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Attorneys for Twin Galaxies, LLC

Electronically FILED by  
Superior Court of California,  
County of Los Angeles  
1/08/2024 10:34 PM  
David W. Slayton,  
Executive Officer/Clerk of Court,  
By V. Sino-Cruz, 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]

**NOTICE OF MOTION AND MOTION TO  
STRIKE PLAINTIFF'S BRIEF RE ORDER  
TO SHOW CAUSE RE POTENTIAL  
DISCIPLINARY REFERRAL OF  
DEFENSE COUNSEL; DECLARATION  
OF DAVID A. TASHROUDIAN IN  
SUPPORT**

PUBLIC-REDACTS MATERIALS FROM  
CONDITIONALLY SEALED RECORD.

**Hearing**

Date: March 14, 2024

Time: 8:30 a.m.

Place: Department 36

Reservation ID: 910610489555

Action Filed: 4/11/2019

1 **NOTICE OF MOTION**

2 **TO THE HONORABLE COURT AND TO ALL ATTORNEYS OF RECORD:**

3 PLEASE TAKE NOTICE that on March 14, 2024 at 8:30 a.m. in Department 36 of the  
4 Los Angeles Superior Court located at 111 N. Hill Street, Los Angeles, CA 90012, defendant and  
5 cross-complainant Twin Galaxies, LLC (“Defendant”) will and hereby does move pursuant to  
6 California Code of Civil Procedure sections 128(a) & 187, and the Court’s inherent authority to  
7 control its docket, for an order striking all of plaintiff William James Mitchell’s Brief Re Order to  
8 Show Cause re Potential Disciplinary Referral of Defense Counsel filed on January 5, 2024 (the  
9 “OSC Brief”) from the Court’s docket.

10 The grounds for the requested order are that Plaintiff has disclosed Confidential Materials,  
11 Testimony, and Information, as those terms are defined in the parties’ stipulated protective order  
12 (the “Protective Order”), from the December 19, 2023 deposition of Jason Hall by filing the OSC  
13 Brief in violation of the terms of both the Protective Order and this Court’s December 1, 2023  
14 order, and in violation of Rule 2.551 of the California Rules of Court.

15 This motion is based on the notice of motion; the attached memorandum of authorities; the  
16 declaration of David A. Tashroudian; upon this Court’s records and files of this action; upon the  
17 oral argument of counsel; and upon all evidence the Court may receive at or before the hearing of  
18 the motion.

19 Respectfully submitted,

20 Dated: January 8, 2024

TASHROUDIAN LAW GROUP, APC

21  
22 By: /s/ David Tashroudian, Esq.  
23 David Tashroudian, Esq.  
24 Mona Tashroudian, Esq.  
25 Attorneys for Twin Galaxies, LLC  
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## **MEMORANDUM OF POINTS AND AUTHORITIES**

### **I. INTRODUCTION**

Plaintiff William James Mitchell (“Plaintiff”) is so eager to attack counsel for defendant Twin Galaxies, LLC (“Defendant”) that he is willing to violate an order of this Court and the California Rules of Court to do so. This is not the first time Plaintiff has played hard and fast with the rules and the facts in an effort to put undue pressure on Defendant’s counsel. But this most recent example of Plaintiff’s *ad hominem* litigation tactic is impressive. This attack combines the violation of the parties’ Protective Order, the violation of the Court’s December 1, 2023 order, the violation of Rule 2.551(c) of the California Rules of Court, all with a blatant and gross misrepresentation of facts in an attempt to have Defendant’s counsel referred to the State Bar. Not surprising as this is par for the course.

Plaintiff violated the orders of this Court and Rule 2.551(c) of the California Rules of Court by filing Confidential Materials, Testimony and Information from the December 19, 2023 deposition of Jason Hall in his OSC Brief. As such, the OSC Brief is improper and Defendant respectfully requests that this Court exercise its inherent authority to strike the brief from the Court’s docket.

Plaintiff’s OSC Brief is also substantively improper as it misrepresents the content of testimony and draws unreasonable inferences that are not grounded in fact or reality. Defendant respectfully submits that this Court should not rely on the matters set forth in the OSC Brief in determining whether Defendant’s counsel should be reported to the State Bar for discipline.

### **II. FACTS**

On October 26, 2022, this Court entered the Protective Order pursuant to the parties’ stipulation. [See Tashroudian Decl., ¶ 2.] The Protective Order defines “Confidential Materials” as any Documents, Testimony, or Information designated as “Confidential” pursuant to the provision of the order. [Id.] “Testimony” is defined as all depositions, declarations, or other testimony taken or used in this proceeding. [Id.] And “Information” means, in part, the content of Testimony. [Id.]

