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FOR PUBLICATION

**IN THE SUPERIOR COURT
 FOR THE
 COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS**

**JIANG ZHENG ASSET MANAGEMENT,
 LLC,**

Plaintiff,

vs.

**VINCENT DELEON GUERRERO TORRES
 and WANG TAO,**

Defendants.

CIVIL CASE NO. 19-0241

**ORDER DENYING PLAINTIFF’S
 REQUEST FOR A PROTECTIVE ORDER
 BECAUSE IRRELEVANT QUESTIONS
 ASKED DURING A DEPOSITION DO NOT,
 IN AND OF THEMSELVES,
 SUFFICIENTLY CONSTITUTE
 EMBARRASSMENT, ANNOYANCE,
 HARASSMENT OR OPPRESSION TO
 JUSTIFY TERMINATING THE
 DEPOSITION; FURTHERMORE, AS THE
 PLAINTIFF’S ATTORNEYS
 IMPROPERLY IMPEDED THE
 DEPOSITION, THEREFORE DEFENDANT
 TORRES’ REQUEST FOR ATTORNEY’S
 FEES AND COSTS IS GRANTED
 PURSUANT TO NMI R. Civ. P. 26(c) AND
 37(a)(5)(B)**

I. INTRODUCTION

THIS MATTER came before the Court on February 2, 2021 and February 5, 2021, on two motions: (1) Plaintiff Jiang Zheng Asset Management, LLC’s motion for a protective order to limit the scope of discovery; and (2) Defendant Vincent Torres’ request for an award of attorney’s fees as a sanction for improperly impeding the deposition.¹ Both the Plaintiff’s motion and the Defendant’s

¹ The Court takes note of the pattern on the part of Plaintiff’s attorneys, in disrupting the deposition and delaying the general pace of the case. For example, Attorney Hasselback, during the February 5, 2021 hearing, misrepresented and falsely stated that he had not received the deposition transcripts or known that they were available, when in fact Attorney Hasselback had known of the completed transcripts since October 2020, and painted a false image that the Defendants’ attorneys were attempting to unduly surprise the Plaintiff’s attorneys. The Plaintiff’s attorneys directed blame onto Defendants’ attorneys when it was the Plaintiff’s attorneys who were themselves deliberately causing the disruption and delay.

By order of the Court, Associate Judge Joseph N. Camacho

1 request stem from the Plaintiff’s September 4, 2019 Motion to Compel Arbitration; Motion to Dismiss,
2 Strike, and Provide a More Definite Statement. Plaintiff Jiang Zheng Asset Management, LLC (“JZAM”)
3 was represented by Attorneys George Hasselback (“Attorney Hasselback”) and Jordan Sundell
4 (collectively “Plaintiff’s attorneys”). Defendant Vincent Deleon Guerrero Torres (“Torres”) was
5 represented by Attorneys Victorino DLG. Torres (“Attorney Torres”) and Matthew Holley. Defendant
6 Wang Tao (“Wang”) was represented by Attorneys Michael Dotts and Anthea Yuan (the attorneys for
7 both Defendants are hereinafter referred to collectively as “Defendants’ attorneys”).

8 The Court heard the testimony of Attorney Victorino DLG Torres. The following exhibits were
9 received into evidence: (1) Email dated October 7, 2020, from Attorney Hasselback to Attorney
10 Torres; (2) Email conversation with the most recent email dated November 20, 2020 from Attorney
11 Torres to Attorney Hasselback; (3) Email conversation with the most recent email dated January 26,
12 2021 from Attorney Hasselback to Attorney Torres; (4) Interrogatories; (5) Email conversation with
13 the most recent email dated December 18, 2019 from Attorney Michael Dotts to Attorney Jordan
14 Sundell; (6) Transcript of Deposition of Eric Guo, dated February 7, 2020; (7) Transcript of
15 Deposition of Eric Guo, dated October 8, 2020; (8) Email dated October 8, 2020, from Attorney
16 Torres to Attorney Hasselback; (9) Email dated October 15, 2020, from Attorney Torres to Attorney
17 Hasselback; (10) Email dated November 9, 2020, from Attorney Torres to Attorney Hasselback;
18 (11) Email dated November 20, 2020 from Attorney Torres to Attorney Hasselback; (12) Email
19 dated January 21, 2021 from Attorney Torres to Attorney Hasselback; (13) Email dated January 22,
20 2021 from Attorney Torres to Attorney Hasselback; (14) Email dated October 7, 2020 from Attorney
21 Hasselback to Attorney Torres; (15) Email dated January 22, 2021 from Attorney Hasselback to
22 Attorney Torres; and (16) Email dated January 26, 2021 from Attorney Hasselback to Attorney
23 Torres.

1 Based on the testimony and exhibits admitted at the evidentiary hearing, the arguments of
2 counsel, and the law and rules of Civil Procedure, the Court makes the following Order.

3 **II. PROCEDURAL HISTORY AND FINDINGS OF FACT**

4 On August 9, 2019, Plaintiff JZAM filed a complaint against Defendants Torres and Wang.

5 On August 15, 2019, Defendant Torres filed an Answer, Affirmative Defenses and
6 Counterclaims against JZAM.

7 On September 4, 2019, JZAM filed a Motion to Compel Arbitration; Motion to Dismiss,
8 Strike and for a More Definite Statement (“Motion to Compel Arbitration”).

