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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

WILLIAM JAMES MITCHELL,

Plaintiff,

v.

TWIN GALAXIES, LLC; and Does 1-10,

Defendants.

AND RELATED CROSS-ACTION

Case No. 19STCV12592

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

**NOTICE OF MOTION AND MOTION
FOR SANCTIONS OF TWIN GALAXIES,
LLC**

*[Filed concurrently with: (1) Declaration of
David A. Tashroudian; (2) Declaration of
Laura Carrell; (3) Declaration of Matthew
Gabler; (4) Declaration of Jacob Pilkington;
(5) Compendium of Evidence; and (6)
Declaration of Elizabeth Hunter]*

Hearing

Date: January 11, 2024

Time: 8:30 a.m.

Place: Department 36

Reservation ID: 568771917469

Action Filed: 4/11/2019

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PLEASE TAKE NOTICE that on January 11, 2024 at 8:30 a.m. in Department 36 of the Los Angeles Superior Court located at 111 N. Hill Street, Los Angeles, CA 90012, defendant and cross-complainant Twin Galaxies, LLC (“Defendant”) will and hereby does move, pursuant to the Court’s inherent authority to control the litigation before it, for a sanctions order against plaintiff William James Mitchell (“Plaintiff”) of either:

- The grounds for the requested order are that Plaintiff has engaged in the willful and egregious misuse of the discovery process such that Defendant cannot have a fair trial and that Plaintiff's discovery responses are false and evasive.

This motion is based on the notice of motion; the attached memorandum of authorities; the declarations (and exhibits thereto) of David A. Tashroudian, Matthew Gabler, Jacob Pilkington, Laura Carrell; Elizabeth Hunter; the compendium of evidence; upon this Court’s records and files of this action; upon the oral argument of counsel; and upon all evidence the Court may receive at or before the hearing of the motion.

Dated: December 18, 2023

TASHROUDIAN LAW GROUP, APC

By: /s/ David Tashroudian, Esq.
David Tashroudian, Esq.
Mona Tashroudian, Esq.
Attorneys for Twin Galaxies, LLC

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Plaintiff has engaged in deliberate and egregious discovery abuse throughout the course of this litigation by lying at deposition and by engaging in the spoliation of evidence with the intent to defraud the Court. His fraud includes the creation of evidence and the manipulation of witnesses and documents to establish facts that are untrue – namely that he was named the “Video Game Player of the Century” by reason of a plaque given to him by Namco. Sanctions pursuant to the Court’s inherent authority are appropriate to ensure Defendant has a fair trial

There is no question that plaintiff concocted a scheme to create false evidence showing that the Namco plaque was found by at the Bridge View Center in Ottumwa, Iowa. Plaintiff has manipulated several people to perpetrate his fraud including John Grunwald, Isaiah TriForce Johnson, Jerry Byrum, Laura Carrell and even his attorneys. He has fabricated evidence and has asked John Grunwald and Laura Carrel to also create evidence to legitimize his fraud. And he has used his attorneys to misrepresent the location and provenance of the fraudulent evidence.

There is so much evidence in the record supporting Defendant’s claims made herein but the most important evidence comes in the form of the expert declaration of Matthew Gabler, the testimony of John Grunwald, and these two pieces of documentary evidence:

Exhibit 17 [Tash Decl., ¶ 32]

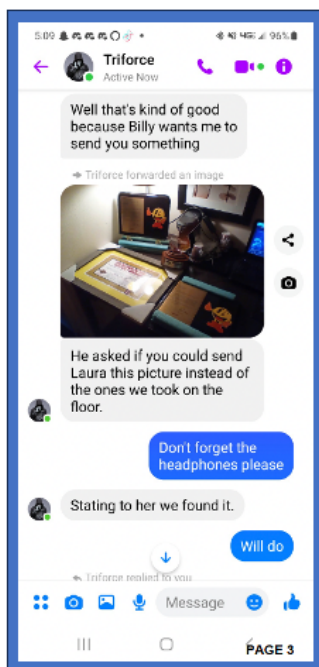
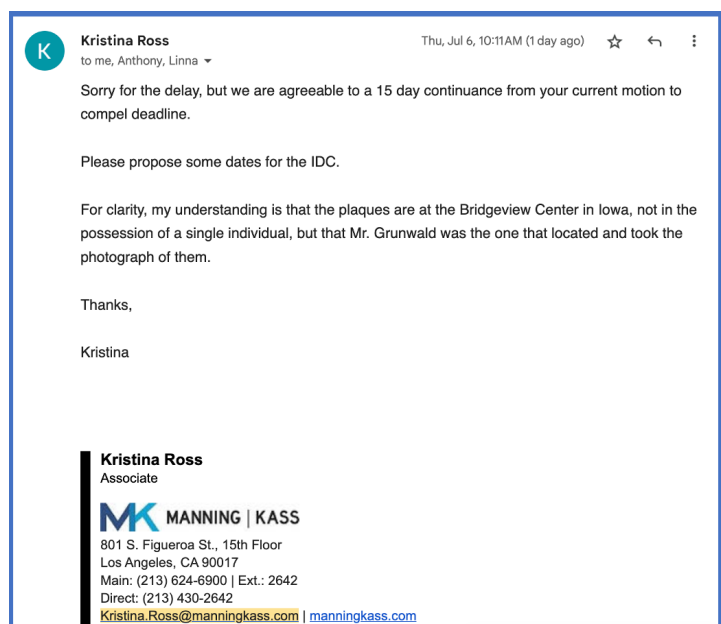


