

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.

Supreme Court No. 69372
District Court Case No. 09OC005791B

MOTION FOR SANCTIONS

The circumstances indicate this appeal was taken by Appellant Reza Zandian solely for purposes of delay or to otherwise misuse the appellate process. Given the misuse of the appellate process, Respondent Jed Margolin moves this Court for an order imposing NRAP 38 sanctions in order to deter such abusive conduct.

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

On October 19, 2015, in two prior consolidated appeals relating to this matter, this Court affirmed the district court’s denial of Zandian’s NRCP 60(b) motion and its award of attorney fees and costs. *See* Order of Affirmance (Case

1 Nos. 65205 and 65960) attached as Exhibit A. In the Order of Affirmance, this
2 Court related the following background information before concluding the district
3 court did not abuse its discretion:

4
5 Appellant's general denial was stricken by the district court as a
6 sanction for failure to respond to discovery requests. A default
7 judgment was thereafter entered against appellant and attorney fees
8 and costs were awarded to respondent. Over five months after the
9 entry of the default judgment, appellant filed an NRCP 60(b) motion
10 seeking to set aside the default judgment, which was denied by the
11 district court.

12 Exhibit A at pp. 1-2.

13 Shortly after the affirmance of the consolidated appeals, on November 6,
14 2015, the district court entered an order granting Margolin's June 10, 2015 motion
15 for a debtor examination and to produce documents. *See* Order Granting Plaintiff's
16 Motion for Debtor Examination and to Produce Documents attached as Exhibit B.
17 The district court's order required Zandian to produce financial documents on or
18 before December 21, 2015 and to appear for a debtor's examination during the
19 month of February 2016. *Id.*

20
21 On December 10, 2015, in an attempt to avoid having to produce the
22 financial documents or to appear for the debtor's examination, Zandian filed a
23 Notice of Appeal regarding the Order Granting Plaintiff's Motion for Debtor
24 Examination and to Produce Documents. *See* Notice of Appeal attached as Exhibit
25 C. On January 7, 2016, this Court entered an Order to Show Cause requiring
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1 Zandian to show cause why the appeal should not be dismissed for lack of
2 jurisdiction as it appeared the district court's order "is not substantively
3 appealable." *See* Order to Show Cause attached as Exhibit D.
4

5 On January 22, 2016, the district court ordered Zandian to appear at a
6 hearing on February 3, 2016 to show cause as to why he should not be held in
7 contempt for failing to comply with the district court's order to produce the
8 financial documents. *See* Order to Show Cause attached as Exhibit E. On
9 February 3, 2016, the district court held Zandian in contempt for failing to comply
10 with its order to produce the documents and for failing to appear at the hearing.
11 *See* Order Holding Defendant in Contempt of Court attached as Exhibit F. As a
12 result of Zandian's contempt, the district court issued a bench warrant for
13 Zandian's arrest. *Id.*; *see also* Warrant of Arrest attached as Exhibit G.
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17 On February 2, 2015, Zandian filed a response to this Court's order to show
18 cause. *See* Appellant's Response to Order to Show Cause attached as Exhibit H.
19 Zandian acknowledged "no statute or court rule explicitly provides for an appeal
20 from an order directing a debtor's examination or to produce documents..." *Id.* at
21 p. 1. Nevertheless, Zandian argued the district court's order "affects the rights of
22 Appellant under the final judgment and NRS 21.270, as triggered by the final
23 judgment, and therefore the order should constitute a special order after final
24 judgment under NRAP 3A(b)(8)." *Id.* at p. 2. This Court disagreed with Zandian
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1 and concluded “that this court lacks jurisdiction over this appeal, and we ORDER
2 this appeal DISMISSED.” *See* Order Dismissing Appeal attached as Exhibit I.

