

1 earlier discovery requests and motions. Zandian has not demonstrated good faith. In fact,  
2 Zandian has only demonstrated inexcusable neglect by his willful failure to respond to, and  
3 participate in, this action. Accordingly, the Court determines that Zandian lacked good faith in  
4 contesting this action.

5 **e. Whether This Case Should Be Tried On The Merits For Policy Reasons**

6 The Nevada Supreme Court has held that “good public policy dictates that cases be  
7 adjudicated on their merits.” *See Kahn* 108 Nev. at 516, 835 P.2d at 794 (citing *Hotel Last*  
8 *Frontier v. Frontier Prop.*, 79 Nev. 150, 155–56, 380 P.2d 293, 295 (1963) (original  
9 emphasis). However, this policy has its limits:  
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11 We wish not to be understood, however, that this judicial tendency to grant  
12 relief from a default judgment implies that the trial court should always  
13 grant relief from a default judgment. Litigants and their counsel may not  
14 properly be allowed to disregard process or procedural rules with impunity.  
Lack of good faith or diligence, or lack of merit in the proposed defense,  
may very well warrant a denial of the motion for relief from the judgment.

15 *Id.* (citing *Lentz v. Boles*, 84 Nev. 197, 200, 438 P.2d at 256 (1968)).

16 Zandian has disregarded the process and procedural rules of this matter with impunity.  
17 He has repeatedly ignored this matter and failed to respond to the written discovery and  
18 motions in this matter since his former attorney John Peter Lee withdrew from representation.  
19 Zandian’s lack of good faith or diligence warrants a denial of the motion to set aside.

20 Zandian’s complete failure to respond to the discovery requests and subsequent  
21 motions evidences his willful and recalcitrant disregard of the judicial process, which  
22 prejudiced Plaintiff. *Foster v. Dingwall*, 227 P.3d 1042, 1049 (Nev. 2010) (citing *Hamlett v.*  
23 *Reynolds*, 114 Nev. 863, 865, 963 P.2d 457, 458 (1998) (upholding the district court’s strike  
24 order where the defaulting party’s “constant failure to follow [the court’s] orders was  
25 unexplained and unwarranted”); *In re Phenylpropanolamine (PPA) Products*, 460 F.3d 1217,  
26 1236 (9th Cir.2006) (holding that, with respect to discovery abuses, “[p]rejudice from  
27 unreasonable delay is presumed” and failure to comply with court orders mandating discovery  
28 “is sufficient prejudice”).