Exhibit 14 [Tash Decl. ¶ 24]



1 **II. FACTS**

2 A. Plaintiff and his claim to be the Video Game Player of the Century.

3 Plaintiff alleges in this suit and in previous ones that he was proclaimed to be the “Video
4 Game Player of the Century” by Namco at the Tokyo Game Show in 1999. [See Declaration of
5 David A. Tashroudian (“Tashroudian Decl.”), ¶¶ 2-3.] Plaintiff testified at deposition that he was
6 given two plaques by Namco at the 1999 Tokyo Game Show, with one bearing the words “Video
7 Game Player of the Century” and the other plaque referring to Pac-Man and its contribution to the
8 video game culture. [Id. at ¶¶ 4-8.] Plaintiff testified that he was also given an award by his
9 comrade Walter Day at the 1999 Tokyo Game Show which said on it “Player of the Century.” [Id.
10 at ¶¶ 6, 9, & 10.]

11 Plaintiff has displayed a single Namco plaque in public and in his movies several times
12 since 2001. [Tashroudian Decl., ¶¶ 7-8, & 44-49.] Sometimes the one plaque is displayed with a
13 base, and other times it is not. [Id.] Regardless of whether the plaque is displayed with a base or
14 not, all of the images of the Namco plaque that are in the public domain show the plaque has
15 always had the same text pattern with 15 lines total, with nine lines in the second of three
16 paragraphs. [See Declaration of Matthew Gabler (“Gabler Decl.”), ¶ 19-23, Exh. 3.] The only
17 version of the Namco plaque displayed in public does not have the words “Video Game Player of
18 Century” written on it. [Id., see also Tashroudian Decl., ¶ 8.]

19 B. Twin Galaxies is denied discovery of Plaintiff’s Namco plaque.

20 Plaintiff was served with a document demand to produce his Namco plaque in August
21 2022. [Tashroudian Decl., ¶ 11.] Plaintiff responded that he could not comply with the request
22 because he donated his Namco plaque to the International Video Game Hall of Fame (“Hall of
23 Fame”). [Id.] Plaintiff testified at deposition that he donated the award to Jerry Byrum or Brian
24 Cady in 2010. [Id. at ¶¶ 12-13.] Defendant deposed Jerry Byrum and Brian Cady. Jerry Byrum
25 testified on June 26, 2023 that the Hall of Fame does not have Plaintiff’s Namco plaque, or any
26 other of Plaintiff’s video game awards. [Id. at ¶ 14.] Brian Cady similarly testified that Plaintiff
27 did not donate a Namco award to him. [Id. at ¶ 15.] Plaintiff has not produced his Namco award
28 to this date. [Id. at ¶ 16.]

1 Defendant discovered through its investigation that Elizabeth Hunter was the corporate
2 secretary for the Hall of Fame in 2010, and the president of the organization in 2011. She testifies
3 in connection with this motion that Plaintiff did not donate any awards to the Hall of Fame in 2010
4 or 2011. [See Declaration of Elizabeth Hunter (“Hunter Decl.”), ¶¶ 13-14.] She goes on to say
5 that she stored all of the Hall of Fame’s property from 2010 to 2011 and never saw any of
6 Plaintiff’s awards in the things she stored. [Id. at ¶¶ 15-17.] She confirms that neither Mr. Cady
7 nor Mr. Byrum were associated with the Hall of Fame in 2010. [Id. at ¶¶ 18-19.]

8 C. Plaintiff produces a June 2023 photograph of his Namco plaque taken by his
9 associate Isaiah TriForce Johnson in Ottumwa, Iowa.

10 Defendant discovered during Walter Day’s disposition on June 26, 2023 that Plaintiff had
11 shown Mr. Day a picture of the Namco award the week prior. [Tashroudian Decl., ¶ 17.]
12 Defendant’s counsel demanded production of the picture from Plaintiff’s counsel and she
13 produced the picture that same day as file name IVGHOF.jpeg (the “Photograph”) which for the
14 first time ever showed two Namco plaques with a Pac-Man figure on each, with two other of
15 Plaintiff’s awards including his 2010 Big Bang Hall of Fame induction trophy. [Id. at ¶¶ 18-20,
16 44-49; *see also* Hunter Decl., ¶ 15.] Defendant’s counsel investigated and determined just prior
17 to Independence Day that the Photograph was taken by Isaiah TriForce Johnson at the AmericInn
18 in Ottumwa, Iowa between June 22 and June 24, 2023. [Id. at ¶ 21.]

19 Defendant’s counsel knew that Mr. Johnson was intimately involved in this litigation and
20 that he lived in Jamaica so on July 5, 2023 counsel gave *ex parte* notice that Defendant would seek
21 an order compelling production of the plaques to prevent Plaintiff from putting the plaques beyond
22 reach of the Court’s subpoena power. [Tashroudian Decl., ¶ 22-23.] Counsel for the parties met
23 and conferred by telephone on the *ex parte* application about the author of the Photograph and the
24 current location of the awards. [Id.] Plaintiff’s counsel, knowingly or not, *misrepresented the*
25 *provenance of the Photograph and location of the plaques* during the parties’ meet and confer
26 correspondences by saying on July 6, 2023 that John Grunwald was the one that located the
27 plaques and took the Picture. [Id. at ¶ 24.]