3 **II. Argument**

4
5 It is a basic precept of appellate procedure that this Court has jurisdiction to
6 consider an appeal only when the appeal is authorized by statute or court rule. *See*
7 NRAP 3A(b) (listing orders and judgments from which an appeal may be taken);
8 *see also Taylor Constr. Co. v. Hilton Hotels*, 100 Nev. 207, 209, 678 P.2d 1152,
9 1153 (1984) (listing appealable orders). A cursory review demonstrates that an
10 order granting a motion for debtor’s examination and to produce financial
11 documents is not listed as an independently appealable order under NRAP 3A(b).
12 This Court, on its own accord, issued an order to show cause as to why Zandian’s
13 appeal should not be dismissed and because there was no good cause to support
14 this Court’s jurisdiction, the appeal was dismissed.
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18 The dismissal is not a surprise to Zandian as he conceded there was no
19 statute or court rule providing for his appeal from the order directing a debtor’s
20 examination and to produce documents. *See* Appellant’s Response to Order to
21 Show Cause attached as Exhibit H.
22

23 An appeal that lacks any merit constitutes a misuse of the appellate process
24 and is a frivolous appeal. *See Works v. Kuhn*, 103 Nev. 65, 69 (1987). Pursuant to
25 NRAP 38(b), this Court may impose sanctions in the form of attorney’s fees and
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1 costs where “an appeal has frivolously been taken or been processed in a frivolous
2 manner.” *See* NRAP 38(b). Specifically, an appeal is frivolous when it has been
3 filed “solely for purposes of delay” or “whenever the appellate processes of the
4 court have otherwise been misused.” *See* NRAP 38(b).

5
6 This Court should impose sanctions under NRAP 38(b) to discourage
7 Zandian from filing future frivolous appeals.

8
9 **III. CONCLUSION**

10 Zandian misused the appellate process by knowingly challenging a non-
11 appealable order for the sole purpose of delaying execution of the judgment.

12 Because the appeal was frivolous, this Court should impose the monetary sanctions
13 identified above under NRAP 38.

14 Dated March 10, 2016.

15
16
17 BROWNSTEIN HYATT FARBER SCHRECK, LLP

18 /s/ Adam P. McMillen

19 Matthew D. Francis

20 Nevada Bar No. 6978

21 Adam P. McMillen

22 Nevada Bar No. 10678

23 5371 Kietzke Lane

24 Reno, NV 89511

25 Telephone: 775-324-4100

26 *Attorneys for Respondent Jed Margolin*

CERTIFICATE OF SERVICE

I, the undersigned, certify that on this date a true and correct copy of the foregoing document, **MOTION FOR SANCTIONS**, will be served upon the following parties hereto through the Court’s electronic notification system:

Severin A. Carlson
Kaempfer Crowell
510 West Fourth Street
Carson City, Nevada 89703
Attorneys for Appellant

I also certify 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 SANCTIONS**, addressed as follows:

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

DATED: March 10, 2016

/s/ Nancy Lindsley
An Employee of Brownstein Hyatt Farber Schreck, LLP

Exhibit A

Exhibit A

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.

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
GHOLAMREZA ZANDIAN JAZI, AN
INDIVIDUAL,

Appellant,

vs.

JED MARGOLIN, AN INDIVIDUAL,
Respondent.

No. 65205

FILED

OCT 19 2015

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

No. 65960

ORDER OF AFFIRMANCE

These are appeals from district court post-judgment orders denying an NRCP 60(b) motion and awarding attorney fees and costs in a deceptive trade practice action. First Judicial District Court, Carson City; James Todd Russell, Judge.

Appellant's general denial was stricken by the district court as a sanction for failure to respond to discovery requests. A default judgment was thereafter entered against appellant and attorney fees and costs were awarded to respondent. Over five months after the entry of the default judgment, appellant filed an NRCP 60(b) motion seeking to set aside the

default judgment, which was denied by the district court. These appeals followed.¹

