

IN THE SUPREME COURT OF THE STATE OF NEVADA

INDICATE FULL CAPTION:

REZA ZANDIAN, AN INDIVIDUAL,
Appellant,
vs.
JED MARGOLIN, AN INDIVIDUAL,
Respondent.

No. 65205

Electronically Filed
Apr 04 2014 09:31 a.m.
Tracie K. Lindeman
Clerk of Supreme Court

DOCKETING STATEMENT
CIVIL APPEALS

GENERAL INFORMATION

All appellants not in proper person must complete this docketing statement. NRAP 14(a). The purpose of the docketing statement is to assist the Supreme Court in screening jurisdiction, classifying cases for en banc, panel, or expedited treatment, compiling statistical information and identifying parties and their counsel.

WARNING

This statement must be completed fully, accurately and on time. NRAP 14(c). The Supreme Court may impose sanctions on counsel or appellant if it appears that the information provided is incomplete or inaccurate. *Id.* Failure to fill out the statement completely or to file it in a timely manner constitutes grounds for the imposition of sanctions, including a fine and/or dismissal of the appeal.

A complete list of the documents that must be attached appears as Question 26 on this docketing statement. Failure to attach all required documents will result in the delay of your appeal and may result in the imposition of sanctions.

This court has noted that when attorneys do not take seriously their obligations under NRAP 14 to complete the docketing statement properly and conscientiously, they waste the valuable judicial resources of this court, making the imposition of sanctions appropriate. See KDI Sylvan Pools v. Workman, 107 Nev. 340, 344, 810 P.2d 1217, 1220 (1991). Please use tab dividers to separate any attached documents.

1. Judicial District First Department 1
County Carson City Judge James T. Russell
District Ct. Case No. 09 OC 00579 1B

2. Attorney filing this docketing statement:

Attorney Jason Woodbury -Telephone (775) 884-8300
Firm KAEMPFER CROWELL
Address 510 West Fourth Street
Carson City, Nevada 89703

Client(s) Reza Zandian

If this is a joint statement by multiple appellants, add the names and addresses of other counsel and the names of their clients on an additional sheet accompanied by a certification that they concur in the filing of this statement.

3. Attorney(s) representing respondents(s):

Attorney Matthew D. Francis -Telephone (775) 324-4100
Firm WATSON ROUNDS
Address 5371 Kietzke Lane
Reno, Nevada 89511

Client(s) Jed Margolin

Attorney Adam P. McMillen -Telephone (775) 324-4100
Firm WATSON ROUNDS
Address 5371 Kietzke Lane
Reno, Nevada 89511

Client(s) Jed Margolin

(List additional counsel on separate sheet if necessary)

4. Nature of disposition below (check all that apply):

- | | |
|---|---|
| <input type="checkbox"/> Judgment after bench trial | <input type="checkbox"/> Dismissal: |
| <input type="checkbox"/> Judgment after jury verdict | <input type="checkbox"/> Lack of jurisdiction |
| <input type="checkbox"/> Summary judgment | <input type="checkbox"/> Failure to state a claim |
| <input checked="" type="checkbox"/> Default judgment | <input type="checkbox"/> Failure to prosecute |
| <input type="checkbox"/> Grant/Denial of NRC 60(b) relief | <input type="checkbox"/> Other (specify): _____ |
| <input type="checkbox"/> Grant/Denial of injunction | <input type="checkbox"/> Divorce Decree: |
| <input type="checkbox"/> Grant/Denial of declaratory relief | <input type="checkbox"/> Original <input type="checkbox"/> Modification |
| <input type="checkbox"/> Review of agency determination | <input checked="" type="checkbox"/> Other disposition (specify): <u>Denial of set aside</u> |

5. Does this appeal raise issues concerning any of the following?

- Child Custody
- Venue
- Termination of parental rights

6. Pending and prior proceedings in this court. List the case name and docket number of all appeals or original proceedings presently or previously pending before this court which are related to this appeal:

None.

7. Pending and prior proceedings in other courts. List the case name, number and court of all pending and prior proceedings in other courts which are related to this appeal (e.g., bankruptcy, consolidated or bifurcated proceedings) and their dates of disposition:

None.

