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

JED MARGOLIN, an individual,

Plaintiff,

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 GHONONREZA
ZANDIAN JAZI, an individual, DOE
Companies 1-10, DOE Corporations 11-20,
and DOE Individuals 21-30,

Defendants.

Case No.: 090C00579 1B

Dept. No.: 1

**REPLY IN SUPPORT OF MOTION
FOR ORDER TO SHOW CAUSE
REGARDING CONTEMPT**

Plaintiff Jed Margolin submits the following reply arguments in support of
Motion for Order to Show Cause Regarding Contempt:

**I. Zandian Consented To The Granting Of The Motion For Judgment
Debtor Examination Under NRS 21.270**

Zandian's failure to file an opposition to the Motion for Judgment Debtor Examination
constituted a consent to the granting of the Motion. *See* FJDCR 15(5) ("a failure of an
opposing party to file a memorandum of points and authorities in opposition to any motion
within the time permitted shall constitute a consent to the granting of the motion.") (emphasis

1 added); *see also* FJDCR 30 (“If a party or an attorney fails, refuses, or neglects to comply with
2 these rules, the Nevada Rules of Civil Procedure, the District Court Rules, the Supreme Court
3 Rules, or any statutory requirements, the Court may, after notice and an opportunity to be
4 heard, impose any and all sanctions authorized by statute or rule[.]”).

5 Zandian openly recognizes he did not oppose the Motion for Judgment Debtor
6 Examination and he should have raised the issues he now raises in an opposition to the Motion
7 for Judgment Debtor’s Examination, not the Motion for contempt sanctions. *See* Opposition to
8 Motion for Order to Show Cause Regarding Contempt (“Opposition”), dated 3/3/14, p. 6, n. 9
9 (“To be fair, the fact that the *Motion for Judgment Debtor Examination and to Produce*
10 *Documents* was unopposed by then-counsel for Reza Zandian bears a fair share of the
11 responsibility for the oversight.”); *see also id.* at p. 8, n. 13 (“Again, it must be conceded that it
12 would have been far better to present this position in the context of an opposition to the *Motion*
13 *for Judgment Debtor Examination and to Produce Documents*.”). Not only did Zandian fail to
14 oppose the Motion for Judgment Debtor Examination, he willfully failed to comply with the
15 resulting order.

16 But for Plaintiff’s counsel’s proactive approach, Zandian would have allowed Plaintiff
17 and the Court go forward with the debtor’s examination, knowing full well he was not going to
18 appear for the examination. It was not until Plaintiff’s counsel contacted Zandian’s counsel
19 that Plaintiff learned Zandian had no intention of complying with the Court’s order. *See*
20 Motion for Order to Show Cause Regarding Contempt, dated 2/12/14, Exhibit 2.

21 By failing to oppose the Motion for Judgment Debtor Examination, Zandian waived
22 the arguments he now makes regarding the validity of the order for Zandian to appear in
23 Carson City for a debtor’s examination and contempt sanctions are proper for his willful
24 disobedience.

25 **II. Zandian Has Still Not Produced Any Records And Should Be Held In**
26 **Contempt**

27 Seeking to further excuse himself, Zandian argues he should have been given 30 days
28 to comply with the order to produce records, pursuant to NRCPC 34. Zandian also argues there

1 was no reason to shorten the time to produce records below the 30 day requirement of NRC
2 34.

3 However, Zandian admits the “*Order for Debtor’s Examination*, insofar as it required
4 the production of documents by Reza Zandian, is sound.” See Opposition at 7:15-17; see also
5 Opposition at 8:8-9 (“Of course, this Court has the authority to compel a shorter [time] or
6 allow a longer time than 30 days to produce documents in accordance with NRC 34.”); see
7 also NRC 26(b)(2) (“By order, the court may alter the limits in these rules”); NRC 34(b)
8 (“A shorter or longer time may be directed by the court”).
9

10 Even though Zandian admits the order to produce the documents was sound and well
11 within the Court’s power, Zandian willfully disobeyed the order and did not produce the
12 documents by February 4, 2014. In addition, even if we were to believe Zandian’s argument
13 that he needed the standard 30 days to comply with the order, it has been well over 30 days
14 since the order was served on Zandian *and Zandian still has not produced any documents*
15 *pursuant to the order.*¹ Zandian has made no attempt to comply with the order. As such, the
16 circumstances warrant a determination that Zandian is in contempt of this Court’s order and
17 sanctions should be imposed.
18

19 **III. NRS 21.270(3) Also Provides Contempt Power**

20 Zandian fails to recognize that NRS 21.270(3) provides authority for contempt
21 sanctions as follows: “A judgment debtor who is regularly served with an order issued
22 pursuant to this section, and who fails to appear at the time and place specified in the order,
23 may be punished for contempt by the judge issuing the order.”
24

25 As Zandian failed to oppose the Motion, Zandian consented to the granting of the
26 Motion for Judgment Debtor’s Examination in Carson City, and the Court certainly had the
27

28 ¹ Zandian argues that Plaintiff served the notice of entry of the Order for Debtor Examination by regular mail on
January 16, 2014. However, Plaintiff also served the notice by email on January 16, 2014. See Exhibit 1.