1 D. Plaintiff's uses John Grunwald and Laura Carrell to create a cover story regarding
2 discovery of the Namco plaque.

3 John Grunwald was deposed on July 20, 2023. [Tashroudian Decl., ¶ 27-28.] At his
4 deposition, he testified that he did not locate Plaintiff's awards and that he did not take the
5 Photograph. [Id. at ¶¶ 29, 31.] Instead, he testified Mr. Johnson brought him the Namco plaques
6 and the other awards in the Photograph packaged in a black trash bag during a high-school E-
7 Sports event at the Bridge View Center in Ottumwa, Iowa on June 23, 2023. [Id. at ¶¶ 29-30, 35-
8 41.] Mr. Grunwald testified that he and Mr. Johnson took pictures of the awards with Mr.
9 Johnson's iPad while Billy Mitchell was on speaker phone in a backroom at the Bridge View
10 Center. [Id. at ¶ 30.] Mr. Grunwald testified that Mr. Johnson took the Photograph. [Id. at ¶ 31.]
11 Mr. Grunwald testified that he took Mr. Johnson to the airport after the event and paid the extra
12 baggage fee for Mr. Johnson to fly to Fort Lauderdale, Florida with the awards in a large box
13 where Plaintiff planned to meet him. [Id. at ¶¶ 34, 41.]

14 Mr. Grunwald testified that he was instructed by Mr. Mitchell to send Laura Carrell, an
15 executive at the Bridge View Center, the Photograph with a note informing her that the awards
16 had been found. Plaintiff used Mr. Johnson as the conduit to relay the message to Mr. Grunwald.
17 [Tashroudian Decl., ¶ 32.] Plaintiff himself asked Mr. Grunwald to ask Ms. Carrell to send an
18 email stating that the awards had been found. [Id. at ¶ 33; *see also* Declaration of Laura Carrell
19 ("Carrell Decl."), ¶ 2.]

20 E. Plaintiff incredulously denies ever being on the board of directors for the Hall of
21 Fame.

22 Plaintiff testified at deposition that he is not currently on the board of directors for the
23 International Video Game Hall of Fame. [Tashroudian Decl., ¶ 50.] Plaintiff, however, is
24 currently a member of the board of directors for the Hall of Fame, and he has been since at least
25 2011. [Id., *see also* Hunter Decl., ¶¶ 7-12.]

26 F. Plaintiff refuses to produce any pictures of his video game awards despite the fact
27 that he commercially exploits pictures of him with the Namco plaque.

28 Plaintiff responded to document demand number 232 on June 9, 2023 that he cannot

1 produce any pictures of his video game awards because they no longer exist and are no longer in
2 his possession. [Tashroudian Decl., ¶ 43.] Plaintiff, however, submitted a declaration by David
3 Bishop dated August 16, 2023 where Mr. Bishop declared that after the Big Bang event in 2010,
4 he helped Plaintiff obtain the original high-definition photograph of him on stage with Masaya
5 Nakamura at the 1999 Tokyo Game Show in Japan. [Id. at ¶ 52.] Plaintiff has signed and posed
6 next to large format pictures of him on stage with the Namco award in 2023 at promotional events
7 and for commercial videos. [Id. at ¶¶ 51 & 53.]

8 **III. ARGUMENT**

9 A. Legal standard relating to this Court’s inherently authority to impose sanctions for 10 willful and egregious discovery misconduct.

11 A trial court has inherent power to control the litigation before it. Courts enjoy the common
12 law authority to impose evidentiary, issue, and even terminating sanctions when a party engages
13 in deliberate and egregious discovery misconduct. This inherent authority is separate from and
14 supplements the Court’s statutory authority to impose sanctions under the Civil Discovery Act.

15 Courts have “fundamental inherent equity, supervisory, and administrative powers, as well
16 as inherent power to control litigation before them.” (Rutherford v. Owens-Illinois, Inc. (1997) 16
17 Cal.4th 953, 967). “When the plaintiff has engaged in misconduct during the course of the
18 litigation that is deliberate, that is egregious, and that renders any remedy short of dismissal
19 inadequate to preserve the fairness of the trial, the trial court has the inherent power to dismiss the
20 action.” (Stephen Slesinger, Inc. v. Walt Disney Co. (2007) 155 Cal.App.4th 736, 764
21 (“Slesinger”); *see also* Department of Forestry & Fire Protection v. Howell (2017) 18 Cal.App.5th
22 154, 197–198 (“Howell”).) Courts can use their power in a less drastic way, too. They can
23 “exercise their ‘basic power to insure that all parties receive a fair trial’ by precluding evidence.”
24 (Peat, Marwick, Mitchell & Co. v. Superior Court (1988) 200 Cal.App.3d 272, 288 (“Peat
25 Marwick”).)

26 Sanctionable discovery misconduct includes the spoliation of evidence and providing false
27 discovery responses. (*See* Williams v. Russ (2008) 167 Cal.App.4th 1215, 1223 (terminating
28 sanctions for intentional spoliation of evidence); *see also* Saxena v. Goffney (2008) 159

1 Cal.App.4th 316, 333-334 (sanctions for willfully false discovery responses); *see also* Cedars-
2 Sinai Medical Center v. Superior Court (1998) 18 Cal.4th 1, 12 (“Destroying evidence in response
3 to a discovery request after litigation has commenced would surely be a misuse of discovery”).)

