

2/15/13

ORIGINAL

REC'D & FILED

2013 FEB 20 AM 1:39

ALAN GLOVER

DEPUTY CLERK

1 Matthew D. Francis (6978)
Adam P. McMillen (10678)
2 WATSON ROUNDS
5371 Kietzke Lane
3 Reno, NV 89511
Telephone: 775-324-4100
4 Facsimile: 775-333-8171
Attorneys for Plaintiff Jed Margolin

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

10 **JED MARGOLIN, an individual,**
11 **Plaintiff,**
12 **vs.**

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

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

PLAINTIFF'S APPLICATION FOR
ATTORNEY'S FEES AND COSTS

22 Pursuant to this Court's January 15, 2013 Order Granting Plaintiff's Motion for
23 Sanctions Under NRCP 37, Plaintiff Jed Margolin ("Plaintiff") hereby submits this
24 Application for Attorney's Fees and Costs.

25 ///
26 ///
27 ///
28 ///

1 MEMORANDUM OF POINTS AND AUTHORITIES

2 **A. BACKGROUND**

3 On December 14, 2012, Jed Margolin filed Plaintiff's Motion for Sanctions Under
4 NRCP 37 in the above-captioned matter. In its Motion, Plaintiff requested that this Court
5 strike Defendant REZA ZANDIAN aka GOLAMREZA ZANDIANJAZI aka GHOLAM
6 REZA ZANDIAN aka REZA JAZI aka J. REZA JAZI aka G. REZA JAZI aka
7 GHONONREZA ZANDIAN JAZI's ("Zandian") General Denial and award Plaintiff his fees
8 and costs incurred in bringing the Motion. No opposition to Plaintiff's Motion was filed.

9 On January 15, 2013, this Court entered an Order granting Plaintiff's Motion for
10 Sanctions Under NRCP 37. In its Order, this Court ordered, that the Denial of Zandian be
11 stricken and that "Plaintiff shall be awarded its fees and costs incurred in bringing his Motion,
12 and file an application for fees and a memorandum of costs relating to his Motion."

13 On December 12, 2012, Plaintiff's counsel spent a total of 4.9 hours drafting the
14 Motion for Sanctions and the accompanying declaration of Adam P. McMillen. McMillen
15 Decl., ¶ 3A. Plaintiff's counsel's hourly rate for this matter is \$300 per-hour. *Id.* The task
16 necessarily required review of legal authorities, chronicling the dispute for the Court,
17 researching, and compiling exhibits for the Motion. *Id.* Also, on December 12, 2012,
18 Plaintiff's counsel's assistant reviewed the draft Motion for Sanctions and declaration of
19 counsel in Support thereof and prepared the exhibits for the Motion. Additionally, on
20 December 14, 2012, counsel's assistant spent .5 revising the draft motion and filing and
21 serving the motion. Counsel's assistant spent 1.5 hours on this project. Her hourly rate as a
22 paralegal for this matter is \$125 per-hour. McMillen Decl., ¶ 3B.

23 On January 8, 2013, Plaintiff's counsel spent a total of 2.8 hours drafting a proposed
24 order on the Motion. McMillen Decl., ¶ 3C. Also on January 8, 2013, counsel's assistant
25 spent .8 hours on this project, determining if a response or opposition had been filed and in
26 preparing a proposed request for submission of the motion. On January 10, 2013, counsel's
27 assistant spent .5 hours revising the request for submission and filing and serving the same;
28 and, on January 16, 2013, the assistant prepared a draft Notice of Entry of Order Granting

1 Sanctions and filed and served the same. Counsel's assistant spent a total of 1.8 hours on this
2 project. McMillen Decl. ¶ 3C. Postage, photocopies and courier costs for filing and serving
3 the Motion equated to \$69.20.

4 **B. ARGUMENT**

5 NRCP 37(d)(2) provides that:

6 If a party . . . fails (2) to serve answers or objections to interrogatories
7 submitted under Rule 33, after proper service of the interrogatories, or (3) to
8 serve a written response to a request for inspection submitted under Rule 34,
9 after proper service of the request, the court in which the action is pending on
10 motion may make such orders in regard to the failure as are just, and among
11 others it may take any action authorized under subparagraphs (A), (B), and (C)
12 of subdivision (b)(2) of this rule.

11 NRCP 37(b)(2) provides that:

12 In lieu of any of the foregoing orders or in addition thereto, the court shall
13 require the party failing to obey the order or the attorney advising that party or
14 both to pay the reasonable expenses, including attorney's fees, caused by the
15 failure

15 As set forth above, the Court has ordered that Plaintiff be awarded his fees and costs
16 incurred in bringing his Motion for Sanctions Under NRCP 37. *See supra*. This Order was
17 reasonable and made pursuant to NRCP 37 and Nevada law. *Id*.

18 As delineated above and in Exhibit 1, Plaintiff's counsel spent a total of 7.7 hours in
19 bringing Plaintiff's Motion For Sanctions Under NRCP 37, which equates to a grand total of
20 \$2,310.00. McMillen Decl., ¶ 4; *see supra*. Counsel's assistant spent a total of 3.3 hours of
21 billable work on this project, which equates to a total of \$412.50. The total of fees requested
22 are therefore \$2,722.50. *Id*. The costs requested are \$69.65. McMillen Decl., ¶ 5. As such,
23 Plaintiff respectfully requests that the Court order that Defendant Zandian pay Plaintiff's fees
24 and costs incurred in bringing its Motion for Sanctions Under NRCP 37 in the total amount of
25 \$2,792.15.

26 **C. CONCLUSION**

27 For all of the foregoing reasons, Plaintiff requests that its Application for Fees and
28

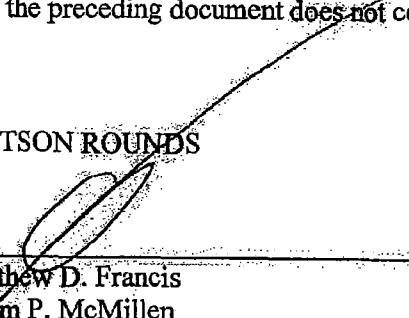
///

1 Costs be granted in the manner requested.

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

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

5 DATED this 15 day of February, 2013. WATSON ROUNDS

6
7 By: 
8 Matthew D. Francis
9 Adam P. McMillen
10 5371 Kietzke Lane
11 Reno, NV 89511
12 Telephone: (775) 324-4100
13 Facsimile: (775) 333-8171
14 Attorneys for Plaintiff
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1 CERTIFICATE OF SERVICE

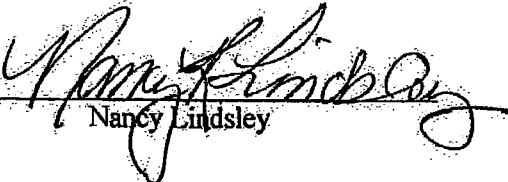
2 Pursuant to NRCP 5(b), I certify that I am an employee of Watson Rounds, and that on
3 this date, I deposited for mailing, in a sealed envelope, with first-class postage prepaid, a true
4 and correct copy of the foregoing document, PLAINTIFF'S APPLICATION FOR
5 ATTORNEY'S FEES AND COSTS, addressed as follows:

6 Reza Zandian
7 8775 Costa Verde Blvd.
8 San Diego, CA 92122

9 Reza Zandian
10 8775 Costa Verde Blvd, Apt. 501
11 San Diego, CA 92122

12 Alborz Zandian
13 9 Almanzora
14 Newport Beach, CA 92657-1613

15 Dated: February 15, 2013

16 
17 Nancy Lindsley
18
19
20
21
22
23
24
25
26
27
28