12 Show Cause that “[n]o statute or court rule provides for an appeal from an order directing a  
13 debtor’s examination or to produce documents.” See Exhibit 1. As Zandian has not provided any  
14 justification for failing to produce the documents, Plaintiff requests Zandian be ordered to show  
15 cause as to why he should not be held in contempt of court.

17           NRS 1.210(3) states that “[t]he Court has the power to compel obedience to its orders.”  
18 NRS 22.010(3) provides that the “refusal to abide by a lawful order issued by the Court is  
19 contempt.” See also *Matter of Water Rights of Humboldt River*, 118 Nev. 901, 907, 59 P.3d  
20 1226, 1229–30 (2002) (noting that the district court generally has particular knowledge of  
21 whether contemptible conduct occurred and thus its decisions regarding contempt are given  
22 deference). “Courts have inherent power to enforce their decrees through civil contempt  
23 proceedings, and this power cannot be abridged by statute.” In re *Determination of Relative*  
24 *Rights of Claimants & Appropriators of Waters of Humboldt River Stream Sys. & Tributaries*,  
25 118 Nev. 901, 909, 59 P.3d 1226, 1231 (2002) (citing *Noble v. Noble*, 86 Nev. 459, 463, 470  
26  
27  
28

1 P.2d 430, 432 (1970). “A civil contempt order may be used to compensate the contemnor’s  
2 adversary for costs incurred because of the contempt.” Id. (citing State, Dep’t Indus. Rel. v.  
3 Albanese, 112 Nev. 851, 856, 919 P.2d 1067, 1070–71 (1996)).

4 “[D]istrict judges are afforded broad discretion in imposing sanctions” and the Nevada  
5 Supreme Court “will not reverse the particular sanctions imposed absent a showing of abuse of  
6 discretion.” State, Dep’t of Indus. Relations, Div. of Indus. Ins. Regulation v. Albanese, 112 Nev.  
7 851, 856, 919 P.2d 1067, 1070 (1996) (citing Young v. Johnny Ribeiro Building, 106 Nev. 88,  
8 92, 787 P.2d 777, 779 (1990)).

9 “Generally, an order for civil contempt must be grounded upon one’s disobedience of an  
10 order that spells out ‘the details of compliance in clear, specific and unambiguous terms so that  
11 such person will readily know exactly what duties or obligations are imposed on him.’”  
12 Southwest Gas Corp. v. Flintkote Co., 99 Nev. 127, 131, 659 P.2d 861, 864 (1983) (quoting Ex  
13 parte Slavin, 412 S.W.2d 43, 44 (Tex.1967)). “[A] sanction for ‘[c]ivil contempt is characterized  
14 by the court’s desire to ... compensate the contemnor’s adversary for the injuries which result  
15 from the noncompliance.’” Albanese, 112 Nev. at 856, 919 P.2d at 1071 (citing In re Crystal  
16 Palace Gambling Hall, Inc., 817 F.2d 1361 (9th Cir.1987) (citations omitted)). “However, an  
17 award to an opposing party is limited to that party’s actual loss.” United States v. United Mine  
18 Workers of America, 330 U.S. 258, 304, 67 S.Ct. 677, 701, 91 L.Ed. 884 (1947); Shuffler v.  
19 Heritage Bank, 720 F.2d 1141 (9th Cir.1983); Falstaff, 702 F.2d at 779.

20 Here, it is undisputed Zandian violated this Court’s November 6, 2015 Order by failing to  
21 produce the documents by December 21, 2015. There is no justification for Zandian’s failure.  
22 The full damages to Plaintiff from Zandian’s conduct and contempt for this Court cannot be  
23 measured.

1           Therefore, Plaintiff respectfully requests this Court issue an order to show cause as to why  
2 Zandian should not be held in contempt and that Zandian be ordered to produce the documents by  
3 a date certain. Plaintiff further requests the Court hold Zandian in contempt and award an  
4 appropriate compensatory sanction, both to coerce Zandian's compliance with the production  
5 Order as well as to compensate Plaintiff for his damages, including his attorney fees and costs  
6 associated with bringing the subject motion for debtor's examination and this motion for order to  
7 show cause regarding contempt. If the Court deems such an award of attorney fees and costs is  
8 warranted, Plaintiff will file a subsequent affidavit and cost memorandum.

9  
10           Pursuant to FJDCR 9(3), Plaintiff also requests this motion be decided on an order  
11 shortening time. This is requested as the debtor's examination has been duly ordered to occur in  
12 February of this year. It is hoped that this motion and any resulting order will secure Zandian's  
13 production of the requested documents. To this end, Plaintiff requests that any opposition to this  
14 motion be filed by Zandian on or before January 22, 2016, and that Plaintiff's reply be filed by  
15 January 26, 2016, in order for the Court to render a decision prior to the debtor's examination in  
16 February of 2016. Plaintiff also requests that Zandian be ordered to produce the documents at  
17 issue to Plaintiff's counsel on or before January 22, 2016.