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1 On December 1, 2023, this Court entered a minute order making all discovery materials in  
2 this matter confidential pursuant to the Parties' protective order. [Tashroudian Decl., ¶ 3.] On  
3 December 19, 2023, Plaintiff took the deposition of Jason Hall as the person most qualified for  
4 Defendant and the deposition testimony was marked confidential pursuant to the Protective Order.  
5 [Id., at ¶ 4.] Plaintiff filed his OSC Brief on January 5, 2024. The OSC Brief references the  
6 content of Mr. Hall's deposition testimony throughout in Sections II, III, and IV without redaction.  
7 [Id.]

### 8 **III. ARGUMENT**

9 A. Plaintiff's OSC Brief should be stricken because he filed Confidential Material in  
10 violation of both the Protective Order and the California Rules of Court.

11 "Superior courts have inherent authority to adopt procedures needed to exercise  
12 jurisdiction as well as to manage and control their dockets." (People v. Perkins (2016) 244  
13 Cal.App.4th 129, 138.) In this regard, the California Legislature has bestowed the Court with  
14 plenary powers to control the litigation before it. (*See* Cal. Code Civ. Proc., §§128(a) & 187.)  
15 Defendant submits that Plaintiff has filed his OSC Brief in violation of the Protective Order and  
16 the Court's December 1, 2023 and that this Court should exercise its inherent authority to strike  
17 the brief from its docket.

18 The parties' Protective Order is clear that Confidential Materials, Testimony and  
19 Information must filed conditionally under seal with the Court pursuant to Rules 2.550 & 2.551 of  
20 the California Rules of Court. Rules 2.551(b)(3)(A)(ii), 2.551(b)(5), and 2.551(c) of the California  
21 Rules of Court require Plaintiff to redact in the public filing all of the Confidential Material subject  
22 to the parties' Protective Order. Plaintiff failed to do so.

23 Here, the content of Mr. Hall's deposition testimony is classified as Information and  
24 Testimony pursuant to the Protective Order and is confidential as a result of the Court's December  
25 1, 2023 order. The information should have been redacted in the public filing. Plaintiff however,  
26 filed the OSC Brief without redaction and exposed the confidential Testimony and Information  
27 contained in Mr. Hall's deposition testimony in violation of the Protective Order and this Court's  
28 order.

1 Plaintiff's OSC Brief is thus not drawn in conformity with the Order of this Court or the  
2 California Rules of Court. If the OSC Brief was a pleading, as that term is defined in California  
3 Code of Civil Procedure section 435, it would be subject to a motion to strike pursuant to  
4 California Code of Civil Procedure section 436(b). Accordingly, and because the OSC Brief is  
5 not a pleading, this Court should exercise its inherent authority and strike the nonconforming brief  
6 pursuant to its inherent power.

7 B. Plaintiff's OSC Brief contains false statements and improper innuendo in an effort to  
8 have Defendant's counsel referred to the State Bar for discipline.

9 It appears that Plaintiff will employ all means necessary to have Defendant's counsel either  
10 disqualified from representation or referred to the State Bar for discipline. He submitted a patently  
11 false declaration from his son in connection with his December 1, 2023 motion to disqualify with  
12 his counsel admitting that those false statements were made in error in his reply. Nothing has  
13 changed except that now Plaintiff's counsel is misrepresenting the facts in Plaintiff's assault  
14 against Defendant's counsel to support disciplinary referral.

15 1. Plaintiff misrepresents this Court's order to allege Defendant's counsel's non-  
16 compliance; and he misrepresents Defendant's discovery response.

17 Plaintiff alleges that Defendant was ordered to produce employment records for  
18 Ersatz\_Cats in connection with Defendant's claim that Cats is a researcher for Defendant in this  
19 matter. However, his claim is belied by this Court's December 13, 2023 order after the parties'  
20 informal discovery conference. The order at page 10, lines 22-24 orders that Defendant produce  
21 the documents it claims are protected by the work product doctrine to be produced to the Court for  
22 *in camera* review – with no date given for the production. [Tashroudian Decl., ¶ 5.] Defendant  
23 complied with the order on January 2, 2024. [Tashroudian Decl., ¶ 6.] The order did not mention  
24 production of any employment or other records related to Cats and it certainly did not reference  
25 the production for *in camera* review of any other documents exchanged by Defendant or its  
26 counsel and any other law firm. [Id. at ¶ 5.]

