

Case No.:09 OC 00279
Dept. No.: 1

THE O'MARA LAW FIRM, P.C.
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Counsel for Defendant

**IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR CARSON CITY**

JED MARGOLION, an individual,

Plaintiff ,

**EX PARTE MOTION FOR ORDER
SHORTENING TIME**

v.

OPTIMA TECHNOLOGY
CORPORATION, a California corporation,
OPTIMA TECHNOLOGY
CORPORATION, a Nevada corporation,
REZA ZANDIAN, aka GHOLAM REZA
ZANDIAN, aka REZA JAZI, aka J. REZA
JAZI aka G. REZA JAZI aka
CHONONREZA ZANDIAN JAZI, an
individual, DOES Companies 1-10, DOE
Corporations J 1-20, and DOE Individuals
21-30, inclusive,

Defendants .

Defendant, Gholam Zandian aka Reza Zandian ("Defendant"), by and through his counsel of record, David C. O'Mara, Esq., and The O'Mara Law Firm, P.C., hereby move this court for entry of an Order Shortening Time to respond to the Motion to Quash Arrest Warrant, filed concurrently herewith. This motion is made and based upon the following Memorandum of Points and Authorities, any papers on pleadings on file herein and is brought in good faith.

1 **DECLARATION OF DAVID C. O'MARA ESQ.**

2 DAVID C. O'MARA, declares as follows:

3 1. I am the sole practitioner of The O'Mara Law Firm, P.C. and my firm's office is
4 located in Reno, Nevada.

5 2. I am an attorney admitted to practice before all courts in the State of Nevada and
6 have personal knowledge of the facts and circumstances set forth herein.

7 3. I am seeking on behalf of Defendant an order shortening time to respond to this
8 motion to quash arrest warrant.

9 4. On April 1, 2025, I was contacted by my client to represent him on the pending
10 warrant for his arrest that was filed in this matter. Client was recently restrained at the Maple
11 River Detention Center in Riverside, California, pursuant to the Court's Arrest Warrant and
12 Amended Arrest Warrant.

13 5. On April 2, 2025, Declarant traveled to Carson City to review the above-referenced
14 case file and to obtain various documents relevant to this case. Declarant reviewed the documents
15 from the date of the motion to compel a judgment debtor, until the last filed document. Declarant
16 obtained copies of the Motion for Order to Show Cause Regarding Contempt and Ex Parte Motion
17 for Order Shortening Time. Declarant did not see within the file any Affidavit in support of the
18 Motion for Order to Show Cause Regarding Contempt. A true and correct copy of the Motion for
19 Order to Show Cause that was obtained from the Court Clerk is attached as Exhibit 1 to the
20 Declaration of David C. O'Mara, Esq., in support of the Motion to Quash.

21 6. Declarant further obtained a copy of the Court's docket showing all documents filed
22 in this case. There is no entry of an Affidavit in support of the motion for order to show cause
23 regarding contempt filed around the date of the motion, January 14, 2016, entered on the docket.

24 7. Defendant in this matter is currently being held in at the Maple River Correctional
25 Center in Riverside California and the time he spends in the facility may exceed the 25 days
26 allowed for incarceration under Nevada Law. More importantly, Defendant believes that the
27 Arrest Warrant was improper and in violation of his constitutional rights.

1 8. Prior to filing this request, Declarant emailed the opposing counsel to advise of the
2 pending motion, and the request for an order shortening time. Declarant will have emailed the
3 motion to quash, the motion for order shortening time, and the other relevant document to counsel
4 prior to driving to Carson City to file the documents. Mr. Gilmore responded that he and his co-
5 counsel may not be retained for this proceeding but he would forward the documents to his client.

6 9. As such, Counsel is asking for this motion to be heard on shortened time. The
7 Court provided an Order shortening time to hear the contempt issue, and thus, it would not
8 prejudice anyone to shorten the time in this case. The Court should set an in-person hearing (for
9 counsel) or a zoom hearing as soon as the Court calendar allows. If necessary, the Court could
10 have any party file an opposition one day before the hearing is scheduled and Declarant will waive
11 his right to file a reply, so long as Declarant does not waive his ability to make rebuttal arguments
12 at any hearing.

13 Pursuant to NRS 53.045, I declare under penalty of perjury under the laws of the State of
14 Nevada that the foregoing is true and correct.

15
16 DATED: April 4, 2025

Respectfully submitted,
THE O'MARA LAW FIRM, P.C.



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Counsel for Plaintiffs

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The local rule of the First Judicial District Court for an order shortening time, upon the filing of an affidavit or declaration. *See* FJDCR 3.18. Additionally, local rules also provide for an ex parte and emergency motions. *See* FJDCR 3.19. Petitioners are seeking to expediate the briefing schedule and hearing date on this matter because this issue needs to be and must be decided expeditiously so that Defendant does not remain at the Maple River Correctional Facility pursuant to an improperly issued Arrest Warrant.

