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7
8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 COUNTY OF LOS ANGELES

11 WILLIAM JAMES MITCHELL,

12 Plaintiff,

13 v.

14 TWIN GALAXIES, LLC; and Does 1-10,

15 Defendants.

16
17
18 AND RELATED CROSS-ACTION
19
20

Case No. 19STCV12592

Assigned to: Hon. Wendy Chang
[Dept. 36]

**OPPOSITION OF TWIN GALAXIES, LLC
TO PLAINTIFF'S MOTION FOR
CONTEMPT ORDER; REQUEST FOR
ATTORNEYS FEES AGAINST
PLAINTIFF AND HIS COUNSEL
ANTHONY J. ELLROD AND MANNING &
KASS IN THE AMOUNT OF \$10,000;
DECLARATION OF DAVID A.
TASHROUDIAN IN SUPPORT**

Hearing

Date: September 28, 2023

Time: 8:30 a.m.

Place: Department 36

Reservation ID: Reserved by Court

Action Filed: 4/11/2019

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 Plaintiff William “Billy” Mitchell (“Plaintiff”) seeks to yet again silence the First
4 Amendment right of Twin Galaxies, LLC (“Twin Galaxies”) to free speech. He seeks an order
5 holding Twin Galaxies and its counsel in contempt for violating the parties’ stipulated protective
6 order. The motion is based on Twin Galaxies’ counsel providing Plaintiff’s deposition video and
7 transcript, and other witness transcripts, to Paris Galea, the lawyer for Karl Jobst. Plaintiff is
8 currently suing Karl Jobst for defamation in Australia. Twin Galaxies’ acts were always protected
9 activity and meant only to further the public interest in the investigation of Plaintiff’s *Donkey*
10 *Kong* score – a subject he put in issue and thrust into the public eye through this lawsuit.

11 Plaintiff has not shown that Twin Galaxies violated the parties’ protective order by
12 providing the deposition transcripts to Karl Jobst’s lawyers. No part of Plaintiff’s deposition
13 transcript was marked as confidential. Plaintiff does not even identify any specific portion of his
14 deposition testimony that is confidential in his motion because there are none. Despite this obvious
15 fact, Plaintiff frivolously maintains that Twin Galaxies violated the protective order when it did
16 not.

17 Plaintiff has not and cannot show that Twin Galaxies violated any statute by providing the
18 deposition testimony to Mr. Jobst’s lawyer. His reliance on California Code of Civil Procedure
19 section 2025.270 is misplaced because the statute in its plain meaning only applies to the
20 deposition officer. Similarly, Plaintiff’s reliance on California Government Code section
21 69954(d) does not help because the statute is for the benefit of the court reporter, not the party.

22 It is amazing that Plaintiff now seeks this contempt order for dissemination of information
23 that he promised he would make available to the public. He promised in a YouTube video with
24 285,000 views that he would make this investigation transparent and available, including all
25 documents and witnesses. He gave his absolute commitment that nothing would be withheld.
26 Why the contempt order in the face of his promise to the public? Because the facts as developed
27 through the depositions in this case prove Plaintiff’s fraud. Billy Mitchell’s word carries no
28 weight.

1 For all of these reasons, as set forth in greater detail below, Plaintiff’s motion to hold Twin
2 Galaxies and its counsel in contempt should be denied. Twin Galaxies should be awarded its
3 reasonable expenses of \$10,000.00 from Plaintiff and his counsel Anthony J. Ellrod of Manning
4 & Kass in defending against this frivolous motion pursuant to California Code of Civil Procedure
5 section 128.5(a).

6 **II. FACTS**

7 A. Plaintiff promised the public in 2018 that the investigation into his *Donkey Kong* scores
8 will be transparent and all information will be available.

9 Plaintiff is on the board of advisors of *Old School Gamer Magazine*. [Tashroudian Decl.,
10 ¶ 2.] He gave an official video recorded statement 1 minute and 9 seconds in length to the
11 magazine on April 15, 2018 concerning the controversy regarding his *Donkey Kong* scores
12 (“Mitchell Commitment”). That official statement was posted on the magazine’s website as well
13 as on its YouTube page where it has been viewed 285,000 times. [*Id.* at ¶¶ 2-4.]

14 Plaintiff told the public in the Mitchell Commitment that “there is a true professional due
15 diligence being done to investigate” and show that his *Donkey Kong* scores at issue were “done
16 professionally, according to the rules, according to the scoreboard, the integrity that was set up.”
17 [Tashroudian Decl., ¶¶ 2-4.] He said that “Everything will be transparent. Everything will be
18 available.” [*Id.*] He promised to the public that “Witnesses, documents, everything will be made
19 available to you. Nothing will be withheld. You absolutely have my commitment to that.” [*Id.*]

20 B. Plaintiff fails to mark any portion of his deposition transcript confidential.

21 No part of Plaintiff’s deposition was marked confidential pursuant to the parties’ stipulated
22 protective order. [Tashroudian Decl., ¶¶ 6-11, Exh. 1.] At one point during the deposition, Twin
23 Galaxies introduced as Exhibit JJ an audio recording of plaintiff giving an interview to the
24 GenXGrown Up podcast in June 2018. [*Id.* at ¶¶ 5 & 7, Exh. 1.] A portion of the audio recording
25 was played for Plaintiff and he and his attorney mistakenly thought the audio recording was
26 actually of a phone call between Plaintiff and David Race. [*Id.* at ¶¶ 5 & 8, Exh. 1.] Plaintiff’s
27 counsel designated the deposition as “attorney’s eyes only” and “confidential” going forward.
28 [*Id.*] More of the audio recording was played and Plaintiff eventually recognized that he gave the

1 interview in the audio recording in 2018 in Atlanta during the Southern Fried Gaming Expo.
2 [Tashroudian Decl., ¶¶ 5 & 8, Exh. 1.] Plaintiff’s counsel thereafter removed the “attorney’s eyes
3 only” designation but maintained his confidential designation until he could “investigate whether
4 or not it’s an illegal recording.” [Id.] Plaintiff’s counsel said that he would “remove the
5 designation if it’s appropriate” and “[i]f it needs to be un-designated I’ll un-designate it.” [Id.]

6 About twenty minutes after Exhibit JJ was introduced, after more of the audio recording
7 was played to Plaintiff, and after a break in the deposition, Twin Galaxies’ counsel met and
8 conferred about the deposition being marked confidential and Plaintiff’s counsel responded
9 “[y]eah, I’ll take that – withdraw that now.” [Tashroudian Decl., ¶¶ 5 & 9, Exh. 1.] No part of
10 Plaintiff’s deposition transcript bears a confidential legend. [Id. at ¶ 11.]

11 From the time Exhibit JJ was introduced, to the time Plaintiff’s counsel withdrew his
12 confidential designation, Plaintiff testified regarding: (1) a Hello Kitty TV provided to Carlos
13 Pineiro; (2) him appearing on stage at the Museum of Pinball in Banning, California with Carlos
14 Pineiro; (3) who he lodged with in Banning, California; (4) who paid for Carlos Pineiro’s flight to
15 .California; (5) his declaration in this case; and (6) a telephone conference call with Jace Hall and
16 several members of Plaintiff’s team, including Plaintiff himself. [Tashroudian Decl., ¶¶ 5 & 10,
17 Exh. 1.]