4 In Slesinger, the plaintiff hired a private investigator who obtained confidential documents
5 from the defendant's private offices, trash dumpsters, and the facility of a contracted document
6 disposal company. (Stephen Slesinger, Inc., *supra*, 155 Cal.App.4th at p. 740.) The defendant
7 moved for a terminating sanction based on that misconduct. (*Id.* at p. 750.) After an evidentiary
8 hearing, the trial court determined the private investigator had taken confidential documents from
9 several locations and that the plaintiff explicitly or implicitly had authorized those activities and
10 attempted to conceal that misconduct. (*Id.* at p. 755-756.) The trial court concluded that a lesser
11 sanction could not ensure a fair trial, and dismissed the action. (*Id.* at p. 756.) The Court of Appeal
12 in Slesinger, recognizing that the issue was one of first impression, held the trial court had the
13 inherent power to control the litigation before it and the discretion to dismiss the action for
14 deliberate and egregious misconduct if no other remedy could ensure a fair trial. (*Id.* at pp. 762 &
15 764.) The Court of Appeal held that the authority to impose sanctions under the discovery statutes
16 supplemented, but did not supplant, a court's inherent power to fashion a remedy for litigation
17 abuse. (*Id.* at p. 763, 66 Cal.Rptr.3d 268.) The Court of Appeal stated that a dismissal need not be
18 preceded by the violation of a court order, but that misconduct must be deliberate and egregious
19 to justify a dismissal and that the trial court must consider other potential sanctions and all of the
20 relevant circumstances before imposing such a sanction. (*Id.* at pp. 763-764.)

21 In Howell, the trial court imposed terminating sanctions against the plaintiff based on its
22 statutory authority provided by the Civil Discovery Act and its common law authority premised
23 on the court's inherent authority as set forth in Slesinger. (Howell, *supra*, (2017) 18 Cal.App.5th
24 at p. 191.) The reviewing court recognized that “even under the Civil Discovery Act's incremental
25 approach, the trial court may impose terminating sanctions as a first measure in extreme cases, or
26 where the record shows lesser sanctions would be ineffective.” (*Id.* at pp. 191-192.) The
27 reviewing court upheld the terminating sanctions on both sources of authority based on the
28 plaintiff's: (1) repeated false, misleading, and evasive discovery responses; (2) false deposition

1 testimony; (3) and spoliation of evidence. (Id. at pp. 197-198.)

2 The Peat Marwick case involved the plaintiff's accounting expert being acquired by the
3 defendant. (*See Peat, Marwick, Mitchell & Co., supra*, 200 Cal.App.3d at p. 272.) After plaintiff's
4 accountancy expert (Main Hurdman) had performed substantial work on the matter, defendant
5 (Peat Marwick) acquired Main Hurdman, creating an obvious conflict of interest. Main Hurdman
6 then abruptly terminated its work with plaintiff. In addition, plaintiff had heard rumors of the
7 potential acquisition earlier, but Peat Marwick had repeatedly assured plaintiff no merger would
8 take place. (Id. at pp. 278-281.) Due to the extreme prejudice resulting from the acquisition,
9 plaintiff moved to enjoin the merger and, in the alternative, sought sanctions against Peat Marwick,
10 precluding the firm from introducing evidence and contesting the issues upon which Main
11 Hurdman would have testified. (Id. at pp. 280-281.) After an evidentiary hearing, the court granted
12 the request for evidence and issue sanctions under its inherent authority to curb abuse of the
13 litigation process. (Id. at pp. 286-287.) The Court of Appeal recognized that the trial court had
14 inherent authority to issue the sanctions based on the inherent power of courts to control and
15 prevent abuses in the use of their process which "does not depend upon constitutional or legislative
16 grant." (Id. at p. 287.) Ultimately, the Court of Appeal recognized that the trial court's "power to
17 curb abuses and promote fair process extends to the preclusion of evidence." (Id. at p. 288.)

18 B. Plaintiff's willful and deliberate discovery misconduct warrants sanctions.

19 Plaintiff has engaged in the deliberate and egregious misuse of the discovery process.
20 Plaintiff has created fake physical evidence that he is refusing to produce. He has used others in
21 an attempt to create evidence and to secrete it away. And he has lied in discovery as part of a
22 pattern of giving evasive and false discovery responses to thwart Defendant's search for the truth.

23 1. Plaintiff created fake Namco plaques.

24 Plaintiff produced the Photograph to show an image of the Video Game Player of the
25 Century plaque he was allegedly awarded by Namco. The abnormally low resolution image shows
26 for the first time ever, two Pac-Man plaques awarded to Plaintiff. The plaques in the Photograph
27 are replicas of the one plaque that was actually presented to Plaintiff at the 1999 Tokyo Game
28 Show by Namco. [Gabler Decl., ¶¶ 5-24.]

1 Defendant's expert prepared a comparative morphological analysis of the standing plaque
2 in the Photograph and a known picture of a Pac-Man plaque awarded to Plaintiff. The known
3 picture is from 2001, has a base, and is the same plaque as the one Mitchell is holding on stage at
4 the 1999 Tokyo Game Show. [Tashroudian Decl., ¶¶ 7 & 46.] The comparative analysis shows
5 that the two plaques are different. [Gabler Decl., ¶ 9, Exh. 2.] The Pac-Man figure on the standing
6 plaque in the Photograph is much smaller than the 2001 example. [*Id.*, at ¶¶ 14-15.] The feet at
7 the base of the plaques are different. [*Id.*, at ¶ 16.] The lines of text in the comparison do not
8 match – with the June 2023 example showing 17 lines of text total (11 in the second paragraph);
9 and the 2001 example showing 15 lines of total text (9 in the second paragraph). [*Id.*, at ¶ 18.]

