Defendant REZA ZANDIAN ("Defendant" or "Zandian"), by and through his counsel

Kaempfer Crowell, hereby submits his Reply ("Reply") in Support of Motion for Protective

KAEMPFER CROWELL 510 West Fourth Street Jarson City, Nevada 8970

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Order ("Motion"). This Reply is supported by the papers and pleadings on file herein, the accompanying Memorandum of Points and Authorities, and any oral argument that may be entertained by this Court.

DATED this 20th day of July, 2015.

KAEMPFER CROWELL

BY:

SEVERIN A. CARLSON

Nevada Bar No. 9373

TARA C. ZIMERMAN

Nevada State Bar No. 12146

510 West Fourth Street

Carson City, Nevada 89703

Attorneys for Defendant REZA ZANDIAN

MEMORANDUM OF POINTS AND AUTHORITIES

I. LEGAL ARGUMENT

A. Mr. Zandian Cannot Be Made to Appear Before this Court for the Requested Judgment Debtor Examination.¹

The plain language of NRS 21.270 precludes Plaintiff from requiring Zandian to travel to Carson City, Nevada for the purpose of conducting the judgment debtor examination. Pursuant to NRS 21.270, "no judgment debtor may be required to appear [for a judgment debtor examination] outside the county in which he resides." NRS 21.271 (1)(b). Zandian is a resident of France, and not of Carson City. Attached hereto is a utility bill for Mr. Zandian's residence in

request to respond to the arguments presented herein must be denied.

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Zandian is permitted to respond to arguments presented by Plaintiff regarding the debtor examination of Zandian and the requested discovery from Zandian in this Reply. Zandian's Motion applied to both the debtor examination and discovery requests propounded on Zandian, as well as the third-party subpoenas. See Defendant

Reza Zandian's Opposition to Plaintiff's Motion for Judgment Debtor Examination and to Produce Documents and Motion for Protective Order at 8:22-9:2 (requesting as follows: "to the extent that this Court orders that any debtor's examination is permitted at all, a protective order should be issued limiting the first phase of post-judgment discovery to the judgment debtor only. And such discovery should be limited to information and documents that are relevant to judgment debtor's current assets, meaning at most, such information and documents should be limited to the past three years."). Accordingly, it is proper for Zandian to address these arguments in this Reply, and Plaintiff's

France. See Exhibit 1. The due date for this bill is June 25, 2015 and reflects Zandian's address at 6 Rue Edouard Fournier 75116 Paris. Id. Attached as well are Mr. Zandian's most recent Paris residency and French ownership taxes for 2014, which similarly reflect Zandian's French address of 6 Rue Edouard Fournier 75116 Paris. See Exhibit 2. Finally, attached hereto are copies of Zandian's passport listing his Country of Residency as France, as well as a copy of Zandian's French residency permit with the date of entry to France of March 15, 2012 and an expiration date of August 5, 2015. See Exhibit 3.

The documents relied upon by Plaintiff in his Opposition to Motion for Protective Order ("Opposition") do not, as Plaintiff asserts, "indicate[] that Zandian resides and does business throughout Nevada, including Carson City, Nevada." Opposition at 5:21-23. The deeds Plaintiff cites to and attaches as Exhibits 7-9, 13-15, 19, 21-22 and 25 were all signed in the spring of 2014, approximately 15 months ago. That Mr. Zandian traveled to Carson City to execute the deeds in 2014 does not evidence his residency as of today. The 2014 Schedule K-1 is similarly inapposite. We are now seven and a half months removed from the last day covered by the 2014 K-1. What's more, this K-1 was filed by Zandian's partners - not Zandian himself - and his partners did not have his updated information in France at the time they filed this schedule.

Moreover, despite Plaintiff's assertion to the contrary, Nevada case law does not mandate that Zandian appear at a debtor examination before this Court in Carson City even if he were a resident of Nevada. Plaintiff has cited absolutely no Nevada case law supporting this assertion, relying instead on a non-binding Federal District of Nevada case. *See Rausch v. World Series of Golf, Inc.*, 2012 U.S. Dist. LEXIS 59911, 2012 WL 1517294 (D.Nev.Apr. 23, 2012). This case, however, does not stand for the proposition that Plaintiff relies upon it for. The issue in this case was not whether a non-resident of Nevada can be hailed into Court for a debtor examination in contradiction of the plain language of NRS 21.270(1). Nowhere in *Rausch* was the issue of

residency and NRS 21.270(1) discussed or contemplated. Rather, the issue before that court was simply the application of NRS 21.270(3), which states:

[a] judgment debtor who is regularly served with an order issued pursuant to [NRS 21.270], and who fails to appear at the time and place specified in the order, may be punished for contempt by the judge issuing the order.