18 **III. ARGUMENT**

19 **A. Twin Galaxies has not violated the parties’ stipulated protective order because no part** 20 **of Plaintiff’s deposition was marked confidential.**

21 The parties’ stipulated protective order attached to the Declaration of Kristina Ross
22 supporting the contempt motion as Exhibit A, Page 3, Section ii, states that all testimony subject
23 to the protective order will be marked with the legend “Confidential” or “Highly Confidential.”
24 No pages of Plaintiff’s deposition transcript were marked with any such legend because no part of
25 the deposition was marked confidential.

26 Plaintiff’s counsel did make an attorney’s eyes only designation and a confidential
27 designation on material he believed was illegally recorded. Plaintiff and counsel mistakenly
28 thought that the podcast interview of Plaintiff introduced as Exhibit JJ at his deposition was a

1 recording of a private telephone call between Plaintiff and David Race. The deposition was
2 marked confidential going forward. Plaintiff thereafter identified Exhibit JJ as an audio recording
3 of himself giving an interview at the Southern Fried Gaming Expo in 2018. Plaintiff’s counsel
4 maintained his objection despite more of the audio recording being introduced to show the exhibit
5 was a podcast interview that plaintiff gave and not a secretly recorded call by David Race. Counsel
6 however agreed that he would remove the designation and un-designate the transcript after he
7 investigates whether the exhibit was an illegally recorded call. More of the podcast interview was
8 played for Plaintiff and his counsel and later in the deposition, Plaintiff’s counsel – after meeting
9 and conferring – agreed to withdraw his designation.

10 Plaintiff’s withdrawal of his confidential designation is consistent with his counsel’s
11 agreement on the record to undesignate the portion of the deposition he thought related to an
12 illegally recorded private conversation once he determined that the exhibit was not illegally
13 recorded. After Exhibit JJ was played at length, and after his client testified that Exhibit JJ was
14 an audio recording of him on a podcast, Plaintiff’s counsel withdrew his confidential designation
15 just like he promised to do. For this reason, no part of Plaintiff’s deposition is confidential. It
16 stands to reason that Twin Galaxies cannot have violated the protective order where there is no
17 confidential designation by the other party.

18 Plaintiff cannot in good faith claim the deposition testimony that was given from the time
19 the designation was made to the time it was withdrawn is confidential. During that time period,
20 Plaintiff testified to facts which were adduced during the special motion to strike proceedings in
21 this matter and which concern Carlos Pineiro mainly. None of this information is confidential and
22 it is already in the Court’s file for this matter.

23 B. Twin Galaxies has not violated California Code of Civil Procedure section 2025.270.

24 Plaintiff has not shown that California Code of Civil Procedure section 2025.270 applies
25 to Twin Galaxies, a party to this case. Subsections (a), (b), and (c) specifically relate to the
26 obligations of a deposition officer at the time “any person” requests a copy of a party’s deposition
27 testimony. (Cal. Code Civ. Proc., § 2025.270(a-c).) The statute makes no mention of a party’s
28 obligation to give notice of a request by “any person” for a copy of a deposition transcript from

1 the case. Plaintiff cannot and has not explained how this statute somehow applies to Twin
2 Galaxies. The tenants of statutory interpretation prevent Plaintiff from doing so.

3 The first step of statutory interpretation is to look at the words of the statute themselves.
4 (Delaney v. Superior Court (1990) 50 Cal.3d 785, 798 (noting that to determine intent, the court
5 first turns to the words themselves for the answer).) The inquiry ends there if the language is
6 clear and unambiguous. (Id.) Here, the language of California Code of Civil Procedure section
7 2025.270 is clear and unambiguous that it applies only to the deposition officer. There is no
8 mention of a party's obligation under the same circumstance. It follows that the statute does not a
9 apply to Twin Galaxies so Plaintiff's contention otherwise is without merit. This should end the
10 inquiry.

11 C. Plaintiff does not have standing to complain about the violation of California
12 Government Code section 69954(d).

13 Plaintiff seems to think that he has some right to complain about Twin Galaxies'
14 dissemination of deposition transcripts pursuant to a statute aimed at protecting the court reporter's
15 right to collect a fee when a party provides or sells a copy of the deposition transcript to another.
16 The provisions of California Government Code section 69954(d) do not inure any benefit or
17 substantive right to Plaintiff for relief.

18 "Every action must be prosecuted in the name of the real party in interest, except as
19 otherwise provided by statute." (Cal. Code Civ. Proc., § 367.) Where a cause of action is based
20 on a state statute, standing is a matter of statutory interpretation. (See Adolph v. Uber
21 Technologies, Inc. (2023) 14 Cal.5th 1104, 1120.) When considering the words of the statute, it
22 is clear that the real party in interest in an action for violation of California Government Code
23 section 69954(d) is the court reporter, not the party or the witness. Because Plaintiff cannot
24 maintain an action against Twin Galaxies pursuant to the statute, he should not be heard to
25 complain about Twin Galaxies' violation of the same. His argument on this point is without merit
26 and should be disregarded.

27 ///

28 ///

1 D. Defendant has a First Amendment right to disseminate the deposition transcripts in
2 this case and Plaintiff cannot show good cause for a protective order to prevent Twin
3 Galaxies from exercising its constitutional rights.

4 Twin Galaxies has the right to free speech under the First Amendment of the Constitution
5 of the United States of America. Plaintiff despises free speech and has sought this contempt order
6 to chill the valid exercise of Twin Galaxies' constitutional rights. This despite the fact that Plaintiff
7 is a public figure and the investigation into the legitimacy of his *Donkey Kong* scores is a matter
8 of public interest.

9 Where a party must resort to the courts, "the burden is on the party seeking the protective
10 order to show good cause for whatever order is sought. [Citation.]" (Fairmont Ins. Co. v. Superior
11 Court (2000) 22 Cal.4th 245, 255.) If the matter is one of public interest, the court must consider
12 that interest in determining whether good cause exists for a protective order. See Westinghouse
13 Electric Corp. v. Newman & Holtzinger (1995) 39 Cal.App.4th 1194, 1208.) In Westinghouse,
14 the court warned that protective orders "impair the public's access to discovery records as well as
15 the parties' First Amendment right to disseminate information to the public." (Id.)

16 Twin Galaxies should not be held in contempt because plaintiff cannot show good cause
17 for a protective order in the information disclosed to Karl Jobst's lawyers when balanced against
18 both Twin Galaxies' First Amendment right to free speech and the public interest. Twin Galaxies'
19 dissemination of the deposition transcripts and videos in this case to Jobst's lawyers is in the public
20 interest because there has been intense public interest in the case and the investigation into
21 Plaintiff's score performances as exemplified by the three Jobst videos which have over 1,000,000
22 views each. Plaintiff himself has stoked public interest by giving interviews and making videos
23 about the investigation. Twin Galaxies has a free speech right to disclose this information to Karl
24 Jobst's lawyers in connection with its own petitioning of this Court.

25 What is baffling about Plaintiff's complaints now about dissemination of this evidence is
26 that Plaintiff himself told the public only 3 days after Twin Galaxies made the allegedly
27 defamatory statement at issue that he would embark on a "true professional due diligence...to
28 investigate" his *Donkey Kong* scores and make everything public. He promised that everything

1 will be transparent and available – including witnesses and documents. Plaintiff gave his absolute
2 commitment that nothing would be withheld. He promised this information to the public and
3 cannot be heard to now cry about it coming out.