18  
19           Accordingly, Plaintiff respectfully requests that this Court issue an order to show cause as  
20 to why Zandian should not be held in contempt for his failure to produce documents pursuant to  
21 this Court's November 6, 2015 Order and that Zandian must produce the documents to Plaintiff's  
22 counsel by no later than January 22, 2016. Plaintiff also requests that an Order shortening time be  
23 issued requiring any opposition to this motion be filed on or before January 22, 2016 and that any  
24 reply be submitted on or before January 26, 2016.

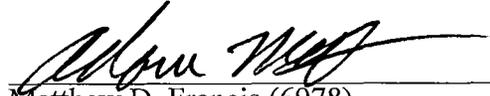
AFFIRMATION PURSUANT TO NRS 239B.030

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

Dated this 13th day of January, 2016.

BROWNSTEIN HYATT FARBER SCHRECK, LLP

BY:



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Adam P. McMillen (10678)  
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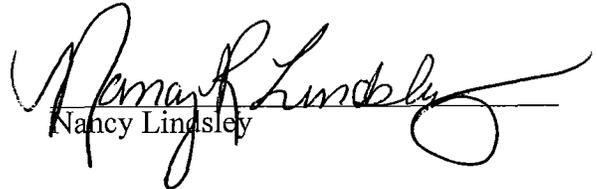
CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of Brownstein Hyatt Farber Schreck, 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, MOTION FOR ORDER TO SHOW CAUSE REGARDING CONTEMPT AND EX PARTE MOTION FOR ORDER SHORTENING TIME, addressed as follows:

Reza Zandian  
c/o Alborz Zandian  
9 MacArthur Place, Unit 2105  
Santa Ana, CA 92707-6753

Severin A. Carlson  
Tara C. Zimmerman  
Kaempfer Crowell  
50 West Liberty Street, Suite 700  
Reno, Nevada 89501

Dated: January 13, 2016

  
Nancy Lindsley

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**EXHIBIT LIST**

**EXHIBIT NO.**

**DESCRIPTION**

**PAGE(S)**

1

ORDER TO SHOW CAUSE

3

**Exhibit 1**

**Exhibit 1**

IN THE SUPREME COURT OF THE STATE OF NEVADA

REZA ZANDIAN, A/K/A GOLAMREZA  
ZANDIANJAZI, A/K/A GHOLAM REZA  
ZANDIAN, A/K/A REZA JAZI, A/K/A J.  
REZA JAZI, A/K/A G. REZA JAZI, A/K/A  
GHONOREZA ZANDIAN JAZI, AN  
INDIVIDUAL,

Appellant,

vs.

JED MARGOLIN, AN INDIVIDUAL,  
Respondent.

No. 69372

**FILED**

JAN 07 2016

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY S. Young  
DEPUTY CLERK

*ORDER TO SHOW CAUSE*

This is an appeal from an order granting a motion requiring appellant to appear for a debtor's examination and to produce documents. Our preliminary review of the docketing statement and the documents submitted to this court pursuant to NRAP 3(g) reveals a potential jurisdictional defect. Specifically, it appears that the judgment or order designated in the notice of appeal is not substantively appealable. See NRAP 3A(b). This court has jurisdiction to consider an appeal only when the appeal is authorized by statute or court rule. *Taylor Constr. Co. v. Hilton Hotels*, 100 Nev. 207, 678 P.2d 1152 (1984). No statute or court rule provides for an appeal from an order directing a debtor's examination or to produce documents. See e.g., *Wardleigh v. Second Judicial Dist. Court In & For Cty. of Washoe*, 111 Nev. 345, 351, 891 P.2d 1180, 1184 (1995) (a writ of prohibition will issue to prevent discovery required by court order entered in excess of the court's jurisdiction). In addition, the order does not appear to be appealable as a special order after final judgment because it does not modify the rights or liabilities of the parties arising from the final judgment, but instead merely enforces the district

court's prior orders. See NRAP 3A(b)(2); *Wilkinson v. Wilkinson*, 73 Nev. 143, 311 P.2d 735 (1957).

Accordingly, appellant shall have 30 days from the date of this order within which to show cause why this appeal should not be dismissed for lack of jurisdiction. In responding to this order, appellant should submit any documentation that may establish this court's jurisdiction. We caution appellant that failure to demonstrate that this court has jurisdiction may result in this court's dismissal of this appeal. The preparation of transcripts and the briefing schedule in this appeal shall be suspended pending further order of this court. Respondent may file any reply within ten days from the date that appellant's response is served.

It is so ORDERED.<sup>1</sup>

 C.J.

cc: Kaempfer Crowell/Reno  
Kaempfer Crowell/Carson City  
Brownstein Hyatt Farber Schreck, LLP/Reno

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<sup>1</sup>We defer ruling on appellant's counsel's motion to withdraw as counsel pending resolution of this jurisdictional question.