10 Plaintiff has created the fiction of a second plaque with 17 lines of text because he lied at
11 deposition that he was given a plaque by Namco with the words “Video Game Player of the
12 Century.” [Tashroudian Decl., ¶¶ 4-6.] But that never happened as Defendant has alleged in
13 paragraph 17 of its cross-complaint. Plaintiff did receive a plaque from Namco, but the plaque
14 did not say player of the century on it. [*Id.* at ¶ 7-9, 43-49.] Defendant has produced pictures of
15 the plaque Plaintiff received from Namco, including still images from movies where Mitchell is
16 either holding the plaque or pointing to it. [*Id.* 43-49.] All of the images of the Namco plaque
17 that are in the public domain show the plaque has always had the same text pattern with 15 lines
18 total – whether the plaque is pictured with the base or not. [Gabler Decl., ¶ 19-23, Exh. 3.]
19 Additionally, the Namco plaque has historically been displayed by Plaintiff at conventions alone
20 – without a second Pac-Man plaque. There's only ever been one. [Tashroudian Decl., ¶¶ 45-47.]

21 Plaintiff was presented with a “Player of the Century” framed certificate at the 1999 Tokyo
22 Game Show by cross-defendant Walter Day. [Tashroudian Decl., ¶¶ 9-10.] Plaintiff took a picture
23 next to Masaya Nakamura holding his “Player of the Century Award” from Walter Day and from
24 then forward has misrepresented to the public that he was proclaimed the Video Game Player of
25 the Century by Namco. He was not. Walter Day gave him a piece of paper that said that, Namco
26 did not give him a plaque that says it. Plaintiff has created this second Plaque as a cover-up.

27 ///

28 ///

2. Plaintiff staged discovery of the Namco plaques and misdirected Defendant concerning the whereabouts of the plaques.

The most egregious discovery violation is Plaintiff's willful fabrication of evidence concerning the recent discovery of the Namco Player of the Century Plaque and his counsel's purposeful misdirection about the location of the item.

Plaintiff's counsel produced the Photograph on June 26, 2023 with a file name of IVGHOF.jpeg after Mr. Day begrudgingly testified to its existence. [Tashroudian Decl., ¶¶ 17-18.] Defendant discovered the Photograph was taken by Mr. Johnson – a known associate of Plaintiff – in a hotel room in Ottumwa, Iowa. [Tashroudian Decl., ¶ 21.] Defendant gave *ex parte* notice to Plaintiff's counsel Ms. Ross of his intent to compel production of the plaques immediately based on the discovery that Mr. Johnson took the picture. [*Id.*, at ¶ 22.] But Defendant did not file the prepared application because Plaintiff's counsel misrepresented on July 6, 2023 that the "plaques are at the Bridge View Center, not in the possession of a single individual, but that Mr. Grunwald was the one that located and took the photograph of them." [*Id.*, at ¶ 24.]

This was misdirection on the part of Plaintiff's counsel. John Grunwald, the person who counsel represented found the awards and took the Photograph testified differently. [Tashroudian Decl., ¶¶ 27-34.] He testified that he did not take the Photograph nor did he find the awards. [*Id.*, at ¶¶ 29-31.] Instead he testified that the Photograph was taken by Mr. Johnson who brought the awards to him in a large trash bag during an e-sports event held at the Bridge View Center from June 22-24, 2023 (the "Event"). [*Id.*, at ¶¶ 29-31.] Surveillance footage of the Event confirms Mr. Grunwald's testimony. [*Id.*, at ¶¶ 35-41.]

After Mr. Grunwald's deposition, Plaintiff changed his story and alleged in his July 20, 2023 IDC papers that Mr. Johnson magically found the plaques in his friend Jerry Byrum's arcade when he left the Bridge View Center on June 23, 2023 to go look for his own memorabilia. This story is disproved by the Bridge View Center's CCTV footage which Defendant has obtained. [Tashroudian Decl., ¶¶ 26, 35-41; *see also* Plikington Decl., ¶¶ 5-6.] Mr. Johnson is observed arriving to the Event at 12:59 p.m. on June 23, 2023 in a gold Dodge van with his rolling duffle bag and enters through a back service entrance. [Tashroudian Decl., ¶¶ 37-38.] He leaves the

1 event at 6:56 p.m. with his duffle bag in tow and is accompanied by a man in a red hat. [*Id.*, at ¶
2 39.] Mr. Johnson returns 42 minutes later at 7:38 p.m. with the same man and the same duffle bag
3 but without a black trash bag. [*Id.*] Ten minutes after that at 7:47 p.m., Mr. Johnson enters the
4 Event through the main doors carrying a large trash bag full of awards and proceeds to a back
5 room to take pictures of the awards with Mr. Grunwald and to pack the awards while Plaintiff was
6 on speakerphone. [*Id.*, at ¶¶ 40-41.] The Namco awards in the Photograph were not found by Mr.
7 Johnson at Mr. Byrum’s arcade as claimed in the IDC papers. Rather, the awards were at the
8 Bridge View Center hidden away somewhere by Mr. Johnson (likely the day before) where he
9 retrieved them after he returned at 7:37 p.m. to then stage their discovery by Mr. Grunwald.