4 Plaintiff cannot show good cause for the issuance of a protective order for the additional
5 reason that none of the deposition transcripts or videos disclose any facts that would be subject to
6 a good faith confidentiality designation. We are talking about *Donkey Kong* scores at the end of
7 the day. What can be so confidential about that? Indeed, plaintiff does not identify any specific
8 portion of his deposition that would be subject to a protective order. And he does not seek a
9 protective order herein even though he was allowed the belated opportunity to do so by this Court
10 at the parties' IDC. Nothing is confidential nor should it be.

11 The likely reason that Plaintiff has now reneged on his commitment of transparency is that
12 the deposition transcripts – all of them – show that Mr. Mitchell has misrepresented facts to the
13 public for decades. People are interested in this. Billy Mitchell has hurt a lot of people and stole
14 glory by cheating over the years. His fraud has been discovered through the investigation and
15 deposition testimony in this matter and he cannot stand it. So Plaintiff does what he knows best –
16 he seeks to silence people through the use of the judicial process. This Court should not sanction
17 Twin Galaxies and enable Plaintiff to continue silencing free speech on this record.

18 Plaintiff's complains that witnesses are afraid to testify and give evidence by way of
19 declaration testimony but provides no evidence of this fact. None of Plaintiff's witnesses have
20 come forward to say they are unwilling to testify because of fear their deposition will be leaked to
21 the public. The easy way for a witness to avoid public disclosure and still testify on behalf of
22 Plaintiff is to seek a protective order. He has no witnesses because no one will support his stories.
23 Plaintiff's argument on this point is pure conjecture without factual support.

24 E. Twin Galaxies should be awarded its attorney's fees and costs for successfully
25 opposing this contempt motion.

26 Twin Galaxies respectfully submits that Plaintiff's motion for an order holding Twin
27 Galaxies and its counsel in contempt is totally and completely without merit, and in bad faith, such
28 that it should be awarded reasonable expenses in the form of fees incurred to oppose this motion

1 pursuant to California Code of Civil Procedure section 128.5(a). The fees order should be assessed
2 against Plaintiff and his counsel Anthony J. Ellrod and Manning & Kass. (Id.)

3 Plaintiff's motion is frivolous. He makes the motion without legal or factual support.
4 Plaintiff has not set forth facts that any portion of his deposition was marked confidential. The
5 opposite is true that his deposition transcript was not marked confidential in any place. He has
6 also failed to set forth a legal basis or facts showing that he is entitled to relief under either
7 California Code of Civil Procedure section 2025.270 or California Government Code section
8 69954(d). There simply is no basis for the requested relief.

9 The motion is made in bad faith to silence Twin Galaxies and to infringe on its right to free
10 speech. Twin Galaxies' free speech has benefitted the public interest and has fostered public
11 discussion regarding Plaintiff's *Donkey Kong* scores which Plaintiff has put in issue by filing this
12 defamation case. Plaintiff's opposition to Twin Galaxies' exercise of free speech is to avoid facts
13 which are bad for Plaintiff from becoming public. If Plaintiff did not want the public to pick
14 through and criticize his testimony about *Donkey Kong* scores, he should not have brought this
15 suit. He cannot have it both ways. But again, the confusing aspect of all of this is that Plaintiff
16 promised and gave his commitment in 2018 that he would make his investigation, including
17 witnesses and documents available to the public. It is puzzling why he would now change his tune
18 when the real facts have come out.

19 Accordingly, and based on the facts and argument above, Twin Galaxies should be
20 awarded \$10,000.00 in reasonable expenses for opposing the instant motion. [*See* Tashroudian
21 Decl., ¶¶ 12-13.]

22 F. Plaintiff's attorney's fees request is defective because his counsel does not lay a
23 foundation to support her hourly rate of \$378.00.

24 The burden is on the party seeking attorney's fees to prove that the fees it seeks are
25 reasonable. (Gorman v. Tassajara Development Corp. (2009) 178 Cal.App.4th 44, 98.) Plaintiff's
26 counsel Kristina Ross has failed to lay a foundation to support her hourly rate.

27 Ms. Ross testified in her declaration in support of the contempt motion at Paragraph 8
28 about the 20 hours she spent on this motion. But she does not testify to the reasonableness of her

1 rate. That is, she does not state facts about how many years of experience she has, the type of
2 experience she has, nor does she state facts about other fee awards she has received. All she does
3 is give a total fees and costs number of \$7,560.00 leaving it up to the Court to calculate her rate.
4 Without testimony on the reasonableness of her rate, the request is fatally defective and Plaintiff
5 cannot meet his burden to prove the reasonableness of his fees. His fees request must be denied
6 accordingly.

7 **IV. CONCLUSION**

8 Twin Galaxies respectfully submits that it has not violated the parties' stipulated protective
9 order and is therefore not in contempt. Plaintiff's argument to the contrary is frivolous such that
10 Twin Galaxies should be awarded its reasonable expenses in opposing this motion.

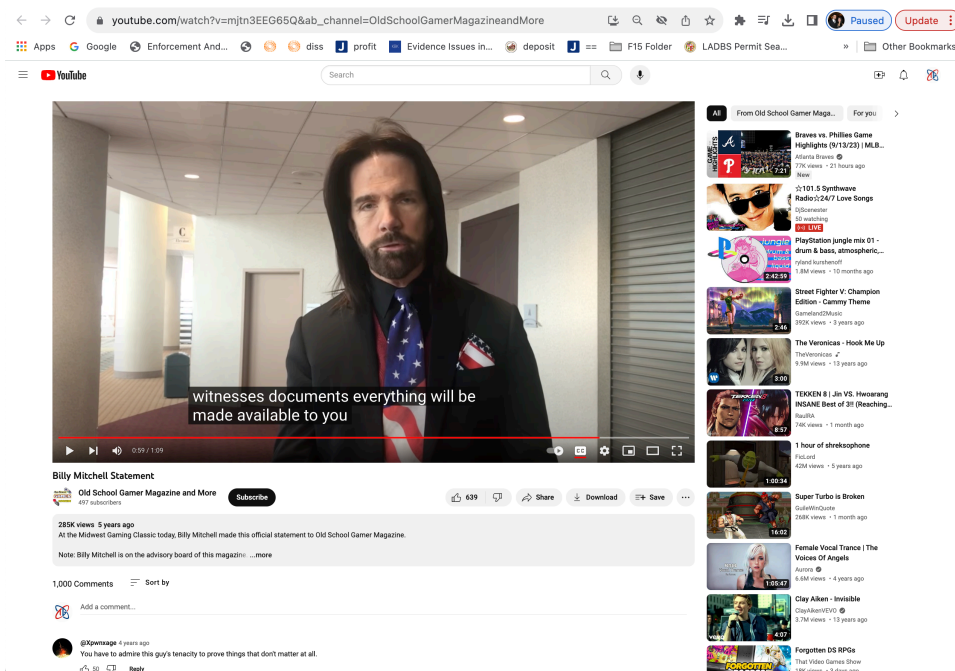
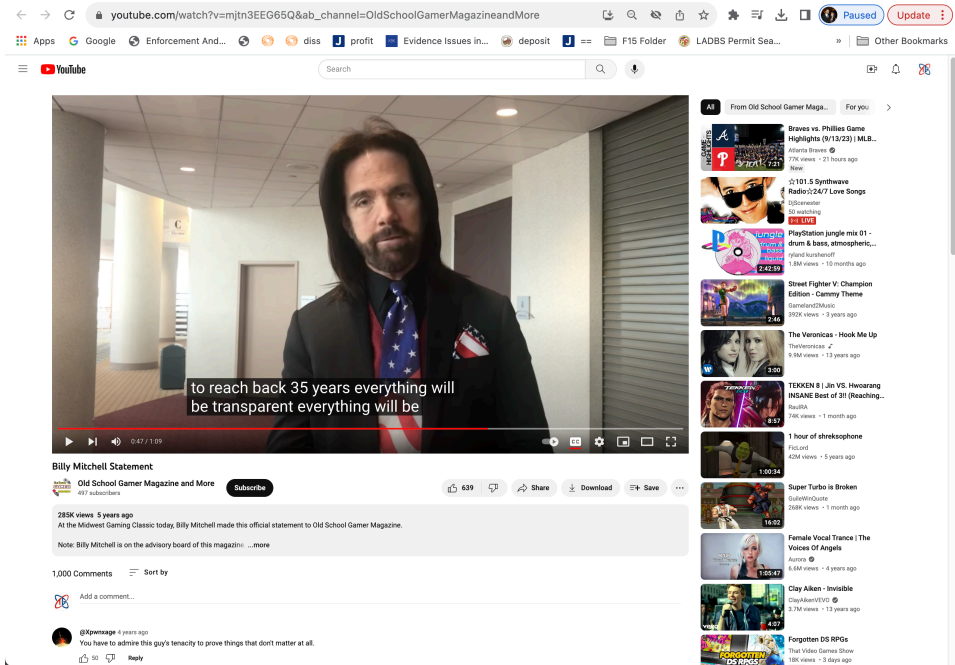
11 Respectfully submitted,