Unlike in *Rausch*, this Court has not yet issued an order requiring Zandian to appear for a judgment debtor examination — this is in fact the very issue remaining to be resolved by this motion practice. Accordingly, Plaintiff's reliance on the *Rausch* case is misplaced. Nevada law is clear: "no judgment debtor may be required to appear [for a judgment debtor examination] outside the county in which he resides." NRS 21.270(1). Plaintiff has cited no authority to the contrary, and has provided no evidentiary proof that Zandian is a resident of Carson City. For these reasons, Zandian must not be required to appear for the debtor examination and Plaintiff's motion to require such must be denied. For the same reasons, Zandian's Motion must be granted.

B. The Documents Sought From Zandian Are Not Reasonably Calculated to Lead to the Discovery of Relevant Evidence.

The requests upon Zandian amount to an over-sweeping, overly broad and burdensome review of all of Zandian's financial records. Zandian appreciates Plaintiff's concession that request k. is limitless in duration, but disagrees with Plaintiff's characterization of a. and j. as being limited. Neither of these requests contains a time frame or limit on the information being sought, and are each objectionable for that reason.

The remaining requests, while they do contain a time frame, are similarly overbroad and oppressive. Plaintiff has not shown why he needs records dating back more than eight years. That Zandian executed an agreement with his family on August 21, 2003, and that he allegedly signed fraudulent assignment documents with the U.S. Patent and Trademark office in 2007,

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have absolutely no bearing on his current assets. Moreover, all of the transfers of real estate Plaintiff complains of occurred in 2014. These 2014 transfers do not make it reasonable for Plaintiff to seek discovery of documents going back more than seven years prior to 2007. Instead, it appears that Plaintiff is improperly trying to use discovery related to the requested judgment debtor examination to harass Zandian by conducting a "carte blanche" invasion into facts entirely unrelated to Zandian's current assets available to satisfy the judgment. Schlatter v. Eighth Judicial District Court, 93 Nev. 189, 561 P.2d 1342 (1977) (Nevada recognizes that the discovery rules do not provide for a "carte blanche" invasion into a party's private affairs); In re Surety Assoc. of Am., 388 F.2d 412, 414 (2nd Cir. 1967) (Parties are not permitted to "roam in the shadow zones of relevancy" in an attempt to explore irrelevant matters on the theory that they may conceivably become so.). Given the overbroad nature of the requests, Zandian requests that the Court deny Plaintiff's Motion to Produce Documents in its entirety. Alternatively, Zandian requests that this Court modify the requests and permit discovery of only such records related to the current assets of the judgment debtor, or those dating back no further than the last three years.

C. <u>A Protective Order Prohibiting the Production Requested in the Subpoenas is Proper.</u>

As an initial matter, Zandian did attempt in good faith to resolve this issue. Contrary to the representation made in Plaintiff's Opposition, in attempting to resolve the discovery dispute, Zandian's counsel, Ms. Zimmerman,² did not propose to resolve the dispute by offering to have

KAEMPFER CRO 510 West Fourth 3arson City, Nevada

It is not inappropriate for Ms. Zimmerman to represent Zandian in this action on account of her serving as a law clerk to Judge Russell. The Nevada Rules of Professional Conduct do not require Ms. Zimmerman to recuse herself from representation as she neither participated in this action personally nor substantially while serving as a law clerk to Judge Russell. See Nev. R. Prof. Cond. 1.12(a) ("Except as stated in paragraph (d), a lawyer shall not represent anyone in connection with a matter in which the lawyer participated personally and substantially as a judge or other adjudicative officer, or law clerk to such a person or as an arbitrator, mediator or other third-party neutral, unless all parties to the proceeding give informed consent confirmed in writing."). Ms. Zimmerman has no personal recollection of this case, and explained such to counsel for Plaintiff. Ms. Zimmerman further explained that she clerked for Judge Russell from August 2010 through August 2011 and that, given the nature of the actions that

