In the
United States Court of Appeals
for the Ninth Circuit

Nos. 12-35238, 12-35319

OBSIDIAN FINANCE GROUP LLC, *ET AL.*,

Plaintiffs-Appellees and Cross-Appellants,

v.

CRYSTAL COX,

Defendant-Appellant and Cross-Appellee.

FROM THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
Case No. 3:11-cv-00057-HZ
Honorable Marco A. Hernandez

REPLY IN SUPPORT OF MOTION FOR LEAVE TO FILE A BRIEF OF *AMICUS CURIAE* IN SUPPORT OF NEITHER PARTY

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Appellant Crystal Cox's ("Cox['s]") opposition to Marc Randazza's ("Randazza['s]") motion for leave to file an *amicus curiae* brief misses the point. Cox's opposition, like the petition for rehearing before it, smacks of "*the Appellant doth protest too much*."

Cox's opposition improperly erects a straw man and then deftly knocks it down; if she were to argue the proper point, her position would be absurd. Randazza's argument is not that the findings of the District of Nevada, WIPO, or Montana Realty Regulation Board are entitled to preclusive effect, nor that the facts should collaterally estop this Court from making its own determinations based on Cox's conduct. Instead, Randazza's *amicus curiae* brief is submitted to bring these facts to the Court's attention so that they may take judicial notice that they exist. Since the sources support the Court's determination, the Court should make note of them, and should give Cox what she asked for: More authoritative sources for the proposition that she has "a history of making similar allegations [of wrongdoing] and seeking payoffs in exchange for retraction."

If it grants Cox's petition for rehearing, the Court should cite more definitive sources than The New York Times, such as the ones Randazza identified in his brief, as they are not only helpful to the Court, but they are precisely the kinds of sources Cox asked to have cited in her petition. These sources should stand as superior sources for the Court's point – Cox has a history of engaging in

extortionate behavior. The Court is allowed to recognize that these bodies' decisions, and their findings that Cox engaged in extortionate activity, *exist*.

Randazza seeks for the Court to take notice that the WIPO panel's decision, and its contents, merely exist. Consistent with *Compana*, Randazza does not even seek for the Court to take notice of the WIPO panel's or Montana Board of Realty Regulation's ultimate decisions – just that they *made* factual findings. *Compana LLC v. Aetna, Inc.*, Case No. C05-0277RSL, *2006 U.S. Dist. LEXIS 29028* at *11-12 (W.D. Wash. May 12, 2006).[1]

Cox ultimately does not offer any substantive basis for opposing Randazza's motion for leave to file his *amicus curiae* brief. Both Randazza and Cox are in agreement that the Court may take judicial notice of the decisions rendered by the District of Nevada, WIPO, and Montana Board of Realty Regulation. Doing so is sufficient to ratify the Court's reliance on an article from The New York Times for the proposition that Cox has "a history of making similar allegations [of wrongdoing] and seeking payoffs in exchange for retraction," or to include citations to these other sources as the basis for that statement.

Cox's opposition to the Court recognizing the existence of certain facts is baffling. She admits that the Court is entitled to take notice of their existence, just as Randazza requested. She just does not want it done. Cox's only possible

[1] Further, Cox's assertion that these documents should be hidden from the record

motivation to hide this information from the Court's view, by relying on legal doctrines inapposite to Randazza's argument, is to conceal the true nature of her actions from her victims and the public at large.

This Court should recognize that not only did its initially chosen source, The New York Times, find that Cox engaged in this type of behavior, but that every one of the four other bodies to examine her conduct have found the same: the trial court in this action, the District of Nevada, WIPO, and the Montana Board of Realty Regulation. Including these facts in the Court's Opinion is important. It instructs those who read it that even though the Court found in Cox's favor as a matter of law, it does not find her underlying conduct praiseworthy.

Ultimately, Cox's goal is to erase this important factual observation from the Court's Opinion, so that she may attempt to wield this decision as evidence of the Court's imprimatur upon her extortion scheme. The Court should decline to grant Cox this privilege, as every adjudicative body that has examined her conduct has reached the same conclusion: Cox is an extortionist.

Dated: February 4, 2014

Respectfully submitted:

MARC J. RANDAZZA
Pro Se

/s/ Marc J. Randazza
Marc J. Randazza

CERTIFICATE OF SERVICE

I hereby certify under penalty of perjury that on February 4, 2014, I electronically filed the foregoing document titled **REPLY IN SUPPORT OF MOTION FOR LEAVE TO FILE A BRIEF OF *AMICUS CURIAE* IN SUPPORT OF NEITHER PARTY**, and all attachments, with the Clerk of Court for the United States Court of Appeals for the Ninth Circuit by using the Court's CM/ECF program.

All participants in the case are registered CM/ECF users and service will be accomplished by the appellate CM/ECF system.

Dated: February 4, 2014

Respectfully submitted:

/s/ Marc J. Randazza
Marc J. Randazza