

David A. Tashroudian [SBN 266718]  
Mona Tashroudian [SBN 272387]  
TASHROUDIAN LAW GROUP, APC  
12400 Ventura Blvd., Suite 300  
Studio City, California 91604  
Telephone: (818) 561-7381  
Facsimile: (818) 561-7381  
Email: [david@tashlawgroup.com](mailto:david@tashlawgroup.com)  
[mona@tashlawgroup.com](mailto:mona@tashlawgroup.com)

Attorneys for Twin Galaxies, LLC

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David W. Slayton,  
Executive Officer/Clerk of Court,  
By R. Pineda, Deputy Clerk

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]

**REPLY ISO MOTION FOR SANCTIONS  
OF TWIN GALAXIES, LLC**

**Hearing**

Date: January 11, 2024

Time: 8:30 a.m.

Place: Department 36

Reservation ID: 568771917469

Action Filed: 4/11/2019

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 Plaintiff for the first time has acknowledge and opposed Defendant's allegations that he  
4 has fabricated evidence – namely the discovery of his Namco awards and the awards themselves.  
5 Plaintiff's opposition though is underwhelming.

6 Plaintiff previously wrote-off Defendant's allegations of the misuse of discovery,  
7 spoliation, and perjury as just a conspiracy theory and brazenly refused to address the allegations  
8 in his papers opposing Defendant's September 2023 sanctions motion. And the reason is now  
9 apparent. Plaintiff cannot oppose these allegations without further perjuring himself so he remains  
10 silent and does not submit any declaration to support his opposition. Plaintiff's friends, Jerry  
11 Byrum and Isaiah TriForce Johnson, similarly have refused to perjure themselves so their  
12 testimony in opposition to this motion is also missing even though both were quick to provide  
13 testimony and documentary evidence to disqualify Defendant's counsel.

14 The facts are that Plaintiff has fabricated evidence as set forth in great detail in Defendant's  
15 motion. Plaintiff's opposition does not contradict those facts so Defendant's motion should be  
16 granted as a result.

17 **II. ARGUMENT**

18 A. Defendant's motion is not an improper motion for reconsideration.

19 Plaintiff attempts to cast the instant motion as an improper motion for reconsideration but  
20 it is not. The instant motion for evidentiary, issue, or terminating is brought after the Court issued  
21 its order denying Defendant's terminating sanctions motion *without prejudice* on September 28,  
22 2023. At the September 28, 2023 hearing, the Court appeared to be concerned with the fact that  
23 Defendant brought its motion seeking only termination sanctions and not other lesser sanctions  
24 The Court's September 28, 2023 order left the door open for Defendant to bring a motion to  
25 address Plaintiff's fabrication of evidence in "another form, during the immediate pretrial phase  
26 of this case. " [See Opposition, 1:12-14.]

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1 Defendant brings its motion now in another form seeking the full panoply of non-monetary  
2 sanctions – evidentiary, issue, and terminating. And, as the Court should recall, Defendant brings  
3 this motion after its counsel requested a brief trial continuance during a recent December 1, 2023  
4 hearing to have this motion heard prior to trial, which at the time was scheduled for January 26,  
5 2024. The Court graciously obliged and continued the trial to April 26, 2024 but Defendant was  
6 able to reserve a hearing for the instant motion for January 11, 2024 – well in advance of the April  
7 26, 2024 trial date. Accordingly, the instant motion is not a motion for reconsideration at all and  
8 is instead a properly noticed motion brought pursuant to the Court’s September 28, 2023 order.

9 The only non-conforming aspect of the motion is that it is not being heard during the  
10 “immediate pretrial phase of the this case.” Defendant respectfully submits that such non-  
11 conformance should be waived considering that the issue raised in the motion – the fabrication of  
12 evidence – goes to the very heart of Defendant’s right to a fair trial. Defendant should not have to  
13 expend resources preparing for trial and wait until the immediate pre-trial phase to have this  
14 motion heard where there was a hearing slot open much earlier. Moreover, if the trial had not been  
15 moved, this motion would have been heard during the immediate pretrial phase of the case.

16 B. Plaintiff has not submitted any admissible evidence to oppose the allegations of  
17 discovery abuse set forth in the motion.

18 Plaintiff has not produced a single shred of admissible evidence to oppose the allegations  
19 of discovery abuse made in the motion. To be clear, the allegation of discovery abuse is that  
20 Plaintiff staged the discovery of fabricated Namco awards to prove the fact that he was named the  
21 Player of the Century by reason of a plaque given to him by Namco in 1999. The reason Plaintiff  
22 has not adduced any evidence is clear – Plaintiff’s counsel is ethically barred from submitting  
23 perjured evidence so not even Plaintiff’s own testimony was marshalled to oppose to the motion.