12 Dated: September 14, 2023

TASHROUDIAN LAW GROUP, APC

14 By: /s/ David Tashroudian, Esq.
15 David Tashroudian, Esq.
16 Mona Tashroudian, Esq.
17 Attorneys for Twin Galaxies, LLC

1 3. On September 14, 2023, I visited the website for YouTube and navigated to the
2 specific website <https://www.youtube.com/watch?v=mjtn3EEG65Q> where I also found and
3 watched the 1 minute and 9 second April 18 2018 Billy Mitchell Statement video. I saw on the
4 website that the video had received 285,000 views in five years. True and correct screenshots
5 from the YouTube website and the April 18 2018 Billy Mitchell Statement video at time stamps 47
6 seconds and 59 seconds from when I visited the site are reproduced below:



1 4. I had a transcript of the April 2018 Billy Mitchell statement prepared from the
2 YouTube video. A true and correct copy of the transcript of the April 2018 Billy Mitchell
3 statement is reproduced below:

4 **Billy: [00:00:00]** Hi, I'm Billy Mitchell. We're here at the Midwest Gaming Classic. I'm
5 here with *Old School Gamer* magazine. I've been asked to address things that are
6 recently in the **[00:00:10]** media. The fact of the matter is now there is a true
7 professional due diligence being done to investigate things that happened as **[00:00:20]**
8 far as 35 years ago in a professional manner, not in a shock jock mentality designed to
9 create hits. We will show that everything that has been **[00:00:30]** done, everything was
10 done professionally, according to the rules, according to the scoreboard, the integrity
11 that was set up, not **[00:00:40]** 2014 forward by the current regime who wants to reach
12 back 35 years.

13 Everything will be transparent. Everything will be available. I wish I had it in my hands
14 **[00:00:50]** right now. I wish I could hand it to you, but it's taken a considerable amount
15 of time. Witnesses, documents, everything will be made available to you. **[00:01:00]**
16 Nothing will be withheld. You absolutely have my commitment to that. We have been at
17 this since 1982, and it's not going to stop now.

18 **[00:01:10] [END OF AUDIO]**

19 5. Attached hereto as Exhibit 1 are true and correct pages 1-2, 233-256, and 374 from
20 the January 9, 2023 deposition of William James Mitchell. I took the deposition.

21 6. No part of Plaintiff's deposition was marked confidential pursuant to the parties'
22 stipulated protective order.

23 7. At one point during the deposition, Twin Galaxies introduced as Exhibit JJ an audio
24 recording of plaintiff giving an interview to the GenXGrown Up podcast in June 2018. I obtained
25 the exhibit by visiting the podcast's website and obtaining the audio recording from there. The
26 website is <https://genxgrownup.com/se-podcast-01/>, last accessed by me on September 14, 2023.
27 The audio recording appeared on the website the last time I accessed the site.

28 8. A portion of the audio recording was played for Plaintiff and he and his attorney
thought the audio recording was actually of a phone call between Plaintiff and David Race. [*See*
Exhibit 1 (Mitchell Depo., 233:8-241:3).] Plaintiff's counsel designated the deposition as
"attorney's eyes only" and "confidential" going forward. [*Id.*] More of the audio recording was
played and Plaintiff eventually recognized that he gave the interview in the audio recording in
2018 in Atlanta during the Southern Fried Gaming Expo. [*Id.*] Plaintiff's counsel thereafter
removed the "attorney's eyes only" designation but maintained his confidential designation until
he could "investigate whether or not it's an illegal recording." [Exhibit 1 (Mitchell Depo., 237:12-

1 24).] Plaintiff’s counsel said that he would “remove the designation if it’s appropriate” and “[i]f
2 it needs to be un-designated I’ll un-designate it.” [Exhibit 1 (Mitchell Depo., 238:1-17).]

3 9. About twenty minutes after Exhibit JJ was introduced, after more of the audio
4 recording was played for Plaintiff, and after a break in the deposition, Twin Galaxies’ counsel met
5 and conferred about the deposition being marked confidential and Plaintiff’s counsel responded
6 “[y]eah, I’ll take that – withdraw that now.” [See Exhibit 1 (Mitchell Depo., 255:14-256:7).]

7 10. From the time Exhibit JJ was introduced, to the time Plaintiff’s counsel withdrew
8 his confidential designation, Plaintiff testified regarding: (1) a Hello Kitty TV provided to Carlos
9 Pineiro; (2) him appearing on stage at the Museum of Pinball in Banning, California with Carlos
10 Pineiro; (3) who he lodged with in Banning, California; (4) who paid for Carlos Pineiro’s flight to
11 California; (5) his declaration in this case; and (6) a telephone conference call with Jace Hall and
12 several members of Plaintiff’s team, including Plaintiff himself. [See Exhibit 1 (Mitchell Depo.,
13 241:4-255:13).]

14 11. I have reviewed every version of Mr. Mitchell’s deposition transcript and the video
15 thereof and no part of Plaintiff’s deposition transcript or the video bears a confidential legend.

16 DECLARATION RE REASONABLE COSTS

17 12. This Court has previously set my reasonable hourly rate at \$525.00/hr three years
18 ago in October 2020 in connection with Twin Galaxies’ successful motion to require Plaintiff to
19 put up a costs bond as an out-of-state litigant. Since then, I have had three more years of
20 experience – a lot of it from his case, and I have achieved significant milestones in my career such
21 as obtaining a \$6,400,000 jury verdict in San Diego County, settling a million dollar class-
22 action/FEHA suit, settling another case for \$2,000,000.00, and trying a four-week securities fraud
23 action in the Orange County Superior Court, Complex Division. I know from my industry contacts
24 and from meeting with my colleagues and by reading the latest information on attorney’s fees that
25 the reasonable hourly rate for an attorney with my fourteen years of experience is \$625.00.