Zandian produce the records requested in the subpoena in lieu of the subpoenaed parties. Likewise, Ms. Zimmerman never took any such resolution off any table. Rather, Ms. Zimmerman simply stated that which is presented in Zandian's Motion: that this discovery being sought from third-parties related to Zandian's assets is available from a less-intrusive source – the judgment debtor himself. This is a basic principle of discovery and is codified in Nevada's Rules of Civil Procedure. *See* NRCP 26(b)(1). Seeking these records from a third-party without first requesting the same from the party himself makes the subpoenas objectionable. Plaintiff must follow the required procedure for obtaining discovery and cannot simply ignore NRCP 26. Given the nature of these documents, Plaintiff cannot bypass requesting these records from a less-intrusive source and instead issue harassing, oppressive, burdensome and annoying subpoenas to third-parties at his own misguided discretion.

Plaintiff makes the nonsensical argument that he should be permitted to seek these records from third-parties because he "has not been provided the requested documents by Zandian himself." Opposition at 10:14-15. However, Zandian has not been ordered to produce any records related to his assets. The issue of any such production is still pending before this Court pursuant to Plaintiff's Motion for Judgment Debtor Examination and to Produce Documents. Thus, that Zandian has not produced these documents cannot serve as a valid basis for permitting this improper third-party discovery.

Plaintiff asserts that he "is not aware of any rule that requires 'concrete evidence of a concealed or fraudulently transferred asset' before the discovery can go forward". See Opposition at 10:22-25. While the Nevada Rules of Civil Procedure do not contain this language verbatim, interpreting substantially similar rules, courts have held that the rules of civil

occurred during that time, even if she had been personally involved in the matter, that involvement was not "substantial". As importantly, none of the actions taken in this case during Ms. Zimmerman's clerkship are currently at issue before this Court. The only actions that occurred in this action during that time were the entry of default(s) and the issuance of an order denying Zandian's Motion to Dismiss and setting aside a default against him. Default was later reentered against Zandian, leading to the present proceedings.

procedure do not permit discovery intended as a "fishing expedition" on the basis of the propounding party's speculation of relevancy. Zuk v. E. Penn. Psych. Inst., 103 F.3d 294, 299 (3rd Cir. 1996); see also Oppenheimer Fund, 437 U.S. at 351 (stating that "discovery, like all matters of procedure, has ultimate and necessary boundaries"). Parties are not entitled to openended and unlimited discovery based solely on the theory that there may be concealed assets and cannot use this supposition to gain access to financial books and records of third-parties without concrete evidence that specific assets are being concealed. Id. at 299. Furthermore, Plaintiff must show undue hardship with respect to not being able to proceed without the requested information. Wardleigh v. Second Judicial Dist. Court, 111 Nev. 345, 891 P.2d 1180 (1995). As shown herein and in Zandian's Motion, Plaintiff will not be able to show such a hardship given the narrow issue - judgment debtor's present assets currently available to pay the judgment against him. Accordingly, consistent with Zandian's Motion, to the extent that this Court orders that any debtor examination is permitted at all, a protective order should be issued limiting the first phase of post-judgment discovery to the judgment debtor only. And such discovery should be limited to information and documents that are relevant to judgment debtor's current assets, meaning at most, such information and documents should be limited to the past three years. Then, only if concrete evidence of a concealed or fraudulently transferred asset is developed, should this Court even consider expanding discovery to any third-party who allegedly has the asset.

II. CONCLUSION

For the reasons stated herein, a protective order should be issued with respect to Plaintiff's Motion for Judgment Debtor Examination and to Produce Documents, as well as the third-party subpoenas.

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5	The undersigned does hereby affirm that the preceding document does not contain the
6	social security number of any person.
7	DATED this 20 th day of July, 2015.
8	KAEMPFER GROWELL
9	BY: #1027 for
10	Nevada Bar No. 9373
11	TARA C. ZIMMERMAN State Bar No. 12146 510 West Fourth Street
12	Carson City, Nevada 89703
13	Attorneys for Defendant REZA ZANDIAN
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CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that on the 20th day of July, 2015, I caused the foregoing DEFENDANT REZA ZANDIAN'S REPLY IN SUPPORT OF MOTION FOR PROTECTIVE ORDER to be served this date by depositing a true copy of the same for mailing at Carson City, Nevada, first class postage fully prepaid and addressed to the following:

6 Matthew D. Francis, Esq. Adam P. McMillen, Esq.

7 Watson Rounds 5371 Kietzke Lane

> Reno, Nevada 89511 775.324.4100

775.333.8171 - facsimile

Attorneys for Plaintiff

an employee of Kaempfer Crowell

EXHIBIT 1

EXHIBIT 1

N° client 6 003 992 790 Identifiant Internet : 3MTNETRBR4

Per Internet et Mobile espaceclient.edf.com

sur Smartphone et Tablette

Télécharger l'appli mobile EDF&MOI

Du lundi au samedi dès 8h et jusqu'à 21h 09 69 32 15 15

(Service gratuit + prix appel)

EDF SERVICE CLIENTS TSA 20012 41975 BLOIS CEDEX 9

etrouver la boutique la plus proche de nez vous sur be

nce dépannage Electricité (ERDF) 726 750 75 (Service gratuit + prix appel)

ieu de consommation

E EDOUARD FOURNIER PARIS

ire du contrat NDIAN JAZI GHOLAM REZA

contrat

ent : 6 003 992 790

mpte: 4 02 4 004 833 996 à transmettre pour le règlement de res)

Electricité "Tarif Bleu"

livraison (PDL) : 610 633 121 e : 06 kVA

Selon la réglementation en vigueur, s de la CSPE et des TCFE ont 1/01/2015. Sur décision des lics, le Tarif Réglementé de Vente 01/11/2014 et le montant de la au 01/08/2014. Vos Conditions Vente ont été modifiées au Plus d'information sur le site edf.fr



295954 54459 8622



M. ZANDIAN JAZI GHOLAM REZA 6 RUE EDOUARD FOURNIER 75116 PARIS

Facture du 25/06/2015 N° 32 195 821 941

Electricité (relevé client) TVA

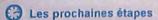
176,54 € 29,10 €

Facture TTC

205,64 €

205,64 €

Prélevé le 10/07/2015



- · Prochaine facture vers le 07/12/2015.
- · Prochaine relève ERDF vers le 07/12/2015.

Prélèvement automatique

EXHIBIT 2

EXHIBIT 2



DIRECTION GENERALE DES FINANCES PUBLIQUES

AVIS D'IMPÔT 2014

TAXES FONCIÈRES

votées et perçues par la commune, le département et divers organismes

CENTRE DES FINANCES PUBLIQUES SIP PARIS 16EME MUETTE 12 RUE GEORGE SAND **75796 PARIS CEDEX 16**

eco' pli 77 LOGNES PIC 17.09.14 CI0202

6616006473 0004

ZANDIAN JAZI GHOLAMZEZA GHOLAM REZA 6 RUE EDOUARD FOURNIER 75016 PARIS

Vos références

Numéro fiscal:

19 75 393 067 438

Référence de l'avis :

14 75 6034371 31

Numéro de propriétaire :

116 Z00554W

Débiteur(s) légal(aux) : M ZANDIAN JAZI GHOLAMZEZA GHOLAM REZA

PROPRIETAIRE 4121 MCZDG8

Numéro de rôle

Date d'établissement :

221

Date de mise en recouvrement .

08/08/2014 31/08/2014 Votre situation

MONTANT À PAYER

Au plus tard le 15/10/2014

2 913,00 €

Pare 272 NILOD 2913 E

Attention modification de la loi : il est interdit de payer en espèces ce montant supérieur à 300 €.

Attention : l'enveloppe retour est réservée au palement par TIP ou par chèque bancaire. Ne joignez aucun autre document (sauf votre RiB si nécessaire).



DIRECTION GÉNÉRALE DES FINANCES PUBLIQUES



MISE EN DEWILORE DE

Art L 257-0A et L 258 A du Livre des procédures fiscales

Le 07/04/2015

Pour nous contacter

35 Votre centre des finances publiques

SIP PARIS 16EME MUETTE 12 RUE GEORGE SAND 75796 PARIS CEDEX 16

Tél.: 01 44 30 48 84

Courriel:

sip paris-16e-muette@dgfip.finances.gouv.fr

Accueil guichet : avec ou sans rendez-vous TLJ 9H-12H/13H30-16H SF JEUDI AM

BDF: BDFEFRPPCCT FR76 3000 1000 6464 7200 0000 085

Vos références

Numéro de dossier: 827503315001218 075033

Action: 1M00001

CENTRE DES FINANCES PUBLIQUES SIP PARIS 16EME MUETTE

12 RUE GEORGE SAND 75796 PARIS CEDEX 16

M ZANDIAN JAZI **GHOLAM REZA** 6 RUE EDOUARD FOURNIER PARIS 75016 PARIS 16

Madame, Monsieur,

Selon mes informations, vous n'avez pas payé les sommes dont le détail figure dans le tableau ci-dessous.