9 On September 18, 2019, Defendant Wang filed a Motion to Dismiss.

10 On October 4, 2019, Defendant Torres filed an Opposition to JZAM’s Motion to Compel
11 Arbitration.

12 On November 12, 2019, at the hearing on the Motion to Compel Arbitration, the Court decided
13 that a question of fact might exist between JZAM and Torres as to whether JZAM had waived the
14 right to arbitrate. The Court set an evidentiary hearing for February 2020 along with limited discovery
15 in advance of the hearing. The Proposed Order memorializing the hearing, as submitted by counsel
16 for Defendant Wang, stated that: “the Court hereby permits the parties discovery prior to the
17 Evidentiary Hearing for purposes of use at the hearing. Discovery shall be completed by January 31,
18 2019.” The parties could not agree on what they believed the court’s verbal pronouncement meant
19 with respect to the scope of discovery, namely whether it was limited to the Motion to Compel
20 Arbitration or whether it permitted general discovery.

21 On December 19, 2019, JZAM filed a Request for Clarification. On December 23, 2019,
22 Defendant Torres opposed JZAM’s Request for Clarification, with Defendant Wang filing a joinder
23 to Torres’ Opposition.

1 On December 24, 2019, the Court issued an order setting a hearing for JZAM's Request for
2 Clarification, to be held on February 18, 2020. On January 17, 2020, JZAM stipulated to extend
3 discovery and continue the February 18, 2020 hearing to March 31, 2020. The date of the hearing
4 was eventually moved once again to June 23, 2020.

5 On February 7, 2020, the Defendants began the deposition of Mr. Eric Guo, the president of
6 JZAM, with the assistance of an interpreter. The deposition lasted for approximately six hours.

7 On June 23, 2020, the Court granted the parties' request for additional time and set the status
8 conference for September 22, 2020.

9 On October 8, 2020, the Defendants continued the deposition of Eric Guo, once again with
10 the assistance of an interpreter. The deposition lasted for over four hours.

11 On October 21, 2020, JZAM filed a motion for a protective order. The matter was set for a
12 hearing on December 1, 2020.

13 On November 13, 2020, Defendant Torres filed his opposition to JZAM's Motion for a
14 Protective Order, attaching all relevant excerpts of the deposition of Eric Guo, and argued the
15 following:

- 16 (i) JZAM had failed to provide a good faith certification pursuant to Rule 37;
- 17 (ii) JZAM had failed to provide a declaration or affidavit from any witness or counsel
18 to support its motion for a protective order;
- 19 (iii) JZAM failed to cite to any deposition or exhibits;
- 20 (iv) JZAM's president, Eric Guo, improperly refused to answer relevant questions at
21 his deposition;
- 22 (v) JZAM's counsel made numerous improper objections and improperly instructed
23 Eric Guo not to answer relevant questions; and

24

1 (vi) Defendant Torres requested attorney’s fees and costs for having to defend against
2 JZAM’s motion for a protective order.

3 Plaintiff JZAM did not file a reply to the Defendant Torres’ opposition.

4 On November 30, 2020, JZAM filed a Proposed Order and Notice of Withdrawal of its Motion
5 for a Protective Order, requesting that the hearing for December 1, 2020 be taken off-calendar and
6 that both the Request for Clarification and Motion for a Protective Order be withdrawn. The Court
7 granted the request.

8 On December 4, 2020, Torres filed a proposed order awarding fees and costs in regards to
9 JZAM’s Motion for a Protective Order.

10 On December 9, 2020, the Court issued an Order stating that both the Request for Clarification
11 and Motion for Protective Order were withdrawn, and therefore “there is no impediment for the
12 Parties to proceed with Discovery/Deposition as it relates to Plaintiff’s ‘Motion to Compel
13 Arbitration; Motion to Dismiss, Strike, and Provide a More Definite Statement’ filed on September
14 04, 2019.”

15 On January 4, 2021, JZAM filed a Renewed Motion for Protective Order, arguing that:

16 (i) The Court’s order granting discovery led the Defendants to interpret the Court as
17 having approved broad discovery, while the Plaintiff construed the order as
18 authorizing discovery for the limited purpose of evaluating the Plaintiff’s Motion to
19 Compel Arbitration;

20 (ii) Discovery is only appropriate to evaluate the motion to compel arbitration and
21 discovery regarding other topics must wait until after the Court rules on the Plaintiff’s
22 Motion to Compel Arbitration and various motions to dismiss;

1 (iii) Little of the discovery undertaken by Defendants Torres and Wang has related to
2 the motion to compel arbitration and most of it is well beyond the limited scope of
3 discovery for the purpose of opposing a motion to compel arbitration;

4 (iv) The Defendants have exhausted the seven-hour time limit for the deposition of
5 Mr. Eric Guo; and

6 (v) Allowing Defendant Torres to continue deposing Mr. Guo is unnecessarily
7 duplicative or cumulative because the Defendants have already deposed Mr. Guo for
8 longer than the seven-hour limit and each deposition has largely covered the same
9 ground.

10 On January 5, 2021, the Court issued an order setting a hearing on February 2, 2021 for the
11 Renewed Motion for a Protective Order.

12 On January 22, 2021, Torres filed an Opposition to JZAM's Renewed Motion for a Protective
13 Order and reply to the Plaintiff's opposition to Torres' request for attorney's fees and costs.

14 On February 1, 2021, JZAM filed a Reply to Opposition to JZAM's Renewed Motion for
15 Protective Order.

16 On February 2, 2021 and February 5, 2021, the Court held an evidentiary hearing on the
17 Plaintiff JZAM's Renewed Motion for a Protective Order.