The district court has broad discretion in deciding whether to grant or deny an NRCP 60(b) motion to set aside a judgment, and this court will not disturb that decision absent an abuse of discretion. *Cook v. Cook*, 112 Nev. 179, 181-82, 912 P.2d 264, 265 (1996); *see also NC-DSH, Inc. v. Garner*, 125 Nev. 647, 657-58, 218 P.3d 853, 861 (2009) (specifying that this court reviews a district court's denial of NRCP 60(b) relief for an abuse of discretion). Having reviewed the parties' briefs and appendices, we perceive no abuse of discretion in the district court's denial of appellant's NRCP 60(b) motion. The district court found that appellant failed to promptly move to set aside the default judgment, he did not show that he lacked intent to delay by failing to respond to the discovery requests and motions in the case, and he demonstrated inexcusable neglect by willfully failing to respond to or participate in the action. *See Kahne v. Orme*, 108 Nev. 510, 513-516, 835 P.2d 790, 792-94 (1992) (setting forth the factors a district court must consider in deciding an NRCP 60(b) motion), *overruled in part by Epstein v. Epstein*, 114 Nev. 1401, 950 P.2d 771 (1997). Accordingly, we affirm the district court's denial of appellant's NRCP 60(b) motion.

We further conclude that the district court did not abuse its discretion in awarding attorney fees and costs to respondent. Although NRS 598.0999(2) addresses public causes of action, NRS 41.600 provides for a private cause of action for deceptive trade practices under NRS

¹We elect to consolidate these appeals for disposition. *See* NRAP 3(b).

598.0915 to NRS 598.0925 and mandates the award of attorney fees and costs to the claimant if they are the prevailing party. We further conclude that the district court did not abuse its discretion in finding respondent's counsel's hourly rate reasonable. See *Gunderson v. D.R. Horton, Inc.*, 130 Nev., Adv. Op. 9, 319 P.3d 606, 615 (2014) (stating that this court reviews an award or denial of attorney fees and costs for an abuse of discretion); *Brunzell v. Golden Gate Nat'l Bank*, 85 Nev. 345, 349-50, 455 P.2d 31, 33 (1969). Accordingly, we perceive no abuse of discretion in the district court's decision and affirm its award of attorney fees and costs.

It is so ORDERED.

 J.

Saitta

 J.

Gibbons

 J.

Pickering

cc: Hon. James Todd Russell, District Judge
David Wasick, Settlement Judge
Kaempfer Crowell/Carson City
Kaempfer Crowell/Reno
Watson Rounds
Carson City Clerk

Exhibit B

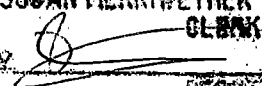
Exhibit B

1 Case No. 09 0C 00579 1B
2 Dept. No. I

REC'D & FILED

NOV -6 PM 3:38

SUSAN MERRIWETHER
CLERK

BY 
DEPUTY

3
4
5 In The First Judicial District Court of the State of Nevada
6 In and for Carson City

7 JED MARGOLIN, an individual,
8 Plaintiff,

9 vs.

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

19 Defendants.

**ORDER GRANTING PLAINTIFF'S
MOTION FOR DEBTOR
EXAMINATION AND TO
PRODUCE DOCUMENTS**

20 This matter comes before the Court on Plaintiff Jed Margolin's Motion for Debtor
21 Examination and to Produce Documents, filed on June 10, 2015. On June 29, 2015, Defendant
22 Reza Zandian filed an Opposition and a Motion for Protective Order. On July 10, 2015,
23 Plaintiff filed a Reply in Support of the Motion for Debtor Examination and to Produce
24 Documents and an Opposition to Defendant's Motion for Protective Order. On July 20, 2015,
25 Defendant filed his Reply in Support of the Motion for Protective Order. On November 5,
26 2015, the Court held oral argument on the motions.

1 After considering the motions, oppositions, replies, oral argument and the papers and
2 pleadings on file herein, for good cause appearing, the Court hereby grants the Motion for
3 Debtor's Examination and to Produce Documents.

4 The Court finds that when Defendants' former attorney, John Peter Lee, withdrew from
5 this matter he provided a last known address for Defendant Zandian in San Diego, California.
6 Based upon this fact and other evidence in the record, the Court finds San Diego, California, is
7 an appropriate location for the debtor's examination of Defendant Reza Zandian.