26 13. I spent 14 hours drafting this opposition and I anticipate I will spend 2 hours
27 preparing for and appearing at the hearing of this matter for a total of 16 hours. My time spent
28 drafting the opposition includes legal research, drafting the points & authorities and declaration,

1 revisions to the same, and compiling exhibits. At my \$625.00 rate, the reasonable expense
2 incurred by Twin Galaxies to oppose this frivolous motion is \$10,000.00.

3 I declare under penalty of perjury under the laws of the State of California that the
4 foregoing is true and correct. Executed this fifth day of September, 2023 at Los Angeles,
5 California.

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7 _____

8 David A. Tashroudian

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EXHIBIT 1

William James Mitchell
January 09, 2023

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

Case No. 19STCV12592
HONORABLE WENDY CHANG (Dept. 36)

WILLIAM JAMES MITCHELL,

Plaintiff,

vs.

TWIN GALAXIES, LLC; and Does 1-10,

Defendants.

TWIN GALAXIES, LLC,

Cross-Complainant,

v.

WILLIAM JAMES MITCHELL; WALTER DAY;
and Roes 1-25,

Cross-Defendants.

VIDEOTAPED
DEPOSITION OF WILLIAM JAMES MITCHELL
Pages 1 through 376

Monday, January 9, 2023
10:01 a.m. - 6:32 p.m.
2440 West Cypress Creek Road
Fort Lauderdale, Florida

Stenographically Reported By:
JOYCE B. GIACOMA
Court Reporter

1 APPEARANCES:

2 ON BEHALF OF THE PLAINTIFF:

3 Manning & Kass, Ellwood, Ramirez, Trester LLP
4 801 S Figueroa Street
5 15th Floor
6 Los Angeles, CA 90017
7 213-624-6900
8 aje@manningllp.com
9 BY: ANTHONY J. ELLROD, ESQ.
10 KRISTINA P. ROSS, ESQ. (Via Zoom)

11 ON BEHALF OF THE DEFENDANTS/CROSS-COMPLAINANT:

12 Tashroudian Law Group, APC
13 4136 Saint Clair Avenue
14 Los Angeles, CA 92504
15 818-561-7381
16 david@tashlawgroup.com
17 BY: DAVID TASHROUDIAN, ESQ.

18 ALSO PRESENT: JACE HALL
19 JOSEPH LANGSAM, Videographer

20 I N D E X

21 WILLIAM JAMES MITCHELL	PAGE
22 Direct by Mr. Tashroudian	6

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25

1 MR. TASHROUDIAN: Yeah, let's do that. We're
2 off the record.

3 (Recess was had at 3:29 p.m., resuming at 3:39
4 p.m.)

5 THE VIDEOGRAPHER: Okay. It's 3:39, back on
6 the record.

7 BY MR. TASHROUDIAN:

8 Q. All right. I'm going to play now for you
9 Exhibit JJ, is it? JJ. This is going to be an audio
10 clip. We're starting at where?

11 MR. HALL: 15:30.

12 MR. TASHROUDIAN: At 15:30.

13 (Exhibit JJ to be marked for Identification.)

14 MR. ELLROD: What is this?

15 MR. TASHROUDIAN: JJ, it's an audio clip.

16 MR. ELLROD: Of what?

17 MR. TASHROUDIAN: Of an interview with Mr.
18 Mitchell.

19 MR. ELLROD: Okay. And was it recorded with
20 his knowledge?

21 MR. TASHROUDIAN: I'll ask him.

22 MR. ELLROD: Or was it illegally recorded?

23 MR. TASHROUDIAN: It isn't illegally recorded.

24 MR. ELLROD: Okay.

25 MR. HALL: Okay. So play it?

1 MR. TASHROUDIAN: That's all relative.

2 Yes.

3 MR. HALL: You want me to play it?

4 MR. TASHROUDIAN: Sure.

5 MR. HALL: Okay.

6 (Audio playing)

7 MALE VOICE: They said, Look, they look

8 different, and oh my gosh, it can't be a video

9 game. It must be MAME. Well, when the gentleman

10 came in the arcade and played them side by side

11 and, first we had trouble finding a CRT. Went to a

12 TV shop, the guy didn't have one, and we bought one

13 online for \$20 off like Craig's List or something

14 and when we put the Donkey Kong play on the screen

15 --

16 MR. TASHROUDIAN: Pause it.

17 (Audio stopped)

18 BY MR. TASHROUDIAN:

19 Q. When you say -- when you refer to we --

20 A. Excuse me, who am I speaking to here?

21 Q. We'll start it from the beginning. Can you go

22 to the beginning? We'll get you a little bit of --

23 A. You can answer the question as to who I'm

24 speaking to.

25 Q. I'm not a hundred percent sure.

1 MR. ELLROD: You don't know who he's talking
2 to on the tape?

3 MR. TASHROUDIAN: No. We do at the very
4 beginning here, yeah.

5 THE WITNESS: Go ahead and let us know that
6 first. It's David Race. It's David Race and one
7 of his illegal recordings that he's being sued for.
8 So I --

9 MR. HALL: I can give you the title.

10 MR. TASHROUDIAN: Yeah. What is --

11 MR. ELLROD: I'm going to ask --

12 MR. HALL: The title -- it's a -- it's a
13 public, it's an interview that was done called --
14 from Gen X called Grownups Special Edition, Billy
15 Mitchell Interview.

16 MR. ELLROD: I'm going to designate this
17 portion of the deposition going forward as
18 attorneys' eyes only. Well, I'll just designate it
19 confidential as we believe it's an illegal
20 conversation.

21 MR. TASHROUDIAN: Well, let's start from the
22 beginning --

23 MR. HALL: Okay.

24 MR. TASHROUDIAN: And maybe that'll give you
25 some context.

1 MR. ELLROD: Sure.

2 (Audio playing:)

3 Gen X Grown Up is a YouTube channel website
4 and audio podcast you're listening to right now.

5 All made for and by people who love exploring media
6 games, tech and toys of yesterday and today through
7 the eyes of Gen Xers who refuse to grow up.

8 Hello Gen X Grown Up podcast listener.

9 Welcome to this special edition of the Gen X Grown
10 Up podcast. If you linked here from our YouTube
11 channel and aren't a regular listener, please
12 consider subscribing and checking out our regular
13 show which is released every Thursday. If you're
14 already one of our (indecipherable) listeners, we
15 hope you'll enjoy this special edition. But don't
16 worry, our regular show will be out on Thursday
17 right on schedule.

18 All of us at Gen X Grown Up had a love for
19 those classic arcade games we grew up playing in
20 our corner arcades, so it should come as no
21 surprise that we've been closely following the
22 controversy surrounding Billy Mitchell. Mitchell,
23 the first man to ever get a perfect score on
24 Pac-Man, was in the news more than usual recently
25 due to accusations of rules violations in achieving

1 his recorded Donkey Kong high score. His score was
2 removed from Twin Galaxies, the de facto video game
3 high score governing body. He was barred from ever
4 submitting again and his Guinness World record was
5 removed. Now, a few weeks ago we met up with
6 Mitchell at a Southern Fried Gaming Expo for a
7 quick interview where his answers to our
8 questions --

9 MR. TASHROUDIAN: Pause it.

10 (Video stopped.)