18 Attorney Matthew Holley, representing Defendant Torres, called as a witness Victorino DLG
19 Torres who testified about delay caused by the Plaintiff's Attorneys with respect to discovery, namely
20 in providing documents requested by the Attorneys for Defendant Torres and in responding to
21 requests for a deposition date.

22 During the deposition of Mr. Eric Guo, Attorney Hasselback repeatedly instructed his client
23 not to answer questions based on the Plaintiff JZAM's position that the scope of discovery was limited
24 to questions relating to the motion to compel arbitration. *Deposition of Eric Guo*, February 7, 2020,

1 Exhibit A.1-A.214 at A.156-A.160 and A.164-A.166. One specific example is when, during the
2 deposition of February 7, 2020, Attorney Torres asked the deponent Mr. Guo about what businesses
3 he had in 2015, and Attorney Hasselback responded as follows:

4 I'm going to object to this question again, we're talking about businesses owned four years
5 before the option agreement. This is a, guys, we've, discovery is limited, **this is irrelevant**, it
6 is limited discovery. Why are we talking about 2015? I mean I understand we've gotten very
7 permissive with the scope of this discovery today but this is not a, this is not a regular
8 deposition. It's limited. I'm not, **I'm going to direct the witness not to answer** any more
9 questions about this business in 2015. It doesn't have any relevance to anything related to the
10 motion to compel arbitration. (Emphasis in bold)

11 *Deposition of Eric Guo*, February 7, 2020, Exhibit A.1-A.214 at A.158-A.160.

12 The deponent, upon the instruction of his attorney, then refused to answer any more questions
13 relating to 2015. Furthermore, rather than making a running objection on the record one time and
14 then permitting the deposition to proceed, Attorney Hasselback repeatedly raised the same objection
15 over and over. For example, in the deposition of October 8, 2020, Attorney Hasselback states on page
16 26 that he is "going to object to that question to the extent that it asks him to form a legal conclusion,"
17 making the same objection a few minutes later at page 32, objecting to a question concerning the
18 deponent's understanding of the agreement "because it asks him to form a legal conclusion" before
19 stating that the deponent "can go ahead and answer it if he wishes." *Deposition of Eric Guo*, October
20 8, 2020, Exhibit B.1-B.148 at B.26 and B.32.

21 Moreover, the Plaintiff's attorneys objected to other questions as being irrelevant, including
22 questions concerning Mr. Guo's past businesses and his immigration status.

23 In addition, the deponent, Mr. Guo, did on occasion respond evasively or refuse to answer the
24 questions put to him by the Defendants' attorneys, causing additional delay to the proceedings. For
example, during the October 8, 2020 deposition, when the deponent was asked whether he told
Defendant Torres that Jocelyn Aldan did not work for Jiang Zheng Asset Management, the deponent

1 responded: “I cannot answer you at this time because again, I think this question is pretty stupid.”
2 *Deposition of Eric Guo*, October 8, 2020, Exhibit B.1-B.148 at B.72 and B.75.

3 On February 9, 2021, Attorney Torres filed a Notice of Duty of Candor to the Court including
4 a Declaration of Michael Busby of West Pacific Litigation Support and Exhibits of emails between
5 Mr. Busby and Attorney Hasselback regarding the completed transcripts of Mr. Guo’s deposition.

6 On February 19, 2021 Attorney Hasselback filed his Response to Notice of Candor to the
7 Court including Declarations of Attorney Hasselback and Attorney Sundell².

8 III. LEGAL STANDARD

9 A. Scope of Discovery and Duration of Deposition

10 Discovery matters are within the sound discretion of the trial court. *Muna ex. Rel Lacy v.*
11 *Commonwealth*, 2007 MP 16 ¶ 6 (citing *Reyes v. Ebetuer*, 2 NMI 418, 423 (1992)).

12 The Northern Mariana Islands Rules of Civil Procedure (the “CNMI Rules”) are based on and
13 closely mirror the Federal Rules of Civil Procedure and define the general scope of discovery in Rule
14 26(b)(1), which provides, in relevant part, as follows:

15 [u]nless otherwise limited by court order, the scope of discovery is as follows: Parties may
16 obtain discovery regarding any nonprivileged matter that is relevant to any party’s claim or
17 defense and proportional to the needs of the case, considering the importance of the issues at
18 stake in the action, the amount in controversy, the parties’ relative access to relevant
19 information, the parties’ resources, the importance of the discovery in resolving the issues, and
20 whether the burden or expense of the proposed discovery outweighs its likely benefit.

21 NMI R. CIV. P. 26(b)(1). *See also* F. R. CIV. P. 26(b)(1).

22 Furthermore, “information within this scope of discovery need not be admissible in evidence
23 to be discoverable.” *Id.* For the purposes of discovery, “information is relevant if it ‘might reasonably
24 assist a party in *evaluating* the case, *preparing* for trial, or *facilitating* settlement... These rules are

² The filings on February 9, 2021 by Attorney Torres and February 19, 2021 by Attorney Hasselback occurred after the presentation of evidence. However, the Court incorporates these two filings as they are relevant and go to the issues that were discussed and argued during the February 2, 2021 and February 5, 2021 hearing.