27 Plaintiff's claim that Defendant's counsel misrepresented that Cats is Defendant's  
28 researcher is not grounded in fact and relies on the purported testimony of Mr. Hall that is not

1 attached to the OSC Brief. Plaintiff bases his claim on the alleged fact that Cats was not paid  
2 for his research but provides no authority that monetary payment to a researcher is a pre-requisite  
3 to the application of the work-product doctrine. The fact is that Cats is Defendant's researcher  
4 regardless of whether he volunteers his time and the application of the work-product doctrine to  
5 communications between him and counsel is not dependent upon payment.

6 Plaintiff also claims that Defendant violated Rule 3.4(d) of the Model Rules of Professional  
7 Conduct by giving false and misleading responses to its discovery request asking for the identity  
8 of the owner of the website [www.perfectpacman.com](http://www.perfectpacman.com). Defendant did identify the owner of the  
9 website in its discovery response but did not give any other information pursuant to its objection  
10 that the request was overbroad in scope and that it was irrelevant. [Tashroudian Decl., ¶ 7.]  
11 Plaintiff met and conferred with Defendant on a number of responses to that very set of discovery  
12 requests but Plaintiff did not meet and confer on the specific response to the request asking for the  
13 identity of the owner of the website. [Id.] Defendant did not unlawfully restrict access to any  
14 information and it can be assumed that Plaintiff's failure to seek clarification of Defendant's  
15 response through the meet and confer process is a tacit admission that the objections originally  
16 provided were meritorious. If this information was material to Plaintiff's case he would have met  
17 and conferred to obtain it and Defendant would have provided it – just like Defendant provided  
18 this exact information at Mr. Hall's deposition. There was nothing unlawful about Defendant's  
19 response such that Defendant's counsel should be reported to the State Bar. Certainly there is no  
20 order from this Court requiring production of this information. Plaintiff is grasping at straws at  
21 this point.

22 2. Defendant has not prepared and filed a frivolous cross-complaint.

23 Plaintiff's argument that Defendant filed a frivolous cross-complaint based on the amount  
24 alleged in the prayer for relief is unpersuasive. The damages demand in the prayer totaling  
25 approximately \$6,000,000 is a reasonable estimate according to the deposition testimony of Mr.  
26 Hall.

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Moreover, “[a]lthough the statute purports to require a demand, the prayer is not a part of the cause of action and, under the authorities, is not even essential in a contested case.” (4 Witkin, Cal. Proc. 6th Pleadings § 507, Nature of Prayer (2023).) It is important to note that Plaintiff does not challenge any of the claims asserted in the cross-complaint, only the prayer. Since the prayer is not essential, and not part of the cause of action, it follows that the cross-complaint cannot be deemed frivolous for an inaccurate prayer for damages. Plaintiff provides no authority to the contrary yet makes the unsubstantiated claim that Defendant’s cross-complaint is frivolous to attack counsel and support counsel’s referral to the State Bar.

3. Plaintiff makes the unsubstantiated claim that Defendant’s counsel is somehow involved in the spoliation of evidence.

Plaintiff alleges without factual support that Mr. Hall is engaged in the spoliation of evidence. This is pure conjecture on Plaintiff’s part. Defendant has produced dozens of communications between Mr. Hall and Mr. Jobst in response to Plaintiff’s discovery requests. [Tashroudian Decl., ¶ 8.] Indeed, Plaintiff admits to this fact in his OSC Brief. Plaintiff, however, assumes that there have been communications responsive to his discovery requests that were intentionally deleted. That, however, is speculation and there is no evidence that any responsive communications were deleted. Defendant has maintained and preserved responsive

1 communications with Mr. Jobst and produced those to Plaintiff.

2 Even if responsive documents were deleted in the Signal application by Defendant there is  
3 no evidence that Defendant's counsel was engaged in the alleged spoliation, encouraged it, or even  
4 knew of the alleged deletion of message. The only argument that Plaintiff makes to this point is  
5 that "it is hard to imagine that Defendant's counsel was not aware of what was going on." How  
6 is that hard to imagine? Counsel does not spend every day with his client and he is not involved  
7 with every aspect of his client's communications with third parties. There simply is insufficient  
8 evidence for the Court to refer counsel to the State Bar for something as serious as engaging and  
9 encouraging spoliation of evidence on this record. What is more is that Plaintiff's suggestion that  
10 Defendant engaged in spoliation of evidence on speculation is unbecoming of a fellow member of  
11 the Bar and only further supports Defendant's contention that Plaintiff is willing to go to great  
12 lengths to attack his adversary's counsel.