1 power to compel the production of documents and Zandian admits that order is sound. Since
2 Zandian was regularly served with an order to produce documents and appear at a debtor's
3 examination pursuant to NRS 21.270, and Zandian failed to produce documents and appear at
4 the time and place specified in the order, he may be punished for contempt.

5 **IV. The Court Has The Express And Inherent Power To Sanction Zandian**

6 Zandian argues that NRCP 69(a) requires any discovery techniques that are used in aid
7 of execution of the judgment must be used in accordance with the Nevada Rules of Civil
8 Procedure. See Opposition at 7:9-20. As a result, the Court also has the express authority to
9 issue sanctions under the state's discovery rules. Accordingly, "NRCP 37(b)(2) authorizes as
10 discovery sanctions dismissal of a complaint, entry of default judgment, and awards of fees
11 and costs. Generally, NRCP 37 authorizes discovery sanctions only if there has been willful
12 noncompliance with a discovery order of the court." *Young v. Johnny Ribeiro Bldg., Inc.*, 106
13 Nev. 88, 92, 787 P.2d 777, 779 (1990) (citing *Fire Insurance Exchange v. Zenith Radio Corp.*,
14 103 Nev. 648, 651, 747 P.2d 911, 913 (1987)).

15
16 In addition, courts have inherent equitable powers that permit sanctions for discovery
17 and other litigation abuses not specifically proscribed by statute. *Young*, 106 Nev. 88, 92, 787
18 P.2d 777, 779 ("courts have 'inherent equitable powers to dismiss actions or enter default
19 judgments for ... abusive litigation practices'" and "[l]itigants and attorneys alike should be
20 aware that these powers may permit sanctions for discovery and other litigation abuses not
21 specifically proscribed by statute.") (citations omitted); see also *Bahena v. Goodyear Tire &*
22 *Rubber Co.*, 126 Nev. Adv. Op. 26, 235 P.3d 592, 600 (2010) ("In addition to awarding
23 sanctions pursuant to NRCP 37(b)(2)(C), and based upon its inherent equitable power, the
24 district court may order sanctions under NRCP 37(d). NRCP 37(d) allows for the award of
25 sanctions if a party fails to attend their own deposition or fails to serve answers to
26 interrogatories or fails to respond to requests for production of documents."); see also Motion
27
28

1 for Order to Show Cause Regarding Contempt, dated 2/12/14, 7:16-8:18 (providing legal
2 authorities regarding Court's authority to issue contempt sanctions).

3 Under the Court's express and inherent power to govern these proceedings, the Court
4 has the authority and power to sanction Zandian for not responding to the Motion for
5 Judgment Debtor Examination, for not providing actual evidence regarding where Zandian is
6 actually residing, and for willfully disobeying the order granting Plaintiff's Motion for
7 Judgment Debtor Examination and to Produce Documents.

8 **V. It Does Matter Where Zandian Resides**
9

10 It is not sufficient for Zandian's latest Counsel to say "it does not matter where Mr.
11 Zandian resides, so long as it is not in Carson City, Nevada." *See* Opposition at p. 3, n. 2. To
12 the contrary, it does matter where Zandian resides. He has failed to provide any evidence to
13 show where Zandian did or does reside. The negative argument is not evidence.

14 As is well known to this Court, Zandian has, through a string of different attorneys,
15 continuously evaded the Plaintiff and this Court with regards to, among other things, services
16 of process, responding to discovery, responding to motions, and now in execution of the
17 judgment.
18

19 Zandian argues he resides in France. He appears to have his own self-serving
20 definition of the word, "reside," which is, "I reside wherever I say I reside." However, there is
21 overwhelming evidence that Zandian is and has been residing in the U.S. at all relevant times.
22 *See* Opposition to Motion to Set Aside Judgment, dated 1/9/14, 2:1-4:4 and Exhibits 1-12.
23 Zandian has done nothing to dispute the actual evidence provided to this Court.

24 In addition, Zandian owns property and business interests throughout the state of
25 Nevada. *See* Opposition to Motion to Dismiss, dated 12/5/11, 11:1-13:3 and Exhibits 5-25.
26 As a result of his extensive property and business interests, it might be well within the Court's
27

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1 power to consider Zandian a resident of Carson City, especially since Zandian has purposely
2 evaded the Plaintiff and the Court at every turn.

3 Further, if Zandian had opposed the Motion for Judgment Debtor Examination and to
4 Produce Documents, he might have argued that he did not reside in Carson City. Then he
5 would have had to say where he was residing (with some credible evidence). If, for example,
6 Zandian was residing in Clark County, the Debtor's Examination could have been scheduled
7 to be held in the Las Vegas office of Watson Rounds. Zandian did not do that. Instead, he is
8 hiding from Plaintiff and from this Court.