1 applied liberally in favor of discovery and (contrary to popular belief), fishing expeditions *are*
2 permissible in some cases.” *Stewart v. Colonial W. Agency, Inc.*, 87 Cal. App. 4th 1006, 1013, 105
3 Cal. Rptr. 2d 115 (2001) (emphasis in original) (citing *Gonzalez v. Superior Court*, 33 Cal. App. 4th
4 1539, 1546, 39 Cal. Rptr. 2d 896 (1995); Weil & Brown, Cal. Practice Guide, Civil Procedure Before
5 Trial (The Rutter Group 1994) P 8:66.1, p. 8C-1.)

6 Rule 30 of the CNMI Rules limits the duration of deposition during discovery, stating that
7 “[u]nless otherwise stipulated or ordered by the court, a deposition is limited to one day of 7 hours.
8 The court must allow additional time [...] if needed to fairly examine the deponent or if the deponent,
9 another person, or any other circumstance impedes or delays the examination.” NMI R. CIV. P.
10 30(d)(1). *See also* F. R. CIV. P. 30(d)(1).³

11 Under Rule 30(c)(2), any objections at the time of the deposition—“whether to evidence, to a
12 party’s conduct, to the officer’s qualifications, to the manner of taking the deposition, or to any other
13 aspect of the deposition— must be noted on the record, but the examination still proceeds; the
14 testimony is taken subject to any objection.” NMI R. CIV. P. 30(c)(2). Such objections must be “stated
15 concisely in a nonargumentative and nonsuggestive manner.” *Id.* Furthermore, a person may instruct
16 a deponent not to answer a question “only when necessary to preserve a privilege, to enforce a
17 limitation ordered by the court, or to present a motion under Rule 30(d)(3)” to terminate or limit
18 discovery. *Id.*

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23 ³ Furthermore, parties may file a motion to terminate or limit a deposition in accordance with Rule 30(d)(3), “on the
24 ground that it is being conducted in bad faith or in a manner that unreasonably annoys, embarrasses, or oppresses the
deponent or a party.” NMI R. Civ. P. 30(d)(3). *See also* F. R. Civ. P. 30(d)(3).

1 **B. Protective Order to Limit Scope of Discovery**

2 A party or a person from whom discovery is sought may, in accordance with Rule 26(c), move
3 for a protective order, which the court may issue for good cause in order to “protect a party or person
4 from annoyance, embarrassment, oppression, or undue burden or expense.” NMI R. CIV. P. 26(c).
5 *See also* F. R. CIV. P. 26(c). Such a protective order may include one or more of the following actions:

- 6 (A) forbidding the disclosure or discovery;
- 7 (B) specifying terms, including time and place or the allocation of expenses, for the disclosure
or discovery;
- 8 (C) prescribing a discovery method other than the one selected by the party seeking discovery;
- 9 (D) forbidding inquiry into certain matters, or limiting the scope of disclosure or discovery to
certain matters;
- 10 (E) designating the persons who may be present while the discovery is conducted;
- 11 (F) requiring that a deposition be sealed and opened only on court order;
- 12 (G) requiring that a trade secret or other confidential research, development, or commercial
information not be revealed or be revealed only in a specified way; and
- 13 (H) requiring that the parties simultaneously file specified documents or information in sealed
envelopes, to be opened as the court directs.

14 NMI R. CIV. P. 26(c). *See also* F. R. CIV. P. 26(c).

15 A party may demand that the taking of testimony at a deposition be suspended “to enable that
16 party or deponent to move for a protective order on the ground that examination is being conducted in
17 bad faith or in a manner that unreasonably annoys, embarrasses, or oppresses that deponent or party.”
18 *Stewart v. Colonial W. Agency, Inc.*, 87 Cal. App. 4th 1006, 1014-1015 (2001). Deposing counsel’s
19 interrogation into improper matters “could justify suspension under this standard, but only if it reaches
20 the point where it could legitimately be said that counsel’s intent was to harass, annoy, embarrass or
21 oppress.” *Id.*, at 1015. Yet “[t]he fact that suspension is available only where an interrogation into
improper matters reveals an underlying purpose to harass, annoy, etc., indicates that witnesses are
expected to endure an occasional irrelevant question without disrupting the deposition process.” *Id.*

22 **C. Award of Attorney’s Fees as a Sanction for Improperly Impeding Deposition**

23 Rule 37(a)(5)(B) of the Commonwealth Rules of Civil Procedure provides that, where a
24 motion for a protective order to limit or stay discovery is denied, the court:

1 may issue any protective order authorized under Rule 26(c) and must, after giving an
2 opportunity to be heard, require the movant, the attorney filing the motion, or both to pay to the
3 party or deponent who opposed the motion its reasonable expenses incurred in opposing the
4 motion, including attorney's fees. But the court must not order this payment if the motion was
5 substantially justified or other circumstances make an award of expenses unjust.

6 NMI R. CIV. P. 37(a)(5)(B). *See also* F. R. CIV. P. 37(a)(5)(B).

7 IV. DISCUSSION

8 A. Scope of Discovery and Duration of Deposition

9 Because this matter centers on the scope of discovery, the threshold issue is what is discoverable
10 relating to Plaintiff's September 4, 2019 Motion to Compel Arbitration. The Court will not address
11 whether there is an arbitration clause in force between the parties, as this is a distinct issue to be
12 addressed separately.