24 1. Plaintiff does not present any evidence to counter the timeline related to the  
25 fabricated discovery of his Namco awards.

26 The following timeline relating to the of fabrication of evidence remains uncontradicted.  
27 First, on Friday, on June 23, 2023 at 1:11 a.m., Plaintiff sends an email to Laura Carrell, John  
28 Grunwald and Jerry Byrum asking for help finding awards that he loaned to the International Video

1 Game Hall of Fame which were allegedly last seen at the Bridge View Center. Ms. Carrell  
2 responds that morning saying that she was unable to find anything belonging to Plaintiff at the  
3 Bridge View Center. [See Evidence, Exh. 18, p. 140; see also Carrell Decl., ¶ 2.]

4 Later on Friday, June 23, 2023 at 7:47 p.m., Plaintiff's associate Isaiah TriForce Johnson  
5 is caught on closed circuit television cameras entering the Bridge View Center with a black trash  
6 bag full of Plaintiff's awards, including two plaques from Namco and takes the awards to Mr.  
7 Grunwald. [See Tashroudian Decl., ¶ 40.] Then at 7:53 p.m., Mr. Grunwald calls Plaintiff while  
8 he and Mr. Johnson photograph the awards in a back room at the Bridge View Center. [Id. at ¶  
9 30.] A few minutes later, Mr. Johnson and Mr. Grunwald are both recorded on camera between  
10 8:05 p.m. at 8:09 p.m. packing Plaintiff's awards into a box in a hallway at the Bridge View Center.  
11 [Id. at ¶ 41.]

12 The next day on June 24, 2023 at 9:53 a.m. Plaintiff, through Mr. Johnson, requests that  
13 Mr. Grunwald send Ms. Carrell a photograph that Mr. Johnson took of the awards on a desk in his  
14 hotel room. [See Evidence, Exh. 18, p. 139.] Mr. Grunwald complied and sent Ms. Carrell Mr.  
15 Johnson's photograph of the awards at 9:44 p.m. that same day. [Id.] On June 25, 2023 at 8:06  
16 a.m., Mr. Grunwald forwards Plaintiff the email by which he sent Ms. Carrell the Photograph.  
17 [Id.] Plaintiff then ask Ms. Carrell to send an email acknowledging that the awards were found.  
18 Ms. Carrell did not comply. [Carrell Decl., ¶ 2.]

19 On June 26, 2023 4:05 p.m., after Mr. Day admitted in deposition that Plaintiff showed  
20 him the Photograph, Plaintiff's counsel sends Defendant's counsel the Photograph bearing  
21 filename IVGHOF.jpeg with a note saying "Here is the photograph that was recently received  
22 from IVGHOF," referring to the International Video Game Hall of Fame. [Tashroudian Decl., ¶  
23 18, Exh. 11.] Plaintiff's counsel doubled down on the representation that Mr. Grunwald – who is  
24 an International Video Game Hall of Fame board member – located the awards and took the  
25 Photograph in a July 6, 2023 email. [Id., at ¶ 24; see also ¶ 57, Exh. 3 at 22:25-23:5 (Grunwald  
26 as a board member for the Hall of Fame).] Plaintiff's counsel's July 6, 2023 email stated untrue  
27 facts as Mr. Grunwald testified at deposition on July 20, 2023 that he did not locate the awards or  
28 take the Photograph. [Id. at ¶¶ 28-31.] In other words, the awards were never found by anyone at

1 the International Video Game Hall of Fame much less Mr. Grunwald and the Photograph was not  
2 taken or provided by the International Video Game Hall of Fame. Mr. Johnson had the awards at  
3 all times and he took the Photograph.

4 This timeline conclusively shows that Plaintiff used Ms. Carrell, Mr. Grunwald, and Mr.  
5 Johnson to stage the discovery of his Namco plaques at the Bridge View Center. Plaintiff then  
6 used his attorneys to misrepresent the provenance of the Photograph. This is clear fabrication of  
7 evidence. Plaintiff does not deny the timeline nor does he offer any competing version of the  
8 events because doing so would necessarily be perjurious. Defendant begs this Court to see through  
9 Plaintiff's smoke and mirror distraction and construe the facts the only way possible – that Plaintiff  
10 is committing fraud on this Court.

11 2. Plaintiff does not proffer any admissible evidence relating to the current  
12 location of the Namco awards.