10 The deposition testimony and documents show that Plaintiff used others – including his
11 own lawyers if they were not complicit – to create the impression that the plaques were found at
12 the Bridge View Center. The first indication that the awards were found was from a cryptic partial
13 email sent by Plaintiff on June 23, 2023 to Laura Carrell asking for her to look for his awards
14 introduced by Ms. Ross during the deposition of Jerry Byrum. [Tashroudian Decl., ¶ 20.] The
15 deposition testimony shows that after Plaintiff sent that email to Ms. Carrell, he instructed Mr.
16 Grunwald to send Ms. Carrell the Photograph along with an email stating that the awards were
17 found and Mr. Grunwald complied. Indeed, Mr. Johnson sent Mr. Grunwald a message attaching
18 the photograph saying “Billy wants me to send you something...He asked if you could send Laura
19 this picture [the Photograph] instead of the ones we took on the floor...stating to her we found it.”
20 [*Id.*, at ¶¶ 31-33.] Plaintiff also asked Mr. Grunwald to ask Ms. Carrell to send an email confirming
21 the awards were found. [*Id.*, at ¶ 33; *see also* Carrel Decl. ¶ 2.] Plaintiff engaged in these acts to
22 create the false and misleading narrative that these awards were indeed “found” at the Bridge View
23 Center – a narrative that was echoed by Plaintiff’s counsel thirteen days later on July 6, 2023.

24 But as of July 6, 2023, Plaintiff knew the awards were not at the Bridge View Center.
25 Indeed he knew as of June 26, 2023 that the awards were not at the Center. Mr. Johnson flew to
26 where Plaintiff lives in Fort Lauderdale, Florida with the awards in a box to deliver them to
27 Plaintiff on June 25, 2023. [Tashroudian Decl., ¶ 34.] That was always the plan and Grunwald
28 even gave Plaintiff updates throughout the day about Mr. Johnson’s flight. [*Id.*] In his IDC

1 statement, Plaintiff claims that he could not pick up Mr. Johnson from the airport because Mr.
2 Johnson's flight was delayed too late. The story is that Mr. Johnson left the airport and shipped
3 the box of awards back to Jerry Byrum in Iowa and got back in time for his 10:25 a.m. international
4 flight to Jamaica. The story does not make any sense when you consider why Mr. Johnson would
5 mail the awards back to where he found them in Iowa instead of mailing them to Plaintiff who
6 lives in Fort Lauderdale and who was the intended recipient of the package. It also does not make
7 sense for Mr. Johnson to mail the parcel when the earliest post office in the area opens at 8:30 a.m.
8 and Plaintiff could have arrived at the airport at that time to pick up such an important piece of
9 evidence that will prove facts in his favor.

10 3. Plaintiff has given false and misleading discovery responses in this matter.

11 Plaintiff has given false and misleading discovery responses regarding at least: (1) that he
12 donated his Namco plaque to in 2010 to the Hall of Fame; (2) whether he is or ever has been a
13 director of the Hall of Fame; and (3) whether he has any pictures of his Namco awards.

14 Plaintiff claims in deposition and in his discovery responses that he donated the Namco
15 plaque in 2010 to Jerry Byrum or Brian Cady and that the Hall of Fame has his Namco plaque.
16 Both Mr. Byrum and Mr. Cady denied Plaintiff donating his Namco plaque to either of them and
17 Mr. Byrum went on to testify that the Hall of Fame does not have Plaintiff's Namco plaque. [See
18 Tashroudian Decl., ¶¶ 14-15.] The fact that the Hall of Fame does not have the Namco plaque is
19 consistent with Ms. Hunter's declaration supporting this motion that: (a) neither Mr. Byrum or Mr.
20 Cady were associated with the Hall of Fame in 2010; (b) Plaintiff did not donate any of his awards
21 to the Hall of Fame in 2010; and (c) none of his awards were part of the property she stored for
22 the Hall of Fame between 2010 and 2011 and which she delivered to the Bridge View Center in
23 2011. [See Hunter Decl., ¶¶ 13-19.] Plaintiff has misrepresented in his discovery responses the
24 fact that he donated his Namco plaque to the Hall of Fame so that he can avoid producing the
25 plaque, a document which would prove his decades long fraud of claiming he was crowned the
26 Videogame Player of the Century by Namco.

27 Plaintiff lied in deposition that he was never on the board of directors for the Hall of Fame
28 to avoid having to produce the Namco plaque in the Photograph. [Tashroudian Decl., ¶ 50.] The

1 evidence that has come out from Walter Day, Jerry Byrum, and now Elizabeth Hunter is that
2 Plaintiff is currently a director of the Hall of Fame and that he has been since at least 2011. *Id.*,
3 *see also* Hunter Decl., ¶¶ 7-12.] Plaintiff lied about being a board member of the Hall of Fame to
4 avoid producing the Namco plaque. After all, as a board member for the organization in
5 possession of his Namco plaque, Plaintiff has control over the item to produce it in this litigation.
6 Moreover, since Jerry Byrum and the Hall of Fame currently have the plaque, Plaintiff as a board
7 member should have access to it and should be able to produce it to disprove allegations of fraud
8 of on the court. But he does not because of the consequences of telling the truth.