13 (1) Scope of Discovery is Broad as it Relates to the Motion to Compel Arbitration

14 Matters relating to discovery are within the discretion of the trial court. *Muna ex. Rel Lacy v.*
15 *Commonwealth*, 2007 MP 16 ¶ 6 (citing *Reyes v. Ebetuer*, 2 NMI 418, 423 (1992)). Where the trial
16 court does not otherwise limit the scope of discovery by court order, the scope of discovery is defined
17 in Rule 26(b)(1) of the CNMI Rules, namely that "[p]arties may obtain discovery regarding any
18 nonprivileged matter that is relevant to any party's claim or defense and proportional to the needs of
19 the case." NMI R. CIV. P. 26(b)(1). *See also* F. R. CIV. P. 26(b)(1).

20 Here, the Court did not limit discovery by court order, stating in its Order of December 9,
21 2020, that "there is no impediment for the Parties to proceed with Discovery/Deposition as it relates
22 to the Plaintiff's 'Motion to Compel Arbitration; Motion to Dismiss, Strike, and Provide a More
23 Definite Statement.'" Thus, the general scope of discovery as defined in Rule 26(b)(1) of the CNMI
24 Rules applies, permitting broad discovery concerning nonprivileged matters relevant to any party's
claim or defense. The only limitation is that the Court permitted discovery in relation to the Plaintiff
JZAM's September 4, 2019 Motion to Compel Arbitration: consequently, the scope of discovery in

1 the present case includes nonprivileged matters relevant to any party’s claim or defense in relation to
2 Plaintiff JZAM’s September 4, 2019 Motion to Compel Arbitration.

3 (2) The Credibility of the Deponent Mr. Guo Is Within the Scope of Discovery

4 The Defendants contend that the credibility of the Deponent, Mr. Guo, is a nonprivileged matter
5 that is relevant to the Defendant’s claim that Mr. Guo may have violated the arbitration clause and
6 the confidentiality clause of the agreement between the Parties by sharing confidential information
7 pertaining to the Option Agreement with his other businesses. For this reason, the Defendants allege
8 that questions relating to the deponent’s background, education, and business practices *could* be
9 relevant to the deponent’s credibility or lead to other relevant evidence.

10 Plaintiff JZAM argues that the scope of discovery is limited to the enforceability of the arbitration
11 clause contained within the Parties’ contract.

12 The general scope of discovery is very broad and for discovery purposes, “information is relevant
13 if it ‘might reasonably assist a party in *evaluating* the case, *preparing* for trial, or *facilitating*
14 settlement... These rules are applied liberally in favor of discovery and [...] fishing expeditions *are*
15 permissible in some cases.” *Stewart*, 87 Cal. App. 4th at 1013 (emphasis in original). The scope of
16 discovery is therefore not limited by certainty: information that *might* reasonably assist a party is
17 relevant. Thus, the fact that questions relating to Mr. Guo’s background, education and business
18 practices *could* be relevant but are not certain to be relevant does not exclude them from the scope of
19 discovery.

20 Here, the general scope of discovery includes nonprivileged matters relevant to any party’s claim
21 or defense in relation to Plaintiff JZAM’s Motion to Compel Arbitration. Defendants expressed the
22 belief that Mr. Guo⁴ may have violated the arbitration clause and the confidentiality clause by sharing
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⁴ Mr. Eric Guo is the president of Plaintiff Jiang Zheng Asset Management, LLC.

1 the contents of the Option Agreement with Mr. Guo's other businesses who are not parties to that
2 agreement. A breach of the arbitration clause and the confidentiality clause may form part of
3 Defendants' defense to Plaintiff JZAM's Motion to Compel Arbitration. Thus, questions pertaining
4 to Mr. Guo's other businesses and business practices fall within the scope of discovery at this stage
5 of proceedings.

6 With respect to the relevance of questions pertaining to Mr. Guo's background and education,
7 even if such questions are not relevant, "[t]he fact that suspension [of a deposition] is available only
8 where an interrogation into improper matters reveals an underlying purpose to harass, annoy, etc.,
9 indicates that witnesses are expected to endure an occasional irrelevant question without disrupting
10 the deposition process." *Stewart*, 87 Cal. App. 4th at 1015. The fact that such questions may be irrelevant
11 is not in and of itself sufficient to justify instructing a witness not to answer a question posed at deposition:
12 "[r]elevance objections should be held in abeyance until an attempt is made to use the testimony at trial."
13 *Id.*, at 1013-1014. It is only when the examination is being conducted in bad faith or in a manner that
14 unreasonably annoys embarrasses, or oppresses the deponent that a party may demand that a deposition
15 be suspended in order to seek a protective order, which will be discussed further below. NMI R. CIV. P.
16 26(c). *See also* F. R. CIV. P. 26(c). *Stewart*, 87 Cal. App. 4th at 1014-1015.

17 (3) Unjustified and Improper Disruption of Deposition by Plaintiff's Attorneys

18 In support of their request for additional time to depose Mr. Guo, the Defendants allege that
19 it was an improper disruption of the deposition for the Plaintiff's attorneys to instruct the deponent,
20 Mr. Guo, not to answer questions. Under Rule 30(c)(2) of the CNMI Rules, a person may instruct a
21 deponent not to answer a question "only when necessary to preserve a privilege, to enforce a
22 limitation ordered by the court, or to present a motion under Rule 30(d)(3)" to terminate or limit
23 discovery. NMI R. CIV. P. 30(c)(2). In the present case, Plaintiff JZAM argues that the scope of
24 discovery is very narrow and is limited to the enforceability of the arbitration clause contained within

1 the agreement between the Parties. Plaintiff's attorneys believed that instructing Mr. Guo not to
2 answer questions were an effort "to enforce a limitation ordered by the court," and thus one of the
3 circumstances in which such instruction is permitted in accordance with Rule 30(c)(2) of the CNMI
4 Rules.