11 BY MR. TASHROUDIAN:

12 Q. Does this refresh your recollection as to
13 where they came from?

14 A. Yeah, it's a show in Atlanta.

15 Q. Okay.

16 A. 2018, I think.

17 MR. TASHROUDIAN: All right. Can we remove
18 the attorneys' eyes only designation, Tony?

19 MR. ELLROD: Well, I -- I took that off
20 because -- because it's clear your client's sitting
21 next to you, but I want to keep it confidential.

22 MR. TASHROUDIAN: Until when? On what basis?

23 MR. ELLROD: Until I investigate whether or
24 not it's a legal recording.

25 BY MR. TASHROUDIAN:

1 Q. Is this an illegal recording, Mr. Mitchell?

2 A. I'm not a lawyer.

3 Q. Did you give this interview at this podcast on
4 your own volition?

5 A. I'll know after I hear it.

6 Q. How much do you want to hear?

7 A. As much as you care to play.

8 MR. ELLROD: If -- if -- if we -- we can

9 remove the designation if it's -- if it's

10 appropriate. Or you can make a motion to remove

11 it.

12 MR. TASHROUDIAN: Yeah, I'd rather not do

13 that.

14 MR. ELLROD: I'd rather you not have to if --

15 if it's reasonable. I'm just not going to -- I'm

16 not going to take that position now. Play it. If

17 it needs to be un-designated I'll un-designate it.

18 BY MR. TASHROUDIAN:

19 Q. No. We've already played the portion, that

20 15:30 where you talked about obtaining a CRT from

21 Craig's List for 20 bucks, did you -- did you hear

22 that?

23 A. No, but I believe you.

24 MR. TASHROUDIAN: Let's play it again. Play

25 it again, please.

1 (Video playing:)

2 MALE VOICE: So when they said look, they look
3 different, oh my gosh --

4 THE WITNESS: Can you back it up, please?

5 MALE VOICE: They can't be a video game.

6 (Video stopped.)

7 BY MR. TASHROUDIAN:

8 Q. Sure. Where would you like it?

9 A. Thirty seconds.

10 (Audio playing:)

11 MR. MITCHELL: The converter doesn't pull the
12 signal from there. The converter pulls the signal
13 or the capture directly from the board. I learned
14 that by calling the company. And so what you're
15 looking at when you see somebody else's recording
16 and you see it directly next to mine and you say,
17 why does that look different, it looks different
18 because one is being recorded with a camera pointed
19 at the monitor, the other one is being recorded
20 different because the signal is being captured from
21 the board into the capture device, say a VCR, and
22 then at a later time played on a TV or CRT. So
23 when they said, Look, they look different, oh my
24 gosh, it can't be a video game, it must be MAME.
25 Well, when the gentleman came to the arcade

1 and played them side by side and, first of all, we
2 had trouble finding a CRT. We went to the TV shop
3 and the guy didn't have one, and we went and bought
4 one online for 20 bucks off, like, Craig's List or
5 something. And then we put the Donkey Kong play on
6 the screen, on the Donkey Kong screen, and we had
7 the other one run through the converter onto the
8 TV, it looked exactly like they said. And what I
9 mean by that is they said it looked different.
10 They said it couldn't be a video game monitor.
11 They are correct, it's not. It never goes to the
12 monitor. It goes from the board through the
13 converter to the capture device.

14 And what was kind of funny was as you saw them
15 play side by side, and you slowed it down real slow
16 the TV, the CRT signal, was actually ahead of the
17 RGB. It was kind of wild. And so, that was it.

18 That's what they said. That was their claim
19 and never was there a, Oh, gee, oh wow, is that how
20 it works, oh is that what a converter does. Oh,
21 now we understand. There was nothing.

22 We simply moved the goal post and when we
23 moved the goal post they said this is drawing a
24 horizontal and it should be drawing in the other
25 direction.

1 MR. TASHROUDIAN: Let me stop for just a
2 second.

3 (Audio stopped.)

4 BY MR. TASHROUDIAN:

5 Q. So my question was, who's the we when you were
6 referring to we purchased the CRT TV for 20 bucks from
7 Craig's List?

8 A. Well, it was somebody, myself or somebody at
9 Arcade Game Sales.

10 Q. It was Carlos Pineiro, though, wasn't it?

11 A. No, I don't know if it was. If it was and I
12 owe him 20 bucks, let me know.

13 Q. I think he -- well, we'll find out tomorrow.

14 Did you -- let's try it this way. What about
15 the Hello Kitty TV, did you provide that to Carlos?

16 A. I brought it into the shop.

17 Q. Let's go back to Exhibit S. 2946.

18 THE WITNESS: You're getting good at this.

19 MR. ELLROD: Exhibit S?

20 MR. TASHROUDIAN: S, like Sam.

21 MR. ELLROD: Do you have the Bates Number?

22 MR. TASHROUDIAN: Bates Number 2946.

23 THE WITNESS: Okay. Hello Kitty TV. Is this
24 what we're doing?

25 MR. ELLROD: I don't know. He hasn't --

1 there's no question pending.

2 BY MR. TASHROUDIAN:

3 Q. Yeah. Do you see that there?

4 A. Yeah, Hello Kitty, I do.

5 Q. Did you obtain that for Carlos?

6 A. No. I took it out of my daughter's room and
7 brought it to the shop.

8 Q. For what?

9 A. So that we can try to see if the signal comes.

10 Q. So you needed that for testing; is that
11 correct?

12 A. Yeah. We needed a tube TV.

13 Q. Why did you send it to Carlos, a picture of
14 the CRT TV?

15 A. Because I was bringing it in the shop, in
16 other words, nobody had to go buy one.

17 Q. Did you understand what Carlos needed it for?

18 A. We all needed it for the same purpose.

19 Q. And which was?

20 A. To try to gain the signal off the Donkey Kong
21 machine to go on a TV instead of the Donkey Kong
22 monitor.

23 Q. Was that part of the testing equipment that
24 you needed?

25 A. A TV was definitely part of the equipment and

1 I brought it in as opposed to somebody else going to
2 get it, because Rob -- Rob was going to bring one in.

3 Q. Did you ever see Carlos perform tests with
4 that TV?

5 A. I think -- I think the first time I saw the TV
6 used it was used by Rob and Neil, and then after that I
7 saw it with Carlos.

8 Q. So you saw Carlos using that to do his
9 testing?

10 A. Yes. I made it available to whoever would use
11 it.

12 Q. Let's go back to Exhibit X, I think it is,
13 paragraph 27.

14 MR. ELLROD: Of S?

15 MR. TASHROUDIAN: Yes. X. X --

16 MR. ELLROD: X.

17 MR. TASHROUDIAN: -- like xylophone.

18 Paragraph 27, page 11.

19 MR. ELLROD: Yeah. Give me a second.

20 THE WITNESS: Where do I start?

21 MR. ELLROD: Twenty-seven.

22 THE WITNESS: Twenty-seven only?

23 BY MR. TASHROUDIAN:

24 Q. Yes.

25 A. Okay. Very good.

1 Q. You say in this paragraph, I did not provide
2 Pineiro and Kleisath equipment for their work?

3 A. Correct.

4 Q. Is that correct?

5 A. Correct.

6 Q. But you did provide them with this Hello Kitty
7 television, right?

8 A. No. What I provided was this Hello Kitty
9 television to Arcade Game Sales, okay, and they were
10 permitted to use that which was in Arcade Game Sales.