8
9 NOW, THEREFORE, **IT HEREBY IS ORDERED** as follows:

10 1. That Defendant Reza Zandian is hereby ordered to appear in San Diego, California,
11 during the month of February 2016 and answer upon oath or affirmation concerning his
12 property at a Judgment Debtor Examination, with the specific location in San Diego to be
13 chosen by Plaintiff; and

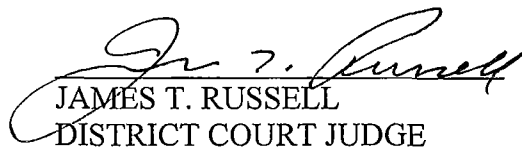
14 2. That Defendant Reza Zandian is hereby ordered to produce to Plaintiff's counsel on
15 or before December 21, 2015, all of the following information and documents identifying,
16 related to, and/or comprising the following:

- 17
- 18 a. Any and all information and documentation identifying real property, computers,
19 cell phones, intellectual property, vehicles, brokerage accounts, bank deposits and
20 all other assets that may be currently available for execution to satisfy the
21 Judgments entered by the Court, including, but not limited to, information relating
22 to financial accounts, monies owed to Defendant Zandian by others, etc.
 - 23 b. Documents sufficient to show Zandian's balance sheet for each month from
24 December 11, 2009 (the date the original complaint was filed) to the present.
 - 25 c. Documents sufficient to show Zandian's gross revenues for each month from
26 December 11, 2009 to the present.
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- 1 d. Documents sufficient to show Zandian's costs and expenses for each month from
2 December 11, 2009 to the present.
- 3 e. All tax returns filed by Zandian with any governmental body for the years 2010 to
4 the present, including all schedules, W-2's and 1099's.
- 5 f. All of Zandian's accounting records, computerized electronic and/or printed on
6 paper format for the years 2010 to the present.
- 7 g. All of Zandian's statements, cancelled checks and related banking documents for
8 any bank, brokerage or other financial account at least partially controlled by
9 Zandian, or recorded in the name of Zandian or for Zandian's benefit, from
10 December 11, 2009 to the present.
- 11 h. All of Zandian's checkbooks, checkbook stubs and checkbook entries from
12 December 11, 2009 to the present.
- 13 i. Documents sufficient to show the means and source of payment of Zandian's
14 current residence and any other residence from December 11, 2009 to the present.
- 15 j. Documents sufficient to show the means and source of payment of Zandian's
16 counsel in this matter from December 11, 2009 to the present.
- 17 k. Any settlement agreements by which another party has agreed to pay money to
18 Zandian from December 11, 2009.
- 19
- 20

21 DATED: This 6th day of November, 2015.

22

23
24 
25 JAMES T. RUSSELL
26 DISTRICT COURT JUDGE
27
28

CERTIFICATE OF MAILING

1
2 The undersigned, an employee of the First Judicial District Court, hereby certifies that on the
3 17th day of November, 2015, I served a copy of the foregoing Order by United States Mail, postage
4 prepaid, addressed as follows:

5 Adam P. McMillen, Esq.
6 5371 Kietzke Lane
7 Reno, NV 89511

8 Severin A. Carlson, Esq.
9 Tara C. Zimmerman, Esq.
10 510 West Fourth Street
11 Carson City, NV 89703



Angela Jeffries
Judicial Assistant, Dept. 1

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Exhibit C

Exhibit C

ORIGINAL

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2015 DEC 10 PM 2:37

SUSAN MERRIWETHER

BY

Electronically Filed
Dec 15 2015 09:40 a.m.
Tracie K. Lindeman
Clerk of Supreme Court

1 SEVERIN A. CARLSON
Nevada Bar No. 9373
2 TARA C. ZIMMERMAN
Nevada Bar No. 12146
3 KAEMPFER CROWELL
510 West Fourth Street
4 Carson City, Nevada 89703
Telephone: (775) 882-1311
5 Fax: (775) 882-0257
scarlson@kcnvlaw.com
6 tzimmerman@kcnvlaw.com

7 Attorneys for Defendant
REZA ZANDIAN aka
8 GOLAMREZA ZANDIANJAZI aka
GHOLAM REZA ZANDIAN aka
9 REZA JAZI aka
J. REZA JAZI aka
10 G. REZA JAZI aka
GHONONREZA ZANDIAN JAZI
11

12 IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

13 IN AND FOR CARSON CITY

14 JED MARGOLIN, an individual,

15 Plaintiff,

16 vs.