8. Nature of the action. Briefly describe the nature of the action and the result below:

The subject matter of this case concerns various patents and a dispute over their ownership. Margolin claims to be the owner of the patents at issue and that certain conduct of Zandian "clouded the title" and disrupted his ownership and control over the patents, thereby causing him damages. Specifically, Margolin's complaint alleged the following claims against the Zandian: (1) Conversion; (2) Tortious Interference with Contract; (3) Intentional Interference with Prospective Economic Advantage; (4) Unjust Enrichment; and (5) Unfair and Deceptive Trade Practices. After the complaint was served and answered, Zandian's counsel withdrew and provided an inaccurate service address for further service upon Zandian in the case. Utilizing the incorrect address, Margolin served Zandian with several discovery requests which Zandian failed to answer because he did not receive them. Margolin then requested sanctions against Zandian which included a request that Zandian's answer be stricken. The District Court granted the request. Subsequently, the District Court entered a default against Zandian and, later, a default judgment. Zandian then moved to set aside the default and the request. The District Court denied the motion to set aside without a hearing.

9. Issues on appeal. State concisely the principal issue(s) in this appeal (attach separate sheets as necessary):

Did the District Court incorrectly:

- o Enter a default even though ZANDIAN had appeared in the case and no advance notice of any intention to take a default had been provided to ZANDIAN;
- o Sanction ZANDIAN for failing to respond to discovery requests when both the discovery requests and the motion to impose the sanction were served upon an incorrect service address;
- o Impose a dispositive sanction of striking ZANDIAN's answer to the operative complaint under the circumstances of this case;
- o Deny ZANDIAN's motion to set aside the default and default judgment under the circumstances of this case?

10. Pending proceedings in this court raising the same or similar issues. If you are aware of any proceedings presently pending before this court which raises the same or similar issues raised in this appeal, list the case name and docket numbers and identify the same or similar issue raised:

None.

11. Constitutional issues. If this appeal challenges the constitutionality of a statute, and the state, any state agency, or any officer or employee thereof is not a party to this appeal, have you notified the clerk of this court and the attorney general in accordance with NRAP 44 and NRS 30.130?

N/A

Yes

No

If not, explain:

12. Other issues. Does this appeal involve any of the following issues?

Reversal of well-settled Nevada precedent (identify the case(s))

An issue arising under the United States and/or Nevada Constitutions

A substantial issue of first impression

An issue of public policy

An issue where en banc consideration is necessary to maintain uniformity of this court's decisions

A ballot question

If so, explain:

13. Trial. If this action proceeded to trial, how many days did the trial last? _____

Was it a bench or jury trial? _____

14. Judicial Disqualification. Do you intend to file a motion to disqualify or have a justice recuse him/herself from participation in this appeal? If so, which Justice?
No.

TIMELINESS OF NOTICE OF APPEAL

15. Date of entry of written judgment or order appealed from February 6, 2014

If no written judgment or order was filed in the district court, explain the basis for seeking appellate review:

16. Date written notice of entry of judgment or order was served February 10, 2014

Was service by:

Delivery

Mail/electronic/fax

17. If the time for filing the notice of appeal was tolled by a post-judgment motion (NRCP 50(b), 52(b), or 59)

(a) Specify the type of motion, the date and method of service of the motion, and the date of filing.

NRCP 50(b) Date of filing _____

NRCP 52(b) Date of filing _____

NRCP 59 Date of filing _____

NOTE: Motions made pursuant to NRCP 60 or motions for rehearing or reconsideration may toll the time for filing a notice of appeal. See *AA Primo Builders v. Washington*, 126 Nev. ____, 245 P.3d 1190 (2010).

(b) Date of entry of written order resolving tolling motion _____

(c) Date written notice of entry of order resolving tolling motion was served _____

Was service by:

Delivery

Mail

18. Date notice of appeal filed March 12, 2014.

If more than one party has appealed from the judgment or order, list the date each notice of appeal was filed and identify by name the party filing the notice of appeal:

19. Specify statute or rule governing the time limit for filing the notice of appeal, e.g., NRAP 4(a) or other

NRAP 4(a)

SUBSTANTIVE APPEALABILITY

20. Specify the statute or other authority granting this court jurisdiction to review the judgment or order appealed from:

(a)

- | | |
|--|---------------------------------------|
| <input type="checkbox"/> NRAP 3A(b)(1) | <input type="checkbox"/> NRS 38.205 |
| <input type="checkbox"/> NRAP 3A(b)(2) | <input type="checkbox"/> NRS 233B.150 |
| <input type="checkbox"/> NRAP 3A(b)(3) | <input type="checkbox"/> NRS 703.376 |
| <input checked="" type="checkbox"/> Other (specify) <u>NRAP 3A(b)(8)</u> | |

(b) Explain how each authority provides a basis for appeal from the judgment or order: Denial of a motion to set aside a default and default judgment is a "special order entered after final judgment" which is the subject of a cognizable appeal under NRAP 3A(b)(8).