5 The Plaintiff's attorneys filed a Request for Clarification on December 19, 2019 and an initial
6 Motion for a Protective Order on October 21, 2020. Briefings were filed, and then Plaintiff's attorney
7 withdrew the Request for Clarification and the initial Motion for a Protective Order on the eve of the
8 hearing date. Five weeks later, on January 4, 2021, the Plaintiff filed a Renewed Motion for a
9 Protective Order on the same issues raised in the initial Motion for a Protective Order. Briefings were
10 once again filed on the matter. All of these filings and briefings cost time and money for all parties.
11 When viewed as a whole, it was the Plaintiff's attorneys who initially asked for a Request for
12 Clarification as well filing an initial Motion for a Protective Order triggering a delay and briefings,
13 only to withdraw the Request for Clarification and initial Motion for a Protective Order. Five weeks
14 later, Plaintiff's attorneys re-filed a Renewed Motion for a Protective Order on the same issues
15 triggering another round of delay and briefings. This is not to say that a party can never ask for a
16 second or subsequent motion for a protective order, however such gamesmanship of filing motions
17 then dismissing the motion then re-filing the same motion does not facilitate the discovery process
18 and creates unnecessary delay and cost to the parties.

19 When viewed as a whole, the deposition of Mr. Guo continued beyond 7 hours because the
20 Plaintiff's attorneys disruption and delay by instructing Mr. Guo not to answer the questions, instead
21 of simply stating and registering the objection and allowing the deposition to proceed. If the Plaintiff's
22 attorneys truly believe that the line of questioning was being conducted in bad faith or in a manner that
23 unreasonably annoys, embarrasses, or oppresses that deponent or party, the Plaintiff's attorneys should
24 have immediately terminated the deposition and sought a protective order from the Court. Instead,

1 the Plaintiff's attorneys disrupted and frustrated the deposition, then painted a picture that shifted the
2 blame to Defendants' attorneys claiming the questions were beyond the scope of the discovery as it
3 relates to the Motion to Compel Arbitration. Basically, the Plaintiff's attorneys should have either
4 registered their objections and allowed the deposition to proceed, or, if the questions were beyond the
5 scope of discovery as it relates to the Motion to Compel Arbitration, then to terminate the deposition
6 and seek a protective order from the court. Instead, the Plaintiff's attorneys frustrated and disrupted
7 the deposition, and then, after disrupting and delaying the deposition process, now disingenuously
8 ask for a protective order.

9 During the February 5, 2021 hearing, Attorney Hasselback resisted the submission of the
10 transcripts of Mr. Guo, claiming he had no knowledge of the completed transcripts. A few days after
11 the hearing, on February 9, 2021, Attorney Torres filed a Notice of Duty of Candor to the Court with
12 exhibits demonstrating that Attorney Hasselback had knowledge of the completed transcript of the
13 deposition of Mr. Guo since October 2020, a period of over four months before his in-court
14 misrepresentation. The transcript of Mr. Guo's deposition details the pattern of disruption and delay
15 of Plaintiff's attorneys, and highlights Attorney Hasselback's resistance for the written transcripts to
16 be admitted into evidence.

17 All of the following amount to deliberate disruption and delay tactics undertaken by the
18 Plaintiff's attorneys: (i) the filing of the Request for Clarification and the initial Motion for a
19 Protective Order and its withdrawal after briefing (ii) only for the Plaintiff's attorneys to refile a
20 Renewed Motion for a Protective Order five weeks later triggering another round of briefings; (iii)
21 the Plaintiff's attorneys' instruction to Mr. Guo to not answer questions; (iv) a protracted deposition
22 due to Plaintiff's attorneys disruption; (v) Mr. Guo's failure to answer or giving evasive answer to
23 questions ask; and (vi) Attorney Hasselback's misrepresentation in court that he had no knowledge
24 about the completed transcript of Mr. Guo, in an effort to frustrate the submission of the transcripts

1 to be submitted as evidence to the court. Therefore, viewed as a whole the Court finds that the
2 disruptive actions and delaying tactics by the Plaintiff's attorneys were conducted in bad faith.

3 (4) Duration of Discovery and Granting Additional Time to Complete Deposition of Mr. Guo

4 Moreover, Defendants request the Court to permit further deposition of Mr. Guo due to the
5 delay caused by two additional circumstances, namely the use of an interpreter and evasive answers
6 given by Mr. Guo during deposition. The Plaintiff JZAM takes the position that the Defendants have
7 already exceeded the time limit for deposition and no further deposition should be permitted.

8 In the present case, the Court did not issue any order permitting an oral deposition of a
9 duration longer than the standard one day of seven hours, as provided for in Rule 30(d)(1), nor was
10 any such extension to exceed requested by the parties, as permitted by that same rule. NMI R. CIV.
11 P. 30(d)(1). *See also* F. R. CIV. P. 30(d)(1). Rule 30 of the CNMI Rules states that the Court "must
12 allow additional time [...] if needed to fairly examine the deponent or if the deponent, another person,
13 or any other circumstance impedes or delays the examination." *Id.* Mr. Guo was deposed by the
14 Defendants' attorneys on February 7, 2020, for approximately six hours and again on October 8,
15 2020, for more than four hours. Thus, the Defendants have, without first requesting further
16 authorization of the Court in accordance with Rule 30(d)(1) of the CNMI Rules, exceeded the limit
17 on the duration of the deposition of Mr. Guo, deposing him on two separate days instead of one day
18 and for a total of approximately ten hours instead of seven hours.