13 **IV. CONCLUSION**

14 Defendant respectfully requests that this Court grant the motion in full and strike Plaintiff's  
15 OSC Brief pursuant to its inherent authority to control its docket.

16 Respectfully submitted,

17 Dated: January 8, 2024

TASHROUDIAN LAW GROUP, APC

19 By: /s/ David Tashroudian, Esq.  
20 David Tashroudian, Esq.  
21 Mona Tashroudian, Esq.  
22 Attorneys for Twin Galaxies, LLC  
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1. I am an attorney duly qualified to practice law before this Court. I make this declaration in support of Defendant's Motion to Strike. I make this declaration based upon facts known to me personally to be true. If called as a witness to testify to the facts set forth herein, I could and would do so.

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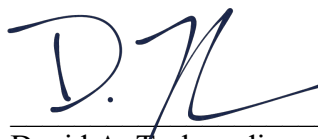
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2023 to deliver courtesy copies of Defendant's sanctions motion filed the day before, I noticed that the Court was dark until January 1, 2024. I was reticent to leave my attorney-work product in the drop-box outside of the courtroom so I decided to wait to deliver the work product materials for review on the first day that the courtroom was back open and that is what I did. I returned to the courtroom on January 2, 2024 and delivered a white binder with the material for the Court's review to the courtroom attendant Mr. Aguilar at approximately 8:30 a.m. when the department opened. I should note that the courtesy copies that I delivered to this Court's drop box on December 19, 2023 were lost.

7. In April 2023, Defendant responded to Plaintiff's Special Interrogatory No. 4 in his Third Set of Interrogatories. Defendant did identify the owner of the website [www.prefectpacmanc.com](http://www.prefectpacmanc.com) in its discovery response but did not give any other information pursuant to its objection that the request was overbroad in scope and that it was irrelevant. Plaintiff met and conferred with Defendant on a number of responses to that very set of discovery requests but Plaintiff did not meet and confer on the specific response to the request asking for the identity of the owner of the website.

8. Defendant has produced dozens of communications between Mr. Hall and Mr. Jobst in response to Plaintiff's discovery requests including screenshots of communications between Mr. Hall and Mr. Jobst on the Signal application.

I declare under penalty of perjury of the laws of the State of California that the foregoing is true and correct. Executed this eighth day of January, 2024 at Los Angeles, California.

A handwritten signature in blue ink, appearing to read 'D. Tashroudian', is written over a horizontal line.

David A. Tashroudian

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3 **PROOF OF SERVICE**

4 Case No. 19STCV12592

5 I am a resident of the State of California, over the age of eighteen years, and not a party to the  
6 within action. My business address is **TASHROUDIAN LAW GROUP, APC**, located 12400  
7 Ventura Blvd., Suite 300, Studio City, California 91604. On January 8, 2024, I served the herein  
8 described document(s):

9  
10 **NOTICE OF MOTION AND MOTION TO STRIKE PLAINTIFF'S BRIEF RE ORDER  
11 TO SHOW CAUSE RE POTENTIAL DISCIPLINARY REFERRAL OF DEFENSE  
12 COUNSEL; DECLARATION OF DAVID A. TASHROUDIAN IN SUPPORT**

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

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

18 E-File - by electronically transmitting the document(s) listed above to  
19 X tony.ellrod@manningkass.com pursuant to an agreement of the parties in lieu  
20 personal service.

21 Anthony J. Ellrod tony.ellrod@manningkass.com  
22 MANNING & KASS  
23 ELLROD, RAMIREZ, TRESTER LLP  
24 801 S. Figueroa St, 15<sup>th</sup> Floor  
25 Los Angeles, California 90017-3012

Attorneys for Plaintiff  
WILLIAM JAMES MITCHELL

26 I am readily familiar with the firm's practice of collection and processing correspondence  
27 for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same  
28 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 8, 2024 at Woodland Hills, California.

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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 to Strike (not initial pleading) (Plaintiff's Brief re Order to Show Cause)	Status: RESERVED
Filing Party: Twin Galaxies, LLC (Defendant)	Location: Stanley Mosk Courthouse - Department 36
Date/Time: 03/14/2024 8:30 AM	Number of Motions: 1
Reservation ID: 910610489555	Confirmation Code: CR-KHRORT73SMVPCLW2C

### Fees

Description	Fee	Qty	Amount
Motion to Strike (not initial pleading) (name extension)	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: 007482
Payment Date: 1969-12-31	

Print Receipt

Reserve Another Hearing