17 OPTIMA TECHNOLOGY CORPORATION,
a California corporation; OPTIMA
18 TECHNOLOGY CORPORATION, a Nevada
corporation; REZA ZANDIAN aka
19 GOLAMREZA ZANDIANJAZI aka
GHOLAM REZA ZANDIAN aka REZA JAZI
20 aka J. REZA JAZI aka G. REZA JAZI aka
GHONONREZA ZANDIAN JAZI, an
21 individual; DOE COMPANIES 1-10; DOE
CORPORATIONS 11-20; and DOE
22 INDIVIDUALS 21-30,

23 Defendants.
24

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

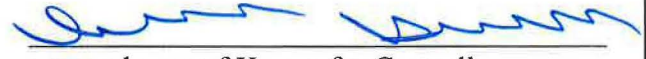
NOTICE OF APPEAL

KAEMPFER CROWELL
510 West Fourth Street
Carson City, Nevada 89703

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that on the 10th day of December, 2015, I caused the foregoing **NOTICE OF APPEAL** to be served by depositing a true copy of the same for mailing at Reno, Nevada, first class postage fully prepaid and addressed to the following:

Matthew D. Francis, Esq.
Adam P. McMillen, Esq.
Watson Rounds
5371 Kietzke Lane
Reno, Nevada 89511
775.324.4100
775.333.8171 - facsimile
Attorneys for Plaintiff



an employee of Kaempfer Crowell

Exhibit D

Exhibit D

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

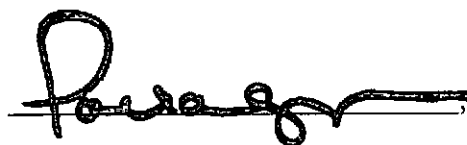
ORDER TO SHOW CAUSE

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.¹

 C.J.

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

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

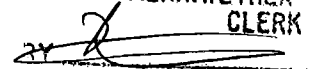
Exhibit E

Exhibit E

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2016 JAN 22 AM 8:28

SUSAN MERRIWETHER
CLERK


DEPUTY

1 Case No.: 09 OC 00579 1B

2 Dept. No.: 1

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6 IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
7 IN AND FOR CARSON CITY

8
9 JED MARGOLIN, an individual,

10 Plaintiff,

11 vs.

ORDER TO SHOW CAUSE

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

23 Defendants.

24 This matter comes before this Court on a Motion for Order to Show Cause Regarding
25 Contempt and Ex Parte Motion for Order Shortening Time filed on January 14, 2016.

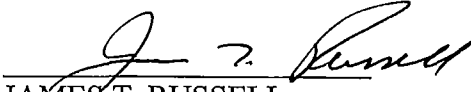
26 The Court has reviewed the Motion and the case file and finds that a hearing regarding this
27 matter would be helpful. Therefore, good cause appearing;

28 IT IS HEREBY ORDERED that a hearing will be held on February 3, 2016, at 9:30 a.m., in
Department One of the First Judicial District Court, 885 E. Musser Street, Carson City, Nevada, for
the Defendant to appear to show cause as to why he should not be held in contempt for failure to
comply with the Order of this Court.