Not included in the motion for order to show cause was an affidavit required under NRS 22.030(2). The law is clear in Nevada that before a court can assume jurisdiction to hold a person in contempt, an affidavit must be filed. *See Steeves v. District Court*, 59 Nev. 405, 413, 94 P.2d 1093, 1095–96 (1939). In *Awad v. Wright*, 106 Nev. 407, 794 P.3d 713 the Nevada Supreme Court specifically stated that, because the party “did not file an affidavit with the order to show cause, the district court did not have jurisdiction to hold Awad in contempt of court.” *See Awad v. Wright*, 106 Nev. 407, 794 P.3d 713, *see also Pengilly v. Rancho Sante Fee Homeowners Ass’n*, 116 Nev. 646, 650, 5 P.3d 569 (“A writ of prohibition is available where the district court clearly exceeded its jurisdiction—for example, when a finding of indirect contempt is not based upon a proper affidavit.”)

On January 22, 2016, the Court issued an order to show cause and set a hearing for February 3, 2016. At the February 3, 2016, hearing, Defendant was not present and thus, this Court found that “*based on the failure to comply with this Court’s Order* and additionally failing to appear before this Court, *Defendant is in contempt of this Court pursuant to NRS 22.010.*” (emphasis added). An Arrest Warrant was issued on the same day, in which the Court stated, “by virtue of

1 this Warrant of Arrest, you are hereby commanded to arrest the above-named Defendant, and bring
2 him before this Court, pursuant to NRS 22.010, NRS 22.040, NRS 22.050 and 22.100. A
3 subsequent Amended Arrest Warrant was issued on June 7, 2019, which is substantially the same,
4 save and except the case number was modified to include the proper case number. In the case of
5 *Cunningham v. Eighth Judicial Dist. Court*, the Supreme Court of Nevada held that a contempt
6 order issued without jurisdiction is void. *See Cunningham v. Eighth Judicial Dist. Court of State*
7 *of Nev., In and For Clark County*, 102 Nev. 551 (1986) Similarly, in *Steeves v. Second Judicial*
8 *District Court*, the petitioner argued that the show cause order was void because the affidavit upon
9 which it was based did not allege facts showing the petitioner's ability to comply with the decree,
10 and thus the court lacked jurisdiction to issue the order. *See Steeves v. Second Judicial District*
11 *Court in and for Washoe County*, 59 Nev. 405 (1939)¹

12 The Defendant was recently arrested on the improper arrest warrant and is currently being
13 restrained at the Maple River Correctional Facility in Riverside, California and he remains in
14 custody today. The time in which Defendant could be restrained in California and subsequently
15 in Nevada is likely to exceed the 25 days allowed as a punishment pursuant to NRS 22.100. The
16 Arrest Warrant did not provide a purge clause giving the defendant the opportunity to purge
17 himself of the contempt sentence by complying with the terms of the contempt order. *See Lewis*
18 *v. Lewis*, 132 Nev. at 457, 373 P.3d at 881.

19 There is no question that a good cause is shown because Defendant is currently incarcerated
20 under an Arrest Warrant defendant believes is improper. The failure of the Court to act will, and
21 is irreparably harming Defendant who remains in a California correction center.

22 The Defendant requests that a hearing be conducted at the Court's earliest available date,
23 and allow the parties to attend, if necessary, by zoom. IF the Court wishes to have supplemental
24 briefing, then the Defendant requests that all briefing be filed within 24 hours of the Court hearing.

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27 ¹ In an unpublished decision, the Nevada Court of Appeals, in *Yasol v. Greenhill*, 137 Nev. 980,
28 480 P.3d. 881 (2021) vacated a contempt order because the affidavit attached to the motion for an
order to show cause was facially deficient.

1 Defendant further request that he still be allowed rebuttal argument even if there is not reply
2 briefing filed.

3 Dated: April 4, 2025

THE O'MARA LAW FIRM, P.C.

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DAVID C. O'MARA, ESQ.
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1 CERTIFICATE OF SERVICE

2 I hereby certify that I am an employee of The O'Mara Law Firm, P.C., 311 E. Liberty
3 Street, Reno, Nevada 89501, and on this date I served a true and correct copy of the foregoing
4 document on all parties to this action by:

- 5 ☒ Depositing in a sealed envelope placed for collection and mailing in the
6 United States Mail, at Reno, Nevada, following ordinary business practices
7 ☐ Personal Delivery
8 ☐ Facsimile
9 ☐ Federal Express or other overnight delivery
10 ☐ Messenger Service
11 ☐ Certified Mail with Return Receipt Requested
12 ☐ Electronically through the Court's ECF system
13 ☒ Email

14
15
16 addressed as follows:

17 Frank C. Gilmore, Esq.
18 The Gilmore Law Group, PLLC
19 3715 Lakeside Drive
20 Reno, NV 89509
21 frank@gilmoregroupnv.com

Amy N. Tirre, Esq.
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22 DATED: April 4, 2025.

23 
24 VALERIE WEIS