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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,

Supreme Court Case No. 82559
District Court Case No. 09OC005791B

Appellant,

vs.

JED MARGOLIN, an individual,

Respondent.

**APPELLANT’S RESPONSE TO RESPONDENT’S MOTION
TO TAKE JUDICIAL NOTICE**

COMES NOW Appellant, 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 (“Appellant”), by and through his attorneys, Mark Forsberg, Esq. and Oshinski & Forsberg, Ltd., and hereby responds to Respondent’s Motion to Take Judicial Notice.

Respondent supports his Motion to Take Judicial Notice by falsely alleging that Appellant made a misrepresentation to this Court in his Opening Brief. In fact, this assertion is, itself, a misrepresentation to this Court. Respondent argues that the Opening Brief asserts that the “Affidavit of Judgment was not ‘recorded anywhere.’” This statement by Respondent can only be interpreted as deliberately misleading because it takes the words “recorded anywhere” out of context. The complete sentence in the Opening Brief states:

And, notwithstanding the *filing* of the untimely affidavit of judgment, there is no evidence in the record that the untimely affidavit of judgment was *recorded* anywhere in compliance with NRS 17.150(4).

Opening Brief, p. 11.

Thus, far from asserting that the affidavit was not “recorded anywhere,” the meaning of the sentence in the Opening Brief is that there is no evidence *in the record* that the affidavit was recorded anywhere *in compliance with* NRS 17.150(4). If this statement were untrue, there would be no need for Respondent to seek judicial notice of the affidavits of judgment being recorded: they would be part of the record made in the district court. The point the Opening Brief sentence is making is that Respondent Margolin, though represented by counsel, never complied with NRS 17.150(4) by recording the affidavits concurrently, that is, at the time that the judgments were recorded. This, of course, is not a misrepresentation of the state of the record as claimed by Respondent. Nor is it a misrepresentation to state that the affidavits were not recorded anywhere in compliance with the statute, which, as is the central point of the appeal, requires that the affidavit of judgment be recorded concurrently with the judgment. The affidavits were, as proven by the motion and the affidavits of judgment, not recorded *anywhere* concurrently with the judgments.

Moreover, the entire point of the motion asking this Court to take judicial notice of the five Affidavits of Judgment is to put before this Court information that

was not before the district court and could not have been made available to the district court. The affidavits for which judicial notice is sought were not recorded until after the district court entered the order from which the appeal is taken and, in fact, were not recorded until after the notice of appeal and docketing statement were filed in this Court. The affidavits of judgment attached to Respondent's Motion were recorded between March 18, 2021 and April 20, 2021. The notice of appeal was filed no later than February 25, 2021 and the docketing statement was filed March 11, 2021. Evidently the appeal and the filing of the docketing statement reminded Respondent that he had never recorded affidavits of judgment anywhere during the pendency of the proceedings in the district court, let alone concurrently with the recording of the judgments themselves as required by statute.

Unlike Appellant's motion requesting that this Court take judicial notice of a decision in a related bankruptcy proceeding, the documents Respondent requests to be noticed are not in the record that was before the district court, nor are they even mentioned. Appellant's motion to take judicial notice drew the Court's attention to a decision by a bankruptcy court that Respondent himself mentioned in moving the district court to enter an order reconveying property to Respondent. Thus, unlike Respondent, Appellant was not attempting to put before this Court new information that was not presented to the district court.

Nonetheless, Appellant does not oppose this Court taking judicial notice of the recording of the five affidavits of judgment. These documents simply emphasize the fact that, as set forth throughout Appellant's Opening Brief, Respondent never recorded the affidavits until the problems caused by that oversight were illuminated by the commencing of the appeal. If this Court takes judicial notice of the affidavits, Appellant will no longer have to simply argue that there is a *lack of evidence* of recording in the record but can argue that there is affirmative evidence before the Court that they were not. It is now beyond dispute that the affidavits of judgment were not recorded "at that time" as required by NRS 17.150(4), but not until many

years after the judgments were recorded in 2013. See *Affidavit of Renewal of Judgment, ROA 3498 at 3499*. Therefore, Appellant does not oppose the Motion to Take Judicial Notice.

Dated this 29th day of September, 2021.

OSHINSKI & FORSBERG, LTD.

By /s/ Mark Forsberg, Esq.
Mark Forsberg, Esq., NSB 4265
Attorneys for Appellant

CERTIFICATE OF SERVICE

I certify that and that on September 29, 2021, I filed a true and correct copy of the foregoing **Response to Respondent's Motion to Take Judicial Notice** with the Clerk of the Court through the Court's CM/ECF system, which sent electronic notification to all parties as follows:

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/s/ Linda Gilbertson
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