9 Lastly, Plaintiff incredulously claims under oath in his discovery responses and in
10 deposition that he does not have any pictures of his video game awards or his Namco plaque.
11 [Tashroudian Decl., ¶ 43.] But that is not true as Plaintiff has publicly displayed pictures of him
12 receiving his Namco plaque on stage at the 1999 Tokyo Game show. [*Id.* at ¶¶ 51-53.] His own
13 witness, and fellow board member of the Hall of Fame, David L. Bishop declared on August 16,
14 2023 that he helped Plaintiff obtain the original “high resolution” photograph of him on stage
15 receiving the plaque. Plaintiff has not produced this original high resolution photograph despite
16 the fact that he has used it to produce large scale mock-ups for conventions and for promotion
17 material which he signs at these events. Plaintiff refuses to produce any picture of his Namco
18 award, including the high resolution photograph of him receiving the award, because the high-
19 resolution photograph will show that the award he received on stage has only 15 lines total, with
20 nine lines in the second paragraph unlike the fabricated Namco awards depicted in the Photograph.

21 C. This Court should impose either evidentiary sanctions, issue sanctions or
22 terminating sanctions based on Plaintiff’s discovery misconduct.

23 Courts are given wide latitude on which sanction to issue in the case of willful discovery
24 misconduct. The “sanction should be appropriate to the dereliction, and should not exceed that
25 which is required to protect the interests of the party entitled to but denied discovery.” (*Deyo v.*
26 *Kilbourne* (1978) 84 Cal.App.3d 771, 793.) In determining which sanction to issue, the Court
27 should consider, among other factors: (1) the time that has elapsed; (2) the existence of prior orders
28 compelling discovery and the answering party's response thereto; (3) whether the answering party

1 has acted in good faith, and with reasonable diligence; and, (4) whether the withheld information
2 is material to a particular claim. (Id., at 796-797.)

3 Defendant respectfully submits that the full panoply of sanctions are on the table
4 considering the egregious discovery misconduct outlined in this case motion.

5 4. Evidentiary sanctions are appropriate to remedy Plaintiff's discovery
6 misconduct.

7 Plaintiff has engaged in a pattern of providing false and misleading discovery responses
8 concerning the location, discovery, and the Namco plaque itself. Plaintiff has acted in bad faith
9 particularly considering that he has fabricated evidence to fit his false narrative concerning what
10 the Namco plaque actually says. And what the Namco plaque actually says is material to
11 Plaintiff's allegations that he is a world-renowned videogame celebrity and to Defendant's cross-
12 claims for fraud. Accordingly, and in consideration of the foregoing, an appropriate evidentiary
13 sanction is that Plaintiff should be precluded from introducing any evidence that he was given an
14 award by Namco other than the award he authenticated as Exhibit L during his deposition and
15 which is attached to the Compendium of Evidence as Exhibit 8. [See Tashroudian Decl., ¶ 8.] The
16 evidentiary sanction should read:

17 Plaintiff is precluded from introducing evidence to show that he was given any
18 award from Namco other than the award depicted in Exhibit L to Plaintiff's
19 deposition.

20 5. Issue sanctions are appropriate to remedy Plaintiff's discovery misconduct.

21 Defendant respectfully submits that a more severe sanction than an evidentiary sanction is
22 appropriate under the circumstances. As set forth above, Plaintiff has fabricated evidence and
23 provided misleading discovery responses concerning his videogame awards – particularly the
24 award given to him by Namco. He has refused to produce any evidence of an award from Namco
25 which states on it the words “Video Game Player of the Century.” His refusal to do so has
26 prejudiced Defendant. Accordingly, an issue sanction is appropriate to establish the fact that
27 Plaintiff was never given an award by Namco which stated the words “Video Game Player of the
28 Century” since Defendant has been precluded from obtaining evidence to this effect. Accordingly,

1 the issue sanction should read:

2 The fact that Plaintiff did not receive any award or plaque from Namco proclaiming
3 him to be the Video Game Player of the Century is established.

4 6. Terminating sanctions are appropriate for the extreme discovery
5 misconduct Plaintiff has engaged in which has prejudiced Defendant.

6 As set forth herein, Plaintiff has willfully engaged in deliberate and egregious misuse of
7 the discovery process. Plaintiff has created fake physical evidence – the Namco awards in the
8 Photograph. He has used others in an attempt to create evidence and to secrete it away – including
9 Isaiah TriForce Johnson, Jerry Byrum, John Grunwald, Laura Carrel, and his attorneys. Plaintiff
10 has consistently and without regard to the penalty of perjury lied in discovery as part of a pattern
11 of giving evasive and false discovery responses to thwart Defendant’s search for the truth
12 regarding matters material to his claim and to Defendant’s cross-claims. On top of all this, he and
13 his counsel have misrepresented the location of evidence and the provenance of evidence. The
14 facts support these allegations and Defendant cannot have a fair trial under these circumstances so
15 a terminating sanction dismissing Plaintiff’s complaint is warranted.

16 D. This Court is entitled to hold an evidentiary hearing to weigh the evidence and
17 credibility of the parties.

18 Like the court in Slesinger, this Court is authorized to hold an evidentiary hearing to
19 determine whether it should exercise its inherent power to sanction Plaintiff for his willful and
20 egregious discovery misconduct. Considering the gravity of the charges against Plaintiff, that he
21 has fabricated and spoliated evidence, an evidentiary hearing is especially necessary here if the
22 Court is inclined to deny this motion. An evidentiary hearing will give the Court an opportunity
23 to fully review all of the documentary evidence on the issue, review all of the videotaped
24 deposition testimony – particularly that of Plaintiff, Jerry Byrum, and John Grunwald – to make
25 an informed decision on credibility.

