

2/15/13

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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.

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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

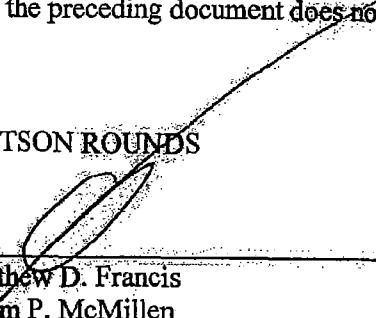
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1 Costs be granted in the manner requested.

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
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28

1 CERTIFICATE OF SERVICE

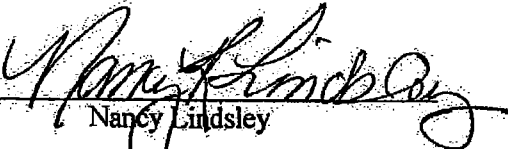
2 Pursuant to NRCP 5(b), I certify that I am an employee of Watson Rounds, and that on
3 this date, I deposited for mailing, in a sealed envelope, with first-class postage prepaid, a true
4 and correct copy of the foregoing document, PLAINTIFF'S APPLICATION FOR
5 ATTORNEY'S FEES AND COSTS, addressed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

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

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


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

13 Dated: February 15, 2013

14 
15 Nancy Lindsley
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ORIGINAL

1 Matthew D. Francis (6978)
Adam P. McMillen (10678)
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5371 Kietzke Lane
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17 **aka G. REZA JAZI aka GHONONREZA**
ZANDIAN JAZI, an individual, DOE
18 **Companies 1-10, DOE Corporations 11-20,**
19 **and DOE Individuals 21-30,**

20 **Defendants.**

Case No.: 090C00579 1B

Dept. No.: 1

DECLARATION OF ADAM P.
MCMILLEN IN SUPPORT OF
PLAINTIFF'S APPLICATION FOR
ATTORNEY'S FEES AND COSTS

21
22 I, Adam P. McMillen, do hereby declare and state as follows:

23 1. I am a lawyer at the law firm of Watson Rounds located at 5371 Kietzke Lane,
24 Reno, Nevada 89511. This declaration is based upon my personal knowledge, and is made in
25 support of Plaintiff's Application for Attorney's Fees and Costs.

26 2. I am an attorney responsible for the billings in this case. I can authenticate the
27 following information as true and correct. The time and amount billed has been reviewed and
28 edited and the fees and costs charged are reasonable.

1 3. In its January 14, 2013 Order Granting Plaintiff's Motion for Sanctions Under
2 NRC 37, the Court stated that "Plaintiff shall be awarded his fees and costs incurred in
3 bringing his Motion, and file an application for fees and a memorandum of costs relating to
4 his Motion." The following is a list of the fees and costs specifically relating to Plaintiff's
5 Motion for Sanctions Under NRC 37. A true and correct copy of a redacted client ledger for
6 the following entries is attached hereto as Exhibit 1.

7 3A. On December 12, 2012, Matthew Francis, a partner at Watson Rounds, and I
8 spent a total of 4.9 hours drafting the Motion for Sanctions and the accompanying declaration
9 of Adam P. McMillen. Our hourly rate for this matter is \$300 per-hour. The task necessarily
10 required review of legal authorities, chronicling the discovery dispute for the Court,
11 researching, and compiling exhibits for the Motion. See Exhibit 1.

12 3B. On December 12, 2012, my assistant Nancy Lindsley reviewed the draft
13 Motion for Sanctions and declaration of Adam P. McMillen in Support thereof. Ms. Lindsley
14 also prepared the exhibits for the Motion. Additionally, on December 14, 2012, Ms. Lindsley
15 spent .5 revising the draft motion and filing and serving the motion. Ms. Lindsley spent 1.5
16 hours on this project. Her hourly rate as a paralegal for this matter is \$125 per-hour. See
17 Exhibit 1.

18 3C. On January 8, 2013, Matthew Francis and I spent a total of 2.8 hours drafting a
19 proposed order on the motion. Also on January 8, 2013, Ms. Lindsley spent .8 hours on this
20 project, determining if a response or opposition had been filed and in preparing a proposed
21 request for submission of the motion. On January 10, 2013, Ms. Lindsley spent .5 hours
22 revising the request for submission and filing and serving the same; and, on January 16, 2013,
23 Ms. Lindsley prepared a draft Notice of Entry of Order Granting Sanctions and filed and
24 served the same. Ms. Lindsley spent a total of 1.8 hours on this project. Postage, photocopies
25 and courier costs for filing and serving the Motion equated to \$69.20. See Exhibit 1.

26 4. As delineated above and in Exhibit 1, Matthew Francis and I spent a total of
27 7.7 hours in bringing Plaintiff's Motion For Sanctions Under NRC 37, which equates to a
28 grand total of \$2,310.00. Ms. Lindsley spent a total of 3.3 hours of billable work on this

1 project, which equates to a grand total of \$412.50. The total fees requested are therefore
2 \$2,722.50.