Je vous invite à régulariser votre situation sans délai.

À défaut, j'engageral à votre encontre, à l'issue d'un délai de huit jours suivant la notification de la présente mise en demeure d des poursuites pouvant occasionner des frais élevés.

Le présent document TIENT LIEU DU COMMANDEMENT prévu par le code des procédures civiles d'exécution.

Désignation des impositions (1)	Date (2)	Montant dû	Versements effectués	Reste à paye
Taxe habitation 2014 Rôle 78001	31/10/2014	4 487,00 €	0,00 €	4 4
Majoration	15/12/2014	449,00 €	0,00 €	4
			Total dû:	4 93

* Situation arrêtée au 07/04/2015

Vous pouvez contester cette mise en demeure de payer auprès du directeur départemental des finances publiques dans les deu suivant sa notification.

Je vous prie de croire, Madame, Monsieur, à l'assurance de ma considération distinguée.

Le comptable public

EXHIBIT 3

امضاء دارنده گذرنامه

Holder's Signature:

Observation:

DSYAF

Country of Residence:

FRANCE

Place of Issue: PARIS الشور محل اقامت: فرانسه

محل صدور: پاریسر

ملاحظات:

مدرک صدور گذرنامه:

گذرنامه ۱۳۸۷/۰۵/۲۵ ۱۴۳۴۷۶۸۸ واشنگتن

Name & Position of Issuing officer:

نام و سمت صادر کننده: فریدون جهانی_دبیر دوم

FEREIDOUN JAHANI_SECOND SECRETARY

آخرین تاریخ خروج: ۱۳۹۲/۰۳/۲۰ از: فرودگاه امام خمینی

المجتموري الملامي ايران المجتمع SLAMIC REPUBLIC OF IRAM

Passport Number: H95628481

شماره النبي ۱ -۶۴۲۳۰۳ م.۱۲۸ م.۱۲۸

Surname: ZANDIAN JAZI

Given Name: GHOLAM REZA

Father's Name: HEIBATOLLAH

نام پدر: هیبت آله تاریخ و محلی تولد: ۲۰/۲۵ (۱۰۵۲ ناصفهان

Date&Place of Birth: 15/01/1952 ESFAHAN

Sex: M

Date of Issue: 05/07/2013

Date of Expiry: 05/07/2018

تحاره شناسنامه: ۱۱۶۸

نام: غلامرضا

تاریخ صدود ۱۳۹۲/۰۴/۱۴ ا

P<IRN<ZANDIAN<JAZI<<GHOLAM<REZA<<<<<<

RÉPUBLIQUE FRANÇAISE AUTORISATION PROVISOIRE DE SÉJOUR

PRÉFECTURE

PREFECTURE DE POLICE

DOSSIER Nº

10ST000000

ENTRÉE EN FRANCE 15/03/2012

NOM .

(M.) ZANDIAN JAZI

PRÉNOMS ...

GHOLAM REZA

NÉ(E) LE

15/01/1952 A ISFAHAN

NATIONALITÉ IRANIENNE 06 RUE

ADRESSE

EDOUARD FOURNIER

75116 PARIS

EST AUTORISE(E) A PROLONGER PROVISOIREMENT SON SEJOUR EN FRANCE JUSQU'AU 05/08/2015

CETTE AUTORISATION N'EST VALABLE QU'ACCOMPAGNEE DU DOCUMENT VALABLE DU 05/07/2013 AU 05/07/2018 NO H95628481

JUSTIFIANT DE L'IDENTITE DE SON TITULAIRE.

N° 9913081553



SIGNATURE ET CACHET DE L'AUTORITÉ

Pour le Préfet de Pelice et par délégation Cyrille MAILLET - M 1

FAIT A PARIS (CITE) LE 06/05/2015

VALABLE JUSQU'AU 05/08/2015 02455778

CETTE AUTORISATION NE PERMET PAS A SON TITULAIRE D'OCCUPER UN EMPLOI