19 Defendants have already exceeded the time limit for the duration of the deposition of Mr.
20 Guo, without first requesting any extension of the time limit from the Court. No extension may be
21 granted under Rule 30(d)(1) when the Defendants have not followed the necessary procedure for
22 requesting such an extension. NMI R. CIV. P. 30(d)(1). *See also* F. R. CIV. P. 30(d)(1).

23 However, Defendant Torres also cites the use of an interpreter and the evasive answers by
24 Mr. Guo as bases for the Court to grant its request for more time to finish Mr. Guo's deposition.

1 Rule 30 of the CNMI Rules states that the court “must allow additional time [beyond one day
2 of 7 hours] if needed to fairly examine the deponent or if the deponent, another person, or any other
3 circumstance impedes or delays the examination.” NMI R. CIV. P. 30(d)(1). *See also* F. R CIV. P.
4 30(d)(1). However, it should be noted that Defendants have already exceeded the limit of one day of
5 seven hours by more than three additional hours.

6 Nevertheless, it is clear that the use of an interpreter naturally slows down the examination
7 and takes up time during the deposition, with the result that fewer questions can be covered in the
8 time limit for the duration of the deposition. Thus, the necessary use of an interpreter is a circumstance
9 which delayed the examination. For this reason, it is not unreasonable to permit a limited amount of
10 additional time for deposition.

11 In addition, the transcripts of the deposition do indicate certain unclear answers given by Mr.
12 Guo and instances where he was instructed not to answer questions during examination. Such evasive
13 answers and limiting instructions by Plaintiff’s attorneys is also a circumstance delaying the
14 examination.

15 Given that the Court must allow additional time if needed where examination has been
16 impeded or delayed by a person or circumstances, the Court will allow further deposition of Mr. Guo,
17 strictly limited to one day of four hours. This limit must not be exceeded without prior authorization
18 from the Court.

19 **B. Plaintiff’s Motion for a Protective Order to Limit Discovery**

20 (1) Plaintiff’s Motion is not a Motion for the Court to Reconsider its December 9, 2020 Order
21 Defendant Torres argues that JZAM’s motion is effectively a motion to overturn the December
22 9, 2020 Order by the Court stating that discovery may proceed, and thus JZAM’s present motion for
23 a protective order is essentially a motion for the Court to reconsider its December 9, 2020 Order.

1 However, Plaintiff JZAM withdrew its initial Motion for a Protective Order prior to the Court
2 issuing its Order on December 9, 2020. The basis of the December 9, 2020 Order was not on Plaintiff
3 JZAM initial Motion for a Protective Order. Thus, the Renewed Motion for a Protective Order cannot
4 be categorized as a Motion for Reconsideration. Furthermore, the CNMI Rules do not place a limit
5 on when a motion for a protective order may be brought during discovery proceedings. The Order of
6 December 9, 2020, simply stated that there was no impediment to the Parties continuing discovery in
7 relation to the September 4, 2019 Motion to Compel Arbitration. Discovery was therefore ongoing
8 and either party was free to bring a motion for a protective order whenever a party believed there was
9 good cause to do so in order to “protect a party or person from annoyance, embarrassment,
10 oppression, or undue burden or expense.” NMI R. CIV. P. 26(c). *See also* F. R. CIV. P. 26(c). Plaintiff
11 JZAM’s Renewed Motion for a Protective Order was raised during discovery, in accordance with the
12 rules, and thus cannot be considered a motion for reconsideration.

13 (2) Questions were not intended to harass, annoy, embarrass, or oppress the deponent

14 Plaintiff JZAM argues that the scope of discovery is narrow and limited to the enforceability
15 of the arbitration clause in the agreement between the Parties.

16 Defendant Torres takes the position that the scope of discovery is not limited in this way, and
17 claims that questions related to the deponent’s background, education, and business practices are
18 relevant to the deponent’s credibility, which is in turn relevant to the Defendants’ belief that Mr. Guo
19 may have violated the arbitration clause and confidentiality clause by sharing information concerning
20 the Option Agreement with his other businesses. Defendant Torres further argues that Plaintiff JZAM
21 has not presented any facts to establish that Defendant’s attorneys intent in the deposition was to
22 harass, annoy, embarrass, or oppress Mr. Guo.

23 A party may move for a protective order “on the ground that examination is being conducted
24 in bad faith or in a manner that unreasonably annoys, embarrasses, or oppresses that deponent or

