

IN THE SUPREME COURT OF THE STATE OF NEVADA

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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 Co.*, Case No. 68990 (November 5, 2015) (unpublished disposition). That unpublished decision did not analyze whether an order authorizing the examination of a judgment debtor and requiring production of documents constituted a special order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).

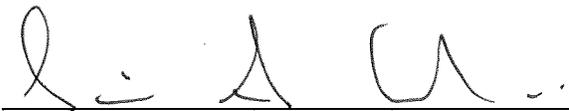
⁶ *Id.*

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