///

1 IT IS HEREBY FURTHER ORDERED that Defendant shall produce the ordered documents
2 at the February 3, 2016 hearing.

3 Dated this 22 day of January, 2016.

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5 JAMES T. RUSSELL
6 DISTRICT JUDGE
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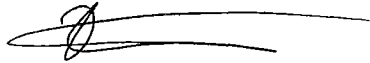
1 CERTIFICATE OF MAILING

2 The undersigned, an employee of the First Judicial District Court, hereby certifies that on the
3 22nd day of January, 2016, I served a copy of the foregoing Order by United States Mail, postage
4 prepaid, addressed as follows:

5 Adam P. McMillen, Esq.
6 5371 Kietzke Lane
7 Reno, NV 89511

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

11 Severin A. Carlson, Esq.
12 Tara C. Zimmerman, Esq.
12 510 West Fourth Street
13 Carson City, NV 89703
(Courtesy copy only)


14 

15 _____
16 Angela Jeffries
17 Judicial Assistant, Dept. 1
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Exhibit F

Exhibit F

1 Case No.: 09 OC 00279 1B
2 Dept. No.: 1

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2016 FEB -3 PM 1:11
SUSAN MERRIWETHER
CLERK
BY  DEPUTY

6 IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
7 IN AND FOR CARSON CITY

8 JED MARGOLIN, an individual
9
10 Plaintiff,
11 v.
12 OPTIMA TECHNOLOGY CORPORATION,
13 A California corporation, OPTIMA
14 TEECHNOLOGY CORPORATION, a Nevada,
15 Corporation, REZA ZANDIAN aka
16 GOLEMREZA ZANDIANJAZI aka
17 GHOLEM REZA ZANDIAN aka REZA JAZI
18 aka J REZA JAZI aka G. REZA JAZI aka
19 GHONOREZA ZANDIAN JAZI, an individual
20 DOE Companies 1-10, DOE Corporations 11-
21 20, and DOE Individuals 21-30,
22 Defendant.

**ORDER HOLDING DEFENDANT IN
CONTEMPT OF COURT**

23 This matter is before this Court pursuant to Plaintiff's Motion to Show Cause Regarding
24 Contempt and Ex Parte Motion For Order Shortening Time filed on January 14, 2016.
25 Thereafter, this Court issued an Order to Show Cause on January 22, 2016. A hearing was held
26 on the matter on February 3, 2016. Present on behalf of Plaintiff was Adam McMillen, Esq.
27 Defendant failed to appear.

28 Based on Defendant's failure to comply with this Court's Order and additionally failing
to appear before this Court, Defendant is in contempt of this Court pursuant to NRS 22.010.

1 Therefore, based on the foregoing and good cause appearing,

2 IT IS HEREBY ORDERED that Defendant shall be held in contempt of Court, a bench
3 warrant shall be issued, and the Plaintiff is duly awarded his attorney fees incurred as a result of
4 the contempt.

5 IT IS SO ORDERED.

6 Dated this 31 day of February, 2016.

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8 
9 JAMES T. RUSSELL
10 DISTRICT JUDGE
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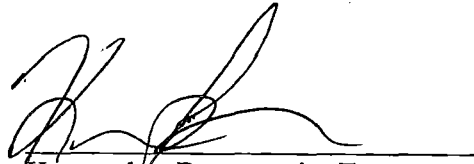
CERTIFICATE OF MAILING

I hereby certify that on the 4th day of February 2016, I served a copy of the foregoing by placing the foregoing in the United States Mail, postage prepaid, addressed as follows:

Adam P. McMillen, Esq.
5371 Kietzke Lane
Reno, NV 89511

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

Severin Carlson, Esq.
Tara Zimmerman, Esq.
510 West Fourth Street
Carson City, NV 89703
(courtesy copy only)



Krystopher Benyamein, Esq.
Law Clerk, Dept. 1

Exhibit G

Exhibit G

REC'D & FILED

2016 FEB -3 PM 2:06

SUSAN MERRIWETHER
CLERK
BY Sherlock
DEPUTY

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

JED MARGOLIN, an individual,
Plaintiff,

Case No.: 09 OC 00279 1B

Dept. No.: I

vs.

OPTIMA TECHNOLOGY CORPORATION,
a California corporation, OPTIMA
TECHNOLOGY CORPORATION, a Nevada /
corporation, REZA ZANDIAN aka
GOLAMREZA ZANDIANJAZI aka
GHOLAM REZA ZANDIAN aka REZA JAZI
aka J REZA JAZI aka G. REZA JAZI aka
GHONOREZA ZANDIAN JAZI, an individual
DOE Companies 1-10, DOE Corporations 11-
20, and DOE Individuals 21-30,
Defendant.