13 The only admissible evidence regarding the current location of Plaintiff's awards in  
14 question is that they were loaded into a box by Mr. Johnson and Mr. Grunwald paid for the awards  
15 to be taken back to Plaintiff in Florida by Mr. Johnson. [Tashroudian Decl., ¶ 34.] The plaques  
16 are with Plaintiff in Florida according to the only admissible evidence in the record.

17 Plaintiff's evidence to the contrary is inadmissible and lacks foundation and Defendant  
18 hereby objects to it. Plaintiff's counsel submits a vague and unsubstantiated declaration attesting  
19 to the fact that Mr. Johnson could not deliver the awards to Plaintiff as originally planned because  
20 Mr. Johnson's flight arrived in Florida too late so Mr. Johnson mailed the awards back to Jerry  
21 Byrum in Iowa. There are at least three problems with her declaration.

22 The first problem with Plaintiff's counsel's declaration is that it is not based on personal  
23 knowledge. She does not identify how she learned of the fact that Mr. Johnson could not deliver  
24 the awards nor does she testify how she learned that the plaques were sent to Mr. Byrum. Her  
25 declaration is fatally flawed accordingly.

26 The second problem is that her declaration just does not make sense. Plaintiff was always  
27 the intended recipient of the awards so why would Mr. Johnson mail the awards to Mr. Byrum  
28 who lives in Des Moines, Iowa – which is 1,541 miles away from Fort Lauderdale? Doesn't it

1 make more sense for Mr. Johnson to mail the awards to Plaintiff who lives in Weston, Florida  
2 which is less than twenty-five miles away from the Fort Lauderdale airport? And to take it one  
3 step further, doesn't it make even more sense that Plaintiff would come pick up his plaques that  
4 morning from Mr. Johnson? After all, Mr. Johnson's flight departed to Jamaica at 10:00 a.m.  
5 leaving plenty of time in the morning for Plaintiff drive to the airport to pick-up the plaques he  
6 was desperately trying to find as he expressed to Ms. Carrell in his June 23, 2023 email. Plaintiff's  
7 story just does not add up.

8 The third problem with Plaintiff's counsel's declaration is that it is a poor substitute for the  
9 evidence from the actual witnesses – Jerry Byrum, Isaiah Johnson, and Plaintiff himself. Jerry  
10 Byrum was more than willing to provide a declaration and documentary evidence in support of  
11 Plaintiff's motion to disqualify Defendant's counsel but the story goes that he is now unwilling to  
12 cooperate and produce the plaques or pictures of the plaques. The same goes for Mr. Johnson. He  
13 has submitted two declarations in this case including one just a month ago where he also provided  
14 documentary evidence to disqualify Defendant's counsel but he has not provided any declaration  
15 to support Plaintiff's opposition to this motion. And Plaintiff himself has not provided a  
16 declaration attesting to any of the facts regarding the disposition of the plaques. This all begs the  
17 question of why these three witnesses would not provide evidence to support the opposition to a  
18 motion which seek drastic sanctions against Plaintiff? The answer is that none of the witnesses  
19 are willing to testify to Plaintiff's purported facts because the facts are not true. Mr. Johnson did  
20 not mail the plaques to Mr. Byrum from Fort Lauderdale on June 26, 2023 and Plaintiff currently  
21 has the plaques. That is the truth and neither of Mr. Byrum or Mr. Johnson are willing to perjure  
22 themselves to support Plaintiff's story otherwise.

23 3. Plaintiff does not present any evidence to explain the difference between the  
24 fabricated plaques in the Photograph and the single plaque in the public domain.

25 The crux of Defendant's motion is that Plaintiff has created a fake a Namco plaque that is  
26 different from all the examples of the one Namco plaque in the public domain to support his  
27 perjurious testimony that Namco awarded him two plaques in 1999 with one inscribed with the  
28 words "Player of the Century." The argument is that every example of the Namco plaque that

1 exists in the public domain – including images of the Namco plaque which plaintiff holds in his  
2 hands in at least two of his movies – has only 15 lines of text without the words “Player of the  
3 Century.” The fake Namco plaque is the one standing in the Photograph which for the first time  
4 ever shows 17 lines and which also has dimensions that are different from the public examples.