9
10 **VI. Zandian Has Failed To Share His Side To The Story**

11 Zandian dismisses out of hand the factual and procedural background to this matter, as
12 follows:

13 Although only a select few facts are relevant to the actual issue before the
14 Court, Plaintiffs Motion offers several pages of "background", most of which is
15 obviously designed to engender bad will and disdain for Mr. Zandian. *Motion* at
16 3:20 - 7:15. This *Opposition* will make no effort - because none is called for - to
17 refute material which is immaterial to the question of whether this Court should
18 issue the requested order. Suffice it to say, for now, that there are two sides to
19 this story.

20 *See Opposition* at p. 3, n. 1 (emphasis added). The central fact of this case is that Zandian has
21 never denied fraudulently using a Power-of-Attorney in the patent assignment documents he
22 filed with the U.S. Patent Office. Zandian has had many chances to tell his side of the story but
23 has always refused to do so.

24 Zandian had a chance to tell his side of the story in the case held in U.S. District Court
25 for the District of Arizona (*Universal Avionics Systems Corporation v. Optima Technology
26 Group, et al.*) where the ownership of the Patents was a major issue. Zandian remained silent
27 in that case.

28 Zandian had a chance to tell his side of the story in the present case many times. After
Zandian was served with the Complaint, Zandian ignored the case and a default judgment was
entered against him. Later, John Peter Lee made an appearance for Zandian and moved to
dismiss the case, saying that Zandian had not been properly served and that this Court did not

1 have jurisdiction over Zandian because he lived in California. He had a chance to tell his side
2 of the story then, but chose not to.

3 Zandian had a chance to tell his story after he had been served by publication (made
4 necessary because John Peter Lee refused to accept service for Zandian and refused to provide
5 Zandian's address). However, Zandian again moved to dismiss the case where he again said
6 Zandian had not been properly served and that this Court did not have jurisdiction over
7 Zandian. Again, the motion to dismiss was denied. Zandian had a chance to tell his side of the
8 story when he finally did answer the Complaint. However his answer was only a General
9 Denial and did not contain any Affirmative Defenses. Again, he failed to tell his side of the
10 story.

11 Zandian had a chance to tell his side of the story after John Peter Lee withdrew as
12 counsel when Plaintiff sent the First Set of Requests for Admission, the First Set of
13 Interrogatories, and the First Set of Requests for Production of Documents to Zandian at the
14 address John Peter Lee provided to the Court in the motion to withdraw. One of the reasons
15 for sending Zandian the written discovery was to find out what Zandian's story was. He
16 ignored the discovery requests and did not respond.

17 The inescapable conclusion is that whatever story Zandian has to tell does not do him
18 any credit. Otherwise he would have told it by now.

19 **VII. CONCLUSION**

20 For all of the foregoing reasons, this Court should grant Plaintiff's Motion for Order to
21 Show Cause Regarding Contempt.

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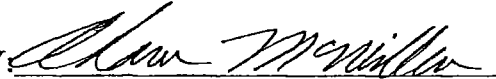
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AFFIRMATION PURSUANT TO NRS 239B.030

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

Dated this 13th day of March, 2014.

BY: 

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Attorneys for Plaintiff Jed Margolin

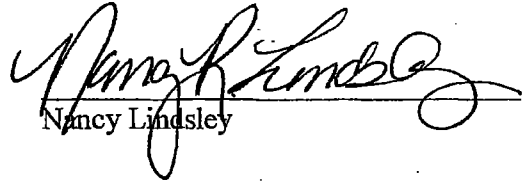
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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of Watson Rounds, and 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, **REPLY IN SUPPORT OF MOTION FOR ORDER TO SHOW CAUSE REGARDING CONTEMPT**, addressed as follows:

Jason D. Woodbury
Severin A. Carlson
Kaempfer Crowell
510 West Fourth Street
Carson City, Nevada 89703
Attorneys for Defendant, Reza Zandian

Dated: March 13, 2014


Nancy Lindsley

INDEX OF EXHIBITS

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Exhibit No.	Title	Number of Pages
1	Email, dated 1/16/14, from Nancy Lindsley to Lauren Kidd regarding Notice of Entry of Order Granting Debtor's Examination and to Produce Documents.	1

Exhibit 1

Exhibit 1

Adam McMillen

From: Nancy Lindsley
Sent: Thursday, January 16, 2014 3:16 PM
To: 'Lauren Kidd'
Subject: Margolin v. Zandian, et al.
Attachments: 2014-0113 Order Granting Plaintiff's Motion for Debtor Examination and to Produce Documents.pdf; 2014-0116 Notice of Entry of Order Granting Debtor Examination.pdf

Dear Ms. Kidd:

Attached please find courtesy copies of documents which have been filed in connection with the above-referenced matter. Please contact us if you have any questions.

Sincerely,

Nancy R. Lindsley
Paralegal to
Matthew D. Francis and
Adam P. McMillen



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Reno, NV 89511

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