11 Q. Including the Hello Kitty TV that you
12 provided, the same one you took a picture of and sent
13 to Carlos, that one?

14 A. Shall I answer the question again?

15 Q. Yes.

16 A. You didn't understand it the first time?

17 Q. No.

18 MR. ELLROD: Just answer the question. Did
19 you provide that Hello Kitty television to Arcade
20 Sales?

21 THE WITNESS: Yes, to Arcade Sales.

22 BY MR. TASHROUDIAN:

23 Q. Okay. Why did you send it to Carlos in his
24 text message?

25 MR. ELLROD: Objection, asked and answered,

1 but you can answer again if you -- if you want to
2 note.

3 BY MR. TASHROUDIAN:

4 Q. Is there a reason why you sent the text
5 message to Carlos?

6 A. It'd be silly for people to bring double
7 equipment.

8 Q. Well, he says here, Carlos does, on Exhibit S,
9 2946 --

10 MR. ELLROD: Hang on.

11 MR. TASHROUDIAN: Yeah.

12 MR. ELLROD: Exhibit S?

13 MR. TASHROUDIAN: Yes, 2946.

14 MR. ELLROD: Okay.

15 THE WITNESS: Which one?

16 MR. ELLROD: I don't know, he's going to read
17 from it, I think.

18 BY MR. TASHROUDIAN:

19 Q. Where it says, Looks funny but it's perfect
20 for our testing. Thank you.

21 What did you understand Mr. Pineiro to mean?

22 A. Now he doesn't have to go get one.

23 Q. For his testing, right?

24 A. Yes. It'll be at Arcade Game Sales whenever
25 he needs it.

1 Q. Did you ever tell him that this is going to be
2 at Arcade Game Sales, and it's not for you?

3 A. That's why I was acquiring the TV.

4 Q. Did you --

5 A. I knew it was in my daughter's room.

6 MR. ELLROD: Just answer the question. Did
7 you ever tell him?

8 THE WITNESS: (No oral response.)

9 BY MR. TASHROUDIAN:

10 Q. Have you ever appeared on stage with Carlos
11 Pineiro?

12 A. We were at --

13 MR. ELLROD: Yes or no question.

14 THE WITNESS: Yes. Not a stage, but yeah, I
15 did a -- I was somewhere with him.

16 BY MR. TASHROUDIAN:

17 Q. Okay. Where were you guys?

18 A. At the Museum of Pinball, Banning, California.

19 Q. Okay. What was the purpose of you being there
20 with him?

21 A. I was there in case anybody had any questions.

22 Q. About?

23 A. About the dispute.

24 Q. So was Mr. Pineiro there talking to a group
25 about the dispute?

1 A. He -- there was.

2 Q. Okay. And were you there as well?

3 A. Yes.

4 Q. And did you talk about your dispute at all?

5 A. No, I asked if anybody had any questions.

6 Q. Did you talk about the dispute at all?

7 MR. ELLROD: Other than the question -- by
8 that question?

9 MR. TASHROUDIAN: Yes.

10 THE WITNESS: I don't recall exactly what I
11 said.

12 BY MR. TASHROUDIAN:

13 Q. Have you seen the video of you at that
14 convention?

15 A. Yes.

16 Q. Okay. How long -- and who prepared that
17 video, do you know?

18 A. No.

19 Q. Was it Isaiah Triforce Johnson?

20 A. Probably. He's a camera nut.

21 Q. Did you stay the night in Banning with Mr.
22 Johnson?

23 A. I was in Banning four nights, three nights,
24 three or four.

25 Q. Did you stay at a hotel there?

1 A. Yes.

2 Q. With who?

3 MR. ELLROD: Do you mean who shared a room
4 with him?

5 MR. TASHROUDIAN: Who were you there with
6 generally than who he shared a room with.

7 MR. ELLROD: Okay.

8 THE WITNESS: Walter Day was there.

9 BY MR. TASHROUDIAN:

10 Q. Who else?

11 A. Joel West.

12 Q. Anyone else?

13 A. Myself.

14 Q. Yeah. Anyone else?

15 A. Triforce.

16 Q. Yeah.

17 A. Carlos, Rickey Knuklez, Eric Tessler. A lot
18 of video game players.

19 Q. Aside from them, anyone else, the gentlemen
20 that you just mentioned, anyone else in -- in
21 particular?

22 A. No. I mean, none that come to mind.

23 Q. Did all you guys stay in the same hotel?

24 A. I don't know. I know some of us did.

25 Q. Did you guys share a hotel room together?

1 A. Some of us did.

2 Q. Did you share a hotel room with Carlos?

3 A. No.

4 Q. Not at all?

5 A. Not at all.

6 Q. Did you see him in the hotel at that -- any of
7 these evenings, the four days you were there?

8 A. Oh yeah, I did.

9 Q. So he was there at the hotel, right, he was
10 staying at the hotel as well?

11 A. Yeah.

12 Q. Same hotel as you guys?

13 A. I don't know if it was in the same hotel,
14 but --

15 Q. You guys had adjoining rooms, didn't you?

16 A. No.

17 Q. Rooms on the same floor?

18 A. No, not at all.

19 Q. Let's go back to [Exhibit S](#), page 2-9 -- 2939.

20 MR. ELLROD: 2939?

21 MR. TASHROUDIAN: Yes.

22 MR. ELLROD: Okay.

23 MR. TASHROUDIAN: Message sent 3-13-2018.

24 MR. ELLROD: Starting, Do you happen --

25 MR TASHROUDIAN: To be a member.

1 MR. ELLROD: Yep, okay.

2 BY MR. TASHROUDIAN:

3 Q. Do you see that there?

4 A. Yes.

5 Q. Why did you ask him that?

6 A. I don't rightly know.

7 Q. Is this -- did this occur -- did this text
8 message occur around the same time you guys were flying
9 out to Banning?

10 A. Yes.

11 Q. All right.

12 A. Judging by the date it did.

13 Q. Yeah. Did you pay for his flight?

14 A. I did not.

15 Q. At all?

16 A. No.

17 Q. Did you -- did you arrange for his flight?

18 A. No.

19 Q. Do you know who paid for his flight?

20 A. No.

21 Q. You didn't pay half of it?

22 A. No.

23 Q. Certain.

24 Let's go to [Exhibit V](#), like Victor. This is a
25 declaration by Billy Mitchell, page 21, paragraph 72.

1 (Exhibit V to be marked for Identification.)

