

Anthony J. Ellrod (State Bar No. 136574)
tony.ellrod@manningkass.com
 Kristina Ross (State Bar No. 325440)
kristina.ross@manningkass.com
MANNING & KASS
ELLROD, RAMIREZ, TRESTER LLP
 801 S. Figueroa St, 15th Floor
 Los Angeles, California 90017-3012
 Telephone: (213) 624-6900
 Facsimile: (213) 624-6999

Attorneys for Plaintiff, WILLIAM JAMES MITCHELL

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 Superior Court of California,
 County of Los Angeles
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 David W. Slayton,
 Executive Officer/Clerk of Court,
 By A. Lopez, Deputy Clerk

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES, CENTRAL DISTRICT

WILLIAM JAMES MITCHELL,

Plaintiff,

v.

TWIN GALAXIES, LLC,

Defendants.

Case No. 19STCV12592

[Hon. Hon. Wendy Chang, Department 36]

**DECLARATION OF KRISTINA ROSS IN
 SUPPORT OF PLAINTIFF'S
 OPPOSITION TO DEFENDANT'S
 MOTION FOR SANCTIONS; REQUEST
 FOR MONETARY SANCTIONS IN THE
 AMOUNT OF \$7,125.00 AGAINST
 DEFENDANT AND/OR DEFENDANT'S
 COUNSEL**

[Filed concurrently with Plaintiff's Opposition
 to Defendant's Motion for Sanctions and
 Plaintiff's Evidentiary Objections]

Date: January 11, 2024

Time: 8:30 a.m.

Dept.: 36

Reservation No.: 568771917469

Action Filed: 04/11/2019

Trial Date: 04/26/2024

TWIN GALAXIES, LLC,

Cross-Complainant,

v.

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

Cross-Defendants.

I, Kristina Ross, declare as follows:

1. I am an attorney duly admitted to practice before this Court. I am an attorney with Manning & Kass, Ellrod, Ramirez, Trester LLP, attorneys of record for Plaintiff WILLIAM JAMES MITCHELL. I have personal knowledge of the facts set forth herein, and if called as a witness, I could and would competently testify thereto. I make this declaration in support of Plaintiff's Opposition to Defendant's Motion for Sanctions.

2. Defendant's motion again is centered around a "Video Game Player of the Century" plaque from Namco. Plaintiff donated this and other awards to the International Video Game Hall of Fame in 2010. Plaintiff responded to multiple discovery requests regarding the Namco plaques that Plaintiff cannot comply due to Plaintiff not having possession of the plaques as he donated them over ten years ago. Plaintiff also responded to discovery requests for production of pictures of the awards on June 9, 2023 that Plaintiff was unable to comply as Plaintiff did not have any photographs at that time. Plaintiff believed Defendant was requesting photographs of the awards themselves, not the same photograph of Plaintiff on stage with the awards in Toyko, which Defendant had already attached as evidence to support the Anti-Slapp and presented as an exhibit to Plaintiff in deposition. Plaintiff then produced photographs obtained thereafter, informally and then as production responses to further requests, including the photographs provided by David Bishop and the photograph taken on or about the weekend of June 23, 2023.

3. On June 26, 2023, at the deposition of Walter Day, a photograph of Plaintiff's awards, including Namco plaques, was discussed. At that time, Plaintiff's counsel Kristina Ross was forwarded an email in which John Grunwald sent Plaintiff a picture of the awards previously donated to the International Video Game Hall of Fame, and in which Mr. Grunwald stated, "It appears the lost has been found." See Defendant's Compendium of Evidence, Ex. 18.

4. That same day, defense counsel requested that he be provided with the photograph prior to the deposition of Jerry Byrum, the current principal of the International Video Game Hall of Fame, which was occurring after Mr. Day's deposition. In order to send it to him quickly, Plaintiff's counsel saved the image with the name "IVGHOF". During Mr. Byrum's deposition, defense counsel asked Plaintiff's counsel about the naming of the image and from where she

1 received it. Working off what little information she had at the time, and in an effort to cooperate
2 with defense counsel, Plaintiff's counsel advised that she received it that same day from Plaintiff
3 with an email from John Grunwald. See Defendant's Ex.11 and 18.

4 5. On June 26, 2023, Mr. Byrum testified that he did not look for the awards as
5 requested in Defendant's subpoena and that he did not recall Plaintiff asking him to find the awards
6 or send them to him. Mr. Byrum also testified that he did not personally receive any awards from
7 Plaintiff; however, he further stated that he was not a part of the International Video Game Hall of
8 Fame in 2010 when Plaintiff contends he donated the awards, and that sometime after 2019 he
9 personally gained control over all the items that belonged to the International Video Game Hall of
10 Fame, but the items were scattered among multiple storage areas along with his personal and
11 business items. See Defendant's Exhibit 3, 11:23-12:19 and 14:1-15.