5 Plaintiff makes no argument and presents no evidence to contradict Defendant’s argument.  
6 Plaintiff does not present any evidence that the plaques in the Photograph are the ones that were  
7 given to him by Namco. He does not present any evidence explaining the differences in  
8 dimensions between the plaques in the Photograph and those in the public domain. Plaintiff does  
9 not even testify to why the standing plaque in the Photograph has a different base (feet) than the  
10 examples of his Namco plaque in the public domain. And he certainly does not provide any  
11 evidence as to why the standing plaque in the Photograph has 17 lines total while all other  
12 examples have only 15 lines. He does not provide any of this evidence because it would all be  
13 perjurious and his counsel has an ethical duty not to proffer evidence it knows to be false. Plaintiff  
14 knows the plaque in the Photograph is fake and that is why he refuses to produce the plaques or  
15 even a picture of it.

16 C. Defendant has not violated the protective order by filing information that has already  
17 been disclosed to the public.

18 “What transpires in the court room is public property.” (Craig v. Harney (1947) 331 U.S.  
19 367, 374.) Indeed, as the California legislature stated in 1872, “the sittings of every court shall be  
20 public,” and unless confidentiality is required court records shall be public. (Cal. Code Civ. Proc.,  
21 § 124; *see also* Cal. R. Crt. 2.550(c).) In the context of a protective order, “[t]he truthful  
22 publication and dissemination of information which has been disclosed to the public cannot be  
23 prohibited.” (Coalition Against Police Abuse v. Superior Court (1985) 170 Cal.App.3d 888, 902  
24 *citing* Oklahoma Publishing Co. v. District Court (1977) 430 U.S. 308, 310-311.)

25 The court in Coalition Against Police Abuse v. Superior Court commented in dicta that a  
26 protective order cannot prohibit the dissemination of information that is in the public domain. In  
27 that case, the issue was whether certain discovery material should be ordered returned pursuant to  
28 the protective order in place. The petitioner argued that information the public domain should not

1 be ordered returned pursuant to the protective order in the case. (Coalition Against Police Abuse,  
2 170 Cal.App.3d at pp. 902-903.) The court – and the opposing party for that matter – agreed that  
3 information in the public domain should not be returned because a protective order cannot prohibit  
4 dissemination of information which has been publicly disclosed. (Id.)

5 In its opposition, Plaintiff claims that Defendant’s filing of the information contained in  
6 the exhibits attached to the Compendium of Evidence violated the parties’ stipulated protective  
7 order because this Court issued an order on December 1, 2023 designating all otherwise  
8 undesignated discovery material confidential pursuant to the protective order. However, every  
9 single exhibit to the Compendium of Evidence was filed with this Court on September 6, 2023  
10 and at that time the information was disclosed to the public the information became part of the  
11 public record. Therefore, since protective order is inapplicable to the public information,  
12 Plaintiff’s argument that Defendant violated the order without merit.

13 D. Plaintiff fails to address the issue that he has lied under oath about being a director of  
14 the International Video Game Hall of Fame.

15 Plaintiff completely ignores Defendant’s argument that Plaintiff has lied about being a  
16 director of the International Video Game Hall of Fame. At least three witness have testified that  
17 Plaintiff is a director of the Hall of Fame. Elizabeth Hunter testifies in her declaration supporting  
18 this motion at paragraphs 7-12 that Plaintiff was a director of the International Video Game Hall  
19 of Fame as far back as 2011. Jerry Byrum testified at his deposition that Plaintiff is and has been  
20 a director of the Hall of Fame since Mr. Byrum associated with the organization in 2019.  
21 [Tashroudian Decl., ¶ 56; Exh. 3 at 18:15-22.] Mr. Grunwald testified similarly that Plaintiff is  
22 currently a director of the Hall of Fame. [Id., at ¶ 57, Exh. 4 at 22:25-23:5.] Plaintiff perjured  
23 himself at deposition by denying this fact.

24 The fact that Plaintiff gave false deposition testimony is further evidence that he has  
25 engaged in the deliberate and egregious misuse of the discovery process. He does not even deny  
26 it in this motion. He lied under oath for a very obvious reason too. Plaintiff lied about being a  
27 director of the Hall of Fame to avoid producing the Namco plaque he claimed was in the possession  
28 of the Hall of Fame. Plaintiff testified at deposition and admitted in discovery responses that the



1 elusive Namco award at issue was with the International Hall of Fame. As a director of the  
2 organization, he would certainly have access to the award. But he lied about that fact to avoid  
3 producing the award.