WARRANT OF ARREST

TO THE SHERIFF OF CARSON CITY, NEVADA:

An Order adjudging Defendant in contempt of court and Order Issuing of Arrest Warrant having
been heretofore entered by the Judge of the above-entitled Court.

NOW, THEREFORE, by virtue of this Warrant of Arrest, you are hereby commanded to arrest
the above-named Defendant, and bring him before this Court, pursuant to NRS 22.010; 22.040; 22.050
and 22.100.

///

///

1 That the said Defendant, REZA ZANDIAN aka GOLAMREZA ZANDIANJAZI aka GHOLAM
2 REZA ZANDIAN aka REZA JAZI aka J REZA JAZI aka G. REZA JAZI aka GHONOREZA
3 ZANDIAN JAZI, may be released pending a hearing or by the posting of bail, cash only, in the sum of
4 \$100,000.00. Extradition Nevada/California only.

5 WITNESS my hand this 3rd day of February, 2016, and I direct that this Warrant may be served at
6 any hour of the day or night.

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DISTRICT COURT

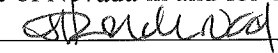
9 EUSAN MERRIMETHER
10 ATTEST: ALAN GLOVER
11 Clerk of the First Judicial District Court of the
12 State of Nevada in and for Carson City
13 By:  Deputy
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Exhibit H

Exhibit H

IN THE SUPREME COURT OF THE STATE OF NEVADA

Electronically Filed
Feb 02 2016 03:51 p.m.

Tracie K. Lindeman
Clerk of Supreme Court

**Nevada Supreme Court
Case No. 69372**

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.

APPELLANT'S RESPONSE TO ORDER TO SHOW CAUSE

Jurisdictional rules must be clear and absolute in order to give all fair notice of what is required to bring a matter properly before this Court.¹ Although no statute or court rule explicitly provides for an appeal from an order directing a debtor's examination or to produce documents, Appellant is unaware of any published decision of this Court which has determined that an order directing a

¹ *Rust v. Clark County School District*, 103 Nev. 686, 688, 747 P.2d 1380 (1987).

debtor's examination, or to produce documents, after entry of judgment, is not a special order after final judgment as contemplated by NRAP 3A(b)(8).²

In *Gumm v. Mainor*, this Court stated,

Since 1957, we have cited or quoted *Wilkinson v. Wilkinson*, as the seminal case establishing the following standard for such "special orders": The mere fact that the order in point of time is made after a final judgment has been entered does not render it appealable. It must affect the rights of the parties growing out of final judgment.³

In *Gumm*, this Court also stated that no published case analyzes *Wilkinson* or examines the cited authority upon which the aforementioned standard rests.⁴

This Court has found that the best authority on this issue is the Montana Supreme Court's opinion, in *Chicago, Milwaukee & St. Paul Railway Co. v. White*, which holds that an appealable special order made after final judgment must be an order affecting the rights of some party to the action, growing out of

² This Court dismissed an appeal from an order authorizing the examination of a judgment debtor and requiring the production of documents, stating that no statute or court rule provides for an appeal from either an order authorizing the examination of a judgment debtor or an order requiring the production of documents. *Woodson v. Int'l Fid. Ins. Co.*, Case No. 68990 (November 5, 2015) (unpublished disposition). That unpublished decision did not analyze whether an order authorizing the examination of a judgment debtor and requiring production of documents constituted a special order under NRAP 3A(b)(8). Furthermore, this appeal was taken on December 10, 2015, prior to the January 1, 2016, effective date of Administrative Docket 0504, amending NRAP 36 and repealing SCR 123.

³ *Gumm v. Mainor*, 118 Nev. 912, 915, 59 P.3d 1220, 1222 (2002).