26 E. Defendant is not required to first obtain a discovery order prior to obtaining a
27 sanctions order pursuant to the Court’s inherent authority.

28 Defendant seeks the instant sanctions order pursuant to the Court’s inherent authority and

1 not the statutory grant of authority provided in the Civil Discovery Act. There is no obligation in
2 the common law for the Defendant to first obtain an order compelling production of the Namco
3 awards or of a picture of the Namco awards prior to bringing this motion. Moreover, even if
4 Defendant sought sanctions pursuant to the Court's statutory grant and the under the provisions of
5 the Civil Discovery Act, it would be excused from obtaining a prerequisite discovery order because
6 doing so would be a futile, idle act.

7 A court may impose evidence, issue, and terminating sanctions under the Civil Discovery
8 Act where a party fails to obey an order compelling production of documents. (Cal. Code Civ.
9 Proc., § 2031.320(c).) "[I]n exceptional circumstances, when a prerequisite to imposing sanctions
10 under a particular discovery method, such as filing a motion to compel, is impossible, futile, or an
11 idle act, the court may excuse compliance with the requirement and fashion a remedy from the
12 sanctions authorized by the discovery chapter." (City of Los Angeles v. PricewaterhouseCoopers,
13 LLC (2022) 84 Cal.App.5th 466, 506-508 (citing cases holding that the requirement to obtain a
14 prerequisite discovery is excused where the offending party gave false answer concealing the
15 existence of discoverable information and have made evidence unavailable or spoliated evidence);
16 *see also* Karlsson v. Ford Motor Co. (2006) 140 Cal.App.4th 1202, 1215 ("[...] violation of a
17 discovery order is not a prerequisite to issue and evidence sanctions when the offending party has
18 engaged in a pattern of willful discovery abuse that causes the unavailability of evidence").)

19 Obtaining a discovery order is a futile and idle act because plaintiff has given false
20 discovery answers concealing the existence of the Namco plaque and of any pictures of the Namco
21 plaque. He has engaged in a plot to create fake evidence and is now hiding it away. Defendant
22 could not have obtained an order compelling production of these documents under the
23 circumstances. Indeed, when this issue was brought up with the Court prior to this instant motion,
24 the Court refused to compel production because it believed Plaintiff that the requested documents
25 were not in his possession. But when the full picture is disclosed, the reason Plaintiff is not in
26 possession of the plaques is because he has purposefully hid them and failed to disclose them. The
27 same goes with pictures of the plaques, he has them and is refusing to produce them despite
28 Defendant's discovery requests.

1 **IV. CONCLUSION**

2 Defendant respectfully requests that this Court grant the motion in full and impose the
3 sanction it deems appropriate the interests of justice. If this Court is inclined to deny this motion,
4 Defendant respectfully requests that the Court first hold an evidentiary hearing where the videos
5 of all of the depositions, and the CCTV footage, can be played and Plaintiff can give live testimony
6 as to the circumstances around the discovery of his Namco plaque.

7 Respectfully submitted,

8 Dated: December 18, 2023

TASHROUDIAN LAW GROUP, APC

9
10 By: /s/ David Tashroudian, Esq.

11 David Tashroudian, Esq.

12 Mona Tashroudian, Esq.

13 Attorneys for Twin Galaxies, LLC
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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 December 18, 2023, I served the herein described document(s):

**NOTICE OF MOTION AND MOTION FOR SANCTIONS
OF TWIN GALAXIES, LLC**

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 pursuant to an agreement of the parties in lieu personal service.

Anthony J. Ellrod *tony.ellrod@manningkass.com*
MANNING & KASS
ELLROD, RAMIREZ, TRESTER LLP
801 S. Figueroa St, 15th Floor
Los Angeles, California 90017-3012

Attorneys for Plaintiff
WILLIAM JAMES MITCHELL

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 December 18, 2023 at Woodland Hills, California.



Mona Tashroudian



Make a Reservation

WILLIAM JAMES MITCHELL vs TWIN GALEXIES, LLC

Case Number: 19STCV12592 Case Type: Civil Unlimited Category: Defamation (slander/libel)

Date Filed: 2019-04-11 Location: Stanley Mosk Courthouse - Department 36

Reservation

Case Name:
WILLIAM JAMES MITCHELL vs TWIN GALEXIES, LLC

Case Number:
19STCV12592

Type:
Motion for Sanctions

Status:
RESERVED

Filing Party:
Twin Galaxies, LLC (Cross-Complainant)

Location:
Stanley Mosk Courthouse - Department 36

Date/Time:
01/11/2024 8:30 AM

Number of Motions:
1

Reservation ID:
568771917469

Confirmation Code:
CR-6SHC6QKQH8E1AR8RQ

Fees

Description	Fee	Qty	Amount
Motion for Sanctions	60.00	1	60.00
Credit Card Percentage Fee (2.75%)	1.65	1	1.65
TOTAL			\$61.65

Payment

Amount:
\$61.65

Type:
Visa

Account Number:
XXXX7361

Authorization:
001313

Payment Date:
1969-12-31

Print Receipt

Reserve Another Hearing