2 MR. ELLROD: It starts here and there's a
3 quote.

4 THE WITNESS: Is it just that?

5 MR. ELLROD: It's this whole paragraph, I
6 think.

7 THE WITNESS: Okay. Okay. I'm with you.

8 BY MR. TASHROUDIAN:

9 Q. You say here on line 18, I explicitly told
10 Pineiro that he did not act --

11 MR. ELLROD: Let me stop you. You said he
12 said? Is this his declaration?

13 MR. TASHROUDIAN: This is Mr. Mitchell's
14 declaration, yes.

15 MR. ELLROD: Oh, I thought this was his son's
16 declaration.

17 MR. TASHROUDIAN: No.

18 MR. ELLROD: Okay. I gotcha. Okay.

19 THE WITNESS: Line 18?

20 MR. ELLROD: Line 18, gotcha.

21 BY MR. TASHROUDIAN:

22 Q. Yes.

23 A. Okay. You were going to read it.

24 Q. I explicitly told Pineiro that he did not act
25 on my behalf. Do you see that there?

1 A. Yes, I do.

2 Q. When did you tell him that?

3 A. I said that from the beginning all the way
4 through, nobody speaks for me but me.

5 Q. No, you told -- my question is different.

6 You told Mr. Pineiro that?

7 A. Yes.

8 Q. When did you tell him that?

9 A. I'm sure I said that in the very beginning and
10 I said it all the way through.

11 Q. You say here his involvement with me did not
12 extend beyond cordial communication. Do you see that
13 there?

14 A. Yes.

15 Q. Is that true?

16 A. Yes. I appreciated what he did.

17 Q. But you did talk to him about the dispute
18 thread, right?

19 A. Correct.

20 Q. And you did ask him to seek an extension from
21 Mr. Hall, didn't you?

22 A. Did I ask him?

23 Q. Yeah.

24 A. I -- I don't recall. I mean, if I said we
25 need an extension, this could be good news, that

1 doesn't necessarily mean anything.

2 Q. Did that happen?

3 A. Did I ask for an extension --

4 Q. Yes.

5 A. -- because he had good news?

6 Q. Yes.

7 A. Yes, I don't know if the contact was from Joel

8 or from somebody who was in that room.

9 Q. Well, you told me there was a telephone

10 conference with Carlos, you, Steve Kleisath, Rob Childs

11 and Neil Hernandez, right?

12 A. And Joel West.

13 Q. And Joel West.

14 A. Yes.

15 Q. And Joel West was in the room as well?

16 A. No, he wasn't. He was on my phone.

17 Q. Okay. And Carlos made the request of Jace for

18 more time, right?

19 A. I don't know. Again --

20 Q. If -- if he did, would that be communications

21 extending beyond cordial?

22 A. No.

23 Q. That'd still be cordial?

24 MR. ELLROD: You mean his con -- you mean

25 Carlos' conversation with Jace Hall?

1 MR. TASHROUDIAN: Yes.

2 BY MR. TASHROUDIAN:

3 Q. Would that be a communication that's more than
4 just cordial communications with you and him?

5 A. No.

6 Q. No?

7 A. Nobody speaks on my behalf.

8 Q. I did not provide Pineiro equipment or
9 compensation of any form. Is that still true?

10 A. That is true.

11 MR. TASHROUDIAN: Let's mark now as Exhibit KK
12 a video of Mr. Mitchell playing Donkey Kong in
13 2018.

14 (Exhibit KK to be marked for Identification.)

15 MR. TASHROUDIAN: Start from the very
16 beginning. That's where we're going to pause.
17 2018.

18 MR. ELLROD: David, just so you know, I'm
19 looking at an email where you said you were
20 available for the Wednesday deposition.

21 MR. TASHROUDIAN: Yeah, that was before.

22 MR. ELLROD: If you're not, I'm okay, I
23 understand.

24 MR. TASHROUDIAN: Yeah. We're flying out
25 Tuesday night. Can Joel make it tomorrow morning?

1 MR. ELLROD: I've got some things I've got to
2 do in the morning now that that's open, but we'll
3 figure it out.

4 MR. HALL: So play? What do you want me to
5 play?

6 MR. TASHROUDIAN: Just -- just start playing.

7 MR. ELLROD: Can you tell me the date on it,
8 please?

9 MR. TASHROUDIAN: We'll find out right now.
10 It's 2018. You'll know better than me. Let's
11 pause this. Can we go off the record, actually,
12 take five minutes?

13 MR. ELLROD: Yes.

14 THE VIDEOGRAPHER: One second. We're off the
15 record.

16 (Discussion off the record.)

17 (Recess was had at 4:03 p.m., resuming at 4:14
18 p.m.)

19 THE VIDEOGRAPHER: All right. It's 4:14,
20 we're back on the record.

21 MR. HALL: So play it from the beginning here?

22 MR. TASHROUDIAN: Yeah.

23 MR. HALL: Okay.

24 MR. TASHROUDIAN: Kristina, maybe we can talk
25 about that at the end of the deposition?

1 MS. ROSS: Okay.

2 MR. TASHROUDIAN: All right. One other thing.

3 You had marked the deposition confidential going

4 forward after, on the --

5 MR. ELLROD: Yeah, I'll take that -- withdraw

6 that now.

7 MR. TASHROUDIAN: Okay. Thank you.

8 All right. Let's play the first 30 seconds or
9 minute of this.

10 MR. HALL: Okay.

11 (Video playing:)

12 MALE VOICE: Hello and welcome from
13 Retropalooza. We are watching Billy Mitchell go
14 for a kill screen on Pac-Man. I believe, I'm not
15 sure if he has officially started yet, but we're
16 going to go ahead and introduce ourselves. I am
17 Dylan Smith. Joining me here today is --

18 MALE VOICE: Ben Gold.

19 MALE VOICE: Welcome, welcome.

20 So, Billy Mitchell, running Pac-Man, how do
21 you feel about that?

22 MR. TASHROUDIAN: Pause it.

23 MALE VOICE: Well, I'm --

24 (End of Video playing.

25 BY MR. TASHROUDIAN:

CERTIFICATE OF REPORTER

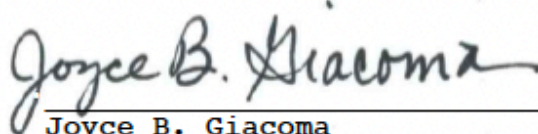
STATE OF FLORIDA

COUNTY OF BROWARD

I, Joyce B. Giacoma, Court Reporter, certify that I was authorized to and did stenographically report the deposition of WILLIAM JAMES MITCHELL, pages 5 through 371; that a review of the transcript was requested; and that the transcript is a true record of my stenographic notes.

I further certify that I am not a relative, employee, attorney, or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorneys or counsel connected with the action, nor am I financially interested in the action.

Dated this 17th day of January, 2023.



Joyce B. Giacoma
Court Reporter

PROOF OF SERVICE

Case No. 19STCV12592

I am a resident of the State of California, over the age of eighteen years, and not a party to the within action. My business address is TASHROUDIAN LAW GROUP, APC, located 12400 Ventura Blvd., Suite 300, Studio City, California 91604. On September 14, 2023, I served the herein described document(s):

OPPOSITION OF TWIN GALAXIES, LLC TO PLAINTIFF’S MOTION FOR CONTEMPT ORDER; REQUEST FOR ATTORNEYS FEES AGAINST PLAINTIFF AND HIS COUNSEL ANTHONY J. ELLROD AND MANNING & KASS IN THE AMOUNT OF \$10,000; DECLARATION OF DAVID A. TASHROUDIAN IN SUPPORT

by transmitting via facsimile the document(s) listed above to the fax number(s) set forth below on this date before 5:00 p.m.

by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Woodland Hills, California addressed as set forth below.

X E-File - by electronically transmitting the document(s) listed above to tony.ellrod@manningkass.com & rwc@robertwcohenlaw.com pursuant to an agreement of the parties.

Anthony J. Ellrod *tony.ellrod@manningkass.com*
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WALTER DAY

I am readily familiar with the firm’s practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on September 14, 2023 at Woodland Hills, California.



Mona Tashroudian