12 6. On July 5, 2023, Defendant's counsel requested a meet and confer. I had a telephonic
13 meet and confer with Defendant's counsel and again repeated the information available to me and
14 my understanding regarding the plaques, which was that they were found by Mr. Grunwald on the
15 weekend of June 23, 2023 while at an event at the Bridgeview Center. I also noted that Mr. Ellrod
16 and I were engaged in a bench trial, but I could have someone else appear at the ex parte if need be;
17 however, Defendant's counsel later emailed that we could resolve the issue in an Informal Discovery
18 Conference and asked for an extension on any potential motion to compel. On July 6, 2023, I
19 reiterated my understanding based upon the information I had at that time, as I had no personal
20 knowledge of the locating of the plaques, and granted Defendant the extension to allow for an
21 Informal Discovery Conference. See Defendant's Ex. 14.

22 7. On or about July 20, 2023, I was advised that Plaintiff's plaques were found by Isiah
23 Triforce Johnson on June 23, 2023 in the storage room at Jerry Byrum's arcade while looking for
24 his own memorabilia that he donated to International Video Game Hall of Fame. Mr. Johnson then
25 brought the awards to the Bridgeview Center, where he and Mr. Grunwald looked at them and Mr.
26 Johnson took photographs of them. Mr. Johnson then took the awards, intending to return them to
27 Plaintiff while in Florida; however, his flight was delayed and he did not land in Fort Lauderdale
28 until 2:00 a.m. on June 26, 2023, too late to contact Plaintiff. Per Mr. Johnson, he then shipped the

1 awards back to Mr. Byrum before his flight back to Jamaica at 10:00 am on June 26, 2023.

2 8. On July 20, 2023, Mr. Grunwald testified that the plaques were found during a
3 weekend video game event in Iowa. Plaintiff was not present at the event, but he called Plaintiff and
4 that Plaintiff seemed surprised and excited the plaques found. Further, Plaintiff did not ask where
5 or how the plaques were found. Mr. Grunwald also testified that he did not ask Mr. Johnson where
6 he found the awards, but that he knew Mr. Johnson was going to the arcade and upon his return had
7 the awards. Further, Mr. Grunwald testified that the original plan was for Mr. Johnson to travel to
8 and from Iowa with Plaintiff as his layover from Jamaica was in Fort Lauderdale; however, Plaintiff
9 was unable to attend the event and Mr. Grunwald simply assumed that Plaintiff picked up Mr.
10 Johnson from the airport after the event, despite the multiple delays, as that was the original plan.
11 See Defendant's Ex. 4, 18:13-19:19, 21:20-22:18, 28:5-29:15; 43:2-19.

12 9. Both Plaintiff and my office have diligently attempted to retrieve the plaques back
13 from Mr. Byrum. However, Mr. Byrum is not cooperating to send the plaques or even photographs
14 as he was previously harassed by Defendant's counsel.

15 10. Any assertion that I or my office purposefully misdirected or intentionally
16 misrepresented information regarding the plaques or their location to Defendant's counsel is
17 patently false. Despite efforts to obtain the plaques, Plaintiff has not been able to. Plaintiff does not
18 have custody, control, or possession over the plaques.

19 11. My billing rate in this matter is \$375.00 per hour. I have expended 19 hours in
20 connection with opposing Defendant's motion. The total amount of monetary sanction sought is
21 \$7,125.00.

22 I declare under penalty of perjury under the laws of the State of California that the foregoing
23 is true and correct.

24 Executed on December 29, 2023, at Los Angeles, California.

25 

26 Kristina Ross
27
28

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

At the time of service, I was over 18 years of age and not a party to this action. I am employed in the County of Los Angeles, State of California. My business address is 801 S. Figueroa St, 15th Floor, Los Angeles, CA 90017-3012.

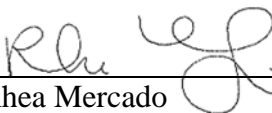
On December 29, 2023, I served true copies of the following document(s) described as **DECLARATION OF KRISTINA ROSS IN SUPPORT OF PLAINTIFF'S OPPOSITION TO DEFENDANT'S MOTION FOR SANCTIONS; REQUEST FOR MONETARY SANCTIONS IN THE AMOUNT OF \$7,125.00 AGAINST DEFENDANT AND/OR DEFENDANT'S COUNSEL** on the interested parties in this action as follows:

David Tashroudian, Esq. Mona Tashroudian, Esq. TASHROUDIAN LAW GROUP, APC 12400 Ventura Blvd. Suite 300 Studio City, CA 91604 Telephone: (818) 561-7381 Facsimile: (818) 561-7381 Email: david@tashlawgroup.com Email: mona@tashlawgroup.com Attorney for Defendants, TWIN GALAXIES	Robert W. Cohen, Esq. Law Offices of Robert W. Cohen 1901 Avenue of The Stars, Suite 1910 Los Angeles, CA 90067 Telephone: (310) 282-7586 Email: rwcohenlaw.com Attorneys for Cross-Defendant, WALTER DAY
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BY E-MAIL OR ELECTRONIC TRANSMISSION: I caused a copy of the document(s) to be sent from e-mail address rhea.mercado@manningkass.com to the persons at the e-mail addresses listed in the Service List. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on December 29, 2023, at Los Angeles, California.


Rhea Mercado