21. List all parties involved in the action or consolidated actions in the district court:

(a) Parties:

JED MARGOLIN, an individual, Plaintiff

REZA ZANDIAN, an individual, Defendant

OPTIMA TECHNOLOGY CORPORATION, a California corporation, Defendant

OPTIMA TECHNOLOGY CORPORATION, a Nevada corporation, Defendant

(b) If all parties in the district court are not parties to this appeal, explain in detail why those parties are not involved in this appeal, *e.g.*, formally dismissed, not served, or other:

Defendants, OPTIMA TECHNOLOGY CORPORATION, a California corporation, and OPTIMA TECHNOLOGY CORPORATION, a Nevada corporation (collectively "OTC"), were the subjects of a default and default judgment which preceded the default and default judgment to which REZA ZANDIAN was subject. OTC did not move to set aside the default or default judgment to which they were subject.

22. Give a brief description (3 to 5 words) of each party's separate claims, counterclaims, cross-claims, or third-party claims and the date of formal disposition of each claim.

Margolin: (1) Conversion; (2) Tortious Interference with Contract; (3) Intentional Interference with Economic Advantage; (4) Unjust Enrichment; (5) Unfair and Deceptive Trade Practices

As to Zandian, all of the claims of Margolin were addressed in the default judgment dated June 24, 2013. By order dated February 6, 2014, the District Court denied the request to set aside the default judgment.

23. Did the judgment or order appealed from adjudicate ALL the claims alleged below and the rights and liabilities of ALL the parties to the action or consolidated actions below?

Yes

No

24. If you answered "No" to question 23, complete the following:

(a) Specify the claims remaining pending below:

(b) Specify the parties remaining below:

(c) Did the district court certify the judgment or order appealed from as a final judgment pursuant to NRCP 54(b)?

Yes

No

(d) Did the district court make an express determination, pursuant to NRCP 54(b), that there is no just reason for delay and an express direction for the entry of judgment?

Yes

No

25. If you answered "No" to any part of question 24, explain the basis for seeking appellate review (e.g., order is independently appealable under NRAP 3A(b)):

26. Attach file-stamped copies of the following documents:

- The latest-filed complaint, counterclaims, cross-claims, and third-party claims
- Any tolling motion(s) and order(s) resolving tolling motion(s)
- Orders of NRCP 41(a) dismissals formally resolving each claim, counterclaims, cross-claims and/or third-party claims asserted in the action or consolidated action below, even if not at issue on appeal
- Any other order challenged on appeal
- Notices of entry for each attached order

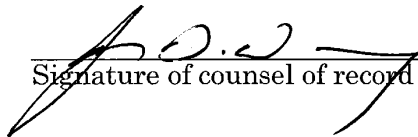
VERIFICATION

I declare under penalty of perjury that I have read this docketing statement, that the information provided in this docketing statement is true and complete to the best of my knowledge, information and belief, and that I have attached all required documents to this docketing statement.

Reza Zandian
Name of appellant

Jason Woodbury
Name of counsel of record

April 3, 2014
Date


Signature of counsel of record

Carson City, Nevada
State and county where signed

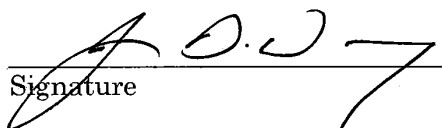
CERTIFICATE OF SERVICE

I certify that on the 3rd -day of April -, 2014 -, I served a copy of this completed docketing statement upon all counsel of record:

- By personally serving it upon him/her; or
- By mailing it by first class mail with sufficient postage prepaid to the following address(es): (NOTE: If all names and addresses cannot fit below, please list names below and attach a separate sheet with the addresses.)

Matthew D. Francis
Adam P. McMillen
WATSON ROUNDS
5371 Kietzke Lane
Reno, NV 89511

Dated this 3rd -day of April -, 2014 -


Signature