4 Plaintiff actions in lying about being a director of the Hall of Fame had the practical effect  
5 of causing the unavailability of evidence. Plaintiff cites New Albertsons, Inc. v. Superior Ct.  
6 (2008) 168 Cal. App. 4th 1403 for the proposition that sanctions are not warranted because  
7 Plaintiff has not violated a prior discovery order. First off, the issue of whether a prior discovery  
8 order is necessary for the imposition of sanctions was dealt with in Defendant's opening brief and  
9 will not be re-argued here. But more importantly is that the New Albertsons, Inc. case stands for  
10 the proposition that severe sanctions are warranted where a party has caused the unavailability of  
11 evidence. (Id. at p. 1426.) That is what is happening here. By Plaintiff incredulously claiming  
12 he is not a director of the Hall of Fame when he really is he is able to avoid producing the Namco  
13 plaques. He has perjured himself and caused the unavailability of evidence. Defendant's motion  
14 should be granted for this additional reason.

15 E. Plaintiff does not deny that he failed to produce the high-resolution image of his  
16 Namco awards that David Bishop testified regarding.

17 Plaintiff misconstrues Defendant's argument regarding the production of the high-  
18 resolution photograph of his him on stage in 1999 receive the award from Namco. Plaintiff did  
19 produce what Mr. Bishop referred to as his "archive copy" of the picture in question but the archive  
20 copy from Mr. Bishop is not high-resolution and it is certainly not sufficient to print on a tall  
21 banner in a large format of the picture of Mr. Mitchell on stage receiving the award. That banner  
22 – which was displayed in Plaintiff's CAMEO video and at the July 2023 expo in the UK, must  
23 have been printed using the high-resolution photograph Mr. Bishop referred to in his declaration.  
24 Plaintiff is refusing now to produce that photograph because the high resolution photograph will  
25 allow Defendant's expert to compare the plaque that Plaintiff received on stage to the plaque in  
26 Photograph to show they are different. That is why Plaintiff has refused all along to produce any  
27 photographs of the Namco awards because his high-resolution photo will prove his fraud.

28 ///

1 F. Monetary sanctions against Defendant are unwarranted.

2 Plaintiff seeks monetary sanctions against Defendant pursuant to California Code of Civil  
3 Procedure section 2023.030(a), alleging that Defendant's bringing of this motion is a misuse of  
4 the discovery process. Acts that constitute the misuse of the discovery process are delineated in  
5 California Code of Civil Procedure section 2023.010 and the making of a sanctions motion is not  
6 listed therein. Defendant therefor has not misused the discovery process as that term is defined in  
7 the statutory scheme.

8 Additionally, California Code of Civil Procedure sections 2023.010 & 2023.030 alone do  
9 not authorize the imposition monetary sanctions. (See City of Los Angeles v.  
10 PricewaterhouseCoopers, LLC (2022) 84 Cal.App.5th 466, 504 ("Based on the plain language of  
11 the statutes discussed above, we conclude that sections 2023.010 and 2023.030 do not  
12 independently authorize the trial court to impose monetary sanctions for misuse of discovery. The  
13 award of monetary sanctions in this case, which was based solely on sections 2023.010 and  
14 2023.030 without regard to any other provision of the Discovery Act, constituted an abuse of  
15 discretion because it was outside the bounds of the court's statutory authority.") In order to obtain  
16 sanctions for the misuse of the discovery process, Plaintiff must rely on another provision of the  
17 Discovery Act. He has not and his request for monetary sanctions fails for this reason too.

18 Finally, Plaintiff's request for monetary sanctions is fatally flawed because he has failed  
19 to show the reasonableness of the amount sought. The burden is on the party seeking attorney's  
20 fees to prove that the fees it seeks are reasonable. (Gorman v. Tassajara Development Corp. (2009)  
21 178 Cal.App.4th 44, 98.) Plaintiff's counsel does not declare to any facts showing that her billing  
22 rate is reasonable. There is no information regarding her experience or years in practice. There is  
23 similarly no information to determine what tasks comprise the 19 hours she claims was spent on  
24 opposing the instant motion. The failure to state these facts makes it impossible to determine  
25 whether the fees request is reasonable and thus the request should be denied.

26 **III. CONCLUSION**

27 Defendant respectfully requests that this Court grant the motion in full and impose the  
28 sanction it deems appropriate the interests of justice. If this Court is inclined to deny this motion,

1 Defendant respectfully requests that the Court first hold an evidentiary hearing where the videos  
2 of all of the depositions, and the CCTV footage, can be played and Plaintiff can give live testimony  
3 as to the circumstances around the discovery of his Namco plaque.

4 Respectfully submitted,

5 Dated: January 4, 2024

TASHROUDIAN LAW GROUP, APC

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

**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 January 4, 2024, I served the herein described document(s):

**REPLY ISO 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, 15<sup>th</sup> 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 January 4, 2024 at Woodland Hills, California.



Mona Tashroudian