3 5. The costs involved with this project equated to \$69.20. The costs requested are
4 therefore \$69.20.

5 I declare under penalty of perjury that the foregoing is true and correct to the best of
6 my knowledge.

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

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

10 DATED this 15th day of February, 2013.

WATSON ROUNDS

11 By: _____

12 Matthew B. Francis

13 Adam P. McMillen

5371 Kietzke Lane

14 Reno, NV 89511

15 Telephone: (775) 324-4100

16 Facsimile: (775) 333-8171

17 Attorneys for Plaintiff

18

19

20

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22

23

24

25

26

27

28

1 **CERTIFICATE OF SERVICE**

2 Pursuant to NRCF 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, **DECLARATION OF ADAM P. MCMILLEN**
5 **IN SUPPORT OF PLAINTIFF'S APPLICATION FOR ATTORNEY'S FEES AND**
6 **COSTS**, addressed as follows:

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

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16 Dated: February 15, 2013.

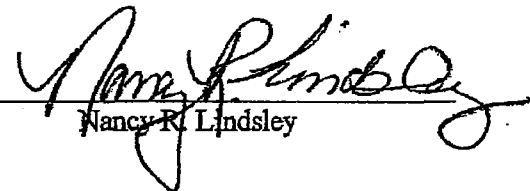

Nancy R. Lindsley

Exhibit 1

Exhibit 1

Date	Received From/Paid To Entry # Explanation	Chq# Rec#	----- General -----		Fees	Bld Inv# Acc	Trust Activity		Balance
			Rcpts	Disbs			Rcpts	Disbs	
5457	Margolin, Jed								

REDACTED

Dec 12/2012	Lawyer: APM 2.60 Hrs X 300.00								
1066012	Draft motion for sanctions against Zandian.				840.00	119477			
Dec 12/2012	Lawyer: APM 0.60 Hrs X 300.00								
1066018	Draft declaration in support of motion for sanctions against Zandian.				180.00	119477			

Dec 12/2012	Lawyer: NRL 1.00 Hrs X 125.00								
1066032	Review/proof Motion for Sanctions; and, Declaration of APM in Support of Same; commence compilation of exhibits to declaration.				125.00	119477			

Dec 13/2012	Lawyer: MDF 1.50 Hrs X 300.00								
1066448	Review and revise motion for sanctions and McMillen declaration in support thereof/Conference with APM re: same				450.00	119477			

Watson Rounds
Client Ledger
Dec/ 1/2012 To Feb/11/2013

Date	Received From/Paid To Entry # Explanation	Chq# Rec#	----- General -----		Fees	Bld ----- Trust Activity -----		Balance
			Rcpts	Disbs		Inv#	Acc	
Dec 14/2012	Lawyer: NRL 0.50 Hrs X 125.00							
1066136	Revise Motion for Sanctions; file and serve same.				62.50	119477		
Dec 14/2012	Expense Recovery							
1066679	Postage	15928		5.70		119477		
Dec 14/2012	Expense Recovery							
1068233	Photocopies 114 @ 0.25 - Motion for sanctions/declaration	15947		28.50		119477		
Dec 17/2012	Reno/Carson Messenger Service, Inc							
1067317	Courier expense			35.00		119477		

REDACTED

Date	Entry #	Received From/Paid To Explanation	Chq# Rec#	----- General -----			Trust Activity			Balance
				Rpts	Disbs	Fees	Inv#	Acc	Rpts	
		119477								
Jan 8/2013	1070095	Lawyer: APM 0.10 Hrs X 300.00 Draft request for submission of motion for sanctions.				30.00	119936			
Jan 8/2013	1070111	Lawyer: APM 0.80 Hrs X 300.00 Draft proposed order granting motion for sanctions.				240.00	119936			
Jan 8/2013	1070137	Lawyer: NRL 0.80 Hrs X 125.00 Telephone conference with Court Clerk to determine if response to Motion for Sanctions had been filed; preparation of of proposed Request for Submission of Motion for Sanctions; review file to determine date General Denial filed; telephone conference with Court Clerk to determine same.				100.00	119936			
Jan 8/2013	1070213	Lawyer: MDF 1.00 Hrs X 300.00 Review proposed order granting motion for sanctions/Draft and review emails to and from APM re: same/Forward order to APM				300.00	119936			
Jan 10/2013	1070820	Lawyer: APM 0.40 Hrs X 300.00 Continue drafting proposed order on motion for sanctions against Zandian.				120.00	119936			
Jan 10/2013	1070844	Lawyer: NRL 0.50 Hrs X 125.00 Revise Request for Submission; serve and file same with proposed Order Granting Motion.				62.50	119936			
Jan 10/2013	1071121	Lawyer: MDF 0.50 Hrs X 300.00 Review proposed order on motion for sanctions/Conference with APM re: same				150.00	119936			

REDACTED

Jan 16/2013	1071451	Lawyer: NRL 0.50 Hrs X 125.00 Preparation of draft Notice of Entry of Order Granting Sanctions; serve and file same.				62.50	119936			
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REDACTED