⁴ *Id.*

the judgment previously entered.⁵ It must be an order affecting rights incorporated in the judgment.⁶

The order appealed from in this case should qualify because it affects the Appellant's rights relative to Respondent's rights to execute the judgment. Nevada Revised Statutes Chapter 21 sets forth numerous statutory rights for both judgment creditors and judgment debtors. Here, the Appellant's rights are affected as a result of the underlying judgment, which in turn, triggers NRS 21.270.

NRS 21.270(1) provides:

A judgment creditor, at any time after the judgment is entered, is entitled to an order from the judge of the court requiring the judgment debtor to appear and answer upon oath or affirmation concerning his property, before: (a) The judge or a master appointed by him; or (b) An attorney representing the judgment creditor, at a time and place specific in the order. No judgment debtor may be required to appear outside the county in which he resides.

Absent a final judgment, the provisions of NRS 21.270 would not apply to the Appellant. Since a final judgment exists against the Appellant, NRS 21.270 is thereby triggered. Appellant has appealed the district court's order

⁵ *Id.* 118 Nev. at 918, citing *Chicago, Milwaukee & St. Paul Railway Co. v. White*, 93 P. 350, 351 (1908).


⁶ *Id.*

granting a judgment debtor exam claiming the order violates NRS 21.270. The district court's order affects the rights of the Appellant under the final judgment and NRS 21.270, as triggered by the final judgment, and therefore the order should constitute a special order after final judgment under NRAP 3A(b)(8).⁷

As such, Appellant submits that this Court does have jurisdiction to hear his appeal pursuant to NRAP 3A(b)(8) and that his appeal should not be dismissed.

DATED this 2nd day of February, 2016.

KAEMPFER CROWELL

BY: 
SEVERIN A. CARLSON
Nevada Bar No. 9373
510 West Fourth Street
Carson City, Nevada 89703
Attorneys for Appellant

⁷ Conversely, had the district court denied the Respondent's motion to conduct a debtor's exam, the Respondent's rights under the judgment and NRS 21.270 would have been affected as the Respondent's ability to enforce the judgment would have been impeded.

CERTIFICATE OF COMPLIANCE

1. I hereby certify that this Appellant’s Response to Order to Show Cause has been prepared in a proportionally spaced typeface using **Microsoft Word 2010** in **14 point, double-spaced Times New Roman** font, and complies with the formatting requirements of NRAP 32(a)(4), the typeface requirements of NRAP 32(a)(5) and the type style requirements of NRAP 32(a)(6).

2. I further certify that this response complies with the page- or type-volume limitations of NRAP 32(a)(7) because, excluding the parts of the response exempted by NRAP 32(a)(7)(c), it is proportionally spaced, has a typeface of 14 points or more and contains **1,134** words.

I hereby certify that I have read this response and, to the best of my knowledge, information and belief, it is not frivolous or interposed for any improper purpose. I further certify that this response complies with all applicable Nevada Rules of Appellate Procedure.

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I understand that I may be subject to sanctions in the event that the accompanying response is not in conformity with the requirements of the Nevada Rules of Appellate Procedure.

DATED this 2nd day of February, 2016.

KAEMPFER CROWELL

BY: 

SEVERIN A. CARLSON
Nevada Bar No. 9373
510 West Fourth Street
Carson City, Nevada 89703
Attorneys for Appellant

CERTIFICATE OF SERVICE

Pursuant to NRAP 25(d), I, the undersigned, hereby certify that on the 2nd day of February, 2016, I caused the foregoing **APPELLANT'S RESPONSE TO ORDER TO SHOW CAUSE** to be served by depositing a true copy of the same for mailing at Reno, Nevada, first class postage fully prepaid and addressed to:

Matthew D. Francis, Esq.
Adam P. McMillen, Esq.
Watson Rounds
5371 Kietzke Lane
Reno, Nevada 89511
775.324.4100
775.333.8171 - facsimile
Attorneys for Respondent

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

Gholam Reza Zandian Jazi
6 rue Edouard Fournier
75116 Paris
France
Appellant

I also caused the foregoing **APPELLANT'S RESPONSE TO ORDER TO SHOW CAUSE** to be served this date by e-mail to Appellant as follows:

rezazand@hotmail.com


an employee of Kaempfer Crowell