1 party.” *Stewart*, 87 Cal. App. 4th at 1014-1015. Apart from pointing to the excessive duration of
2 deposition beyond that which is permitted under the CNMI Rules and what Plaintiff JZAM considers
3 to be the irrelevance of many of the questions posed during the deposition of Mr. Guo, Plaintiff JZAM
4 has not shown that the Defendant’s attorneys’ interrogation into improper matters has reached the
5 point where a protective order is required to protect Mr. Guo “from annoyance, embarrassment,
6 oppression, or undue burden or expense.” NMI R. CIV. P. 26(c). *See also* F. R. CIV. P. 26(c). The fact
7 that the questions posed during the deposition may be irrelevant is neither in and of itself sufficient to
8 justify instructing a witness not to answer a question posed at deposition, nor is it in and of itself sufficient
9 to constitute embarrassment, annoyance, harassment or oppression of the deponent. *Id.* *See also Stewart*,
10 87 Cal. App. 4th at 1013-1014. The fact that an interrogation into improper matters must reveal an
11 underlying purpose to harass, annoy, embarrass or oppress a witness or deponent in order to justify a
12 protective order “indicates that witnesses are expected to endure an occasional irrelevant question
13 without disrupting the deposition process.” *Stewart*, 87 Cal App. 4th at 1015. Thus, while many of
14 the questions posed by the Defendants’ attorneys to Mr. Guo during the deposition may have been
15 construed by the Plaintiff’s attorneys as irrelevant or an interrogation into improper matters, without
16 additional evidence indicating an underlying intent by the Defendants to embarrass, annoy, harass or
17 oppress Mr. Guo, such questions do not rise to the level required to justify a protective order under
18 Rule 26(c) of the CNMI Rules.

19 The Court, for the reasons stated above, denies Plaintiff JZAM’s motion for a protective order
20 to limit discovery.

21 **C. The Defendants’ Motion for an Award of Attorney’s Fees as a Sanction for**
22 **Improperly Impeding Deposition**

23 Defendant Torres argues that Plaintiff JZAM improperly suspended the deposition and is
24 improperly seeking a protective order, and Plaintiff JZAM fails to point to specific improper conduct

1 on the part of the Defendants and that the Defendants intend to use the testimony for an improper
2 purpose.

3 Plaintiff JZAM contends that under Rule 37 of the CNMI Rules, an award of attorney's fees
4 is inappropriate with respect to a party whose position is substantially justified or if other
5 circumstances make an award of expenses unjust.

6 Rule 37(a)(5)(B) of the Commonwealth Rules of Civil Procedure provides that, where a
7 motion for a protective order to limit or stay discovery is denied, the court "must not" order the
8 payment of attorney's fees "if the motion was **substantially justified** or other circumstances make
9 an award of expenses unjust." (Emphasis in bold) NMI R. CIV. P. 37(a)(5)(B). *See also* F. R. CIV. P.
10 37(a)(5)(B). In the present case, the circumstances make an award of expenses just and appropriate.
11 Plaintiff JZAM has not demonstrated any substantial justification that an award of attorney's fees
12 would be unjust. Notwithstanding Plaintiff JZAM's claim that there was confusion and disagreement
13 between the Parties as to the scope of discovery. As discussed above,⁵ viewed as whole there was a
14 pattern of disruption and delay by Plaintiff's attorneys such as: (i) the filing of the Request for
15 Clarification and the initial Motion for a Protective Order and its withdrawal after briefing (ii) only
16 for the Plaintiff's attorneys to re-file a Renewed Motion for a Protective Order five weeks later
17 triggering another round of briefing; (iii) the Plaintiff's attorneys' instruction to Mr. Guo to not
18 answer questions; (iv) a protracted deposition due to Plaintiff's attorneys disruption; (v) Mr. Guo's
19 failure to answer or evasive answer to questions ask; and (vi) Attorney Hasselback's
20 misrepresentation in court that he had no knowledge about the completed transcripts of Mr. Guo, in
21 an effort to frustrate the submission of the transcripts as evidence to the court. The Court finds that
22 the Plaintiff's attorneys' claims of confusion and disagreement over the scope of discovery rings

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24 ⁵ See above the Court's finding that there was no grounds that examination by Defendants' attorneys was being conducted
in bad faith or in a manner that unreasonably annoys, embarrasses, or oppresses that deponent or party, and therefore
denying Plaintiff JZAM's Motion for a Protective Order.

1 hallow and is a thinly veiled attempt to further delay and/or disrupt the deposition and discovery
2 process.⁶

3 The transcript of the deposition contains hundreds of pages. While many of the questions
4 posed by the Defendants' attorneys to Mr. Guo during the deposition may have been construed by
5 Plaintiff JZAM as irrelevant or an interrogation into improper matters, without additional evidence
6 indicating an underlying intent by the Defendants to embarrass, annoy, harass or oppress Mr. Guo,
7 such questions do not rise to the level required to justify a protective order under Rule 26(c) of the
8 CNMI Rules.

9 The Plaintiff's attorneys repeatedly instructed Mr. Guo not to answer questions based on their
10 objection as to the relevance of those questions. Under Rule 30(c)(2), any objections at the time of
11 the deposition—"whether to evidence, to a party's conduct, to the officer's qualifications, to the
12 manner of taking the deposition, or to any other aspect of the deposition— must be noted on the
13 record, but the examination still proceeds; the testimony is taken subject to any objection." NMI R.
14 CIV. P. 30(c)(2). Such objections must be "stated concisely in a nonargumentative and nonsuggestive
15 manner." *Id.* Furthermore, a person may instruct a deponent not to answer a question "only when
16 necessary to preserve a privilege, to enforce a limitation ordered by the court, or to present a motion
17 under Rule 30(d)(3)" to terminate or limit discovery. *Id.*

18 Here, the Plaintiff's attorneys did not simply make objections on the record and allow the
19 deposition to proceed. Instead, the Plaintiff's attorneys instructed Mr. Guo not to answer the
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21
22 ⁶ Again, the Court takes note of the pattern on the part of Plaintiff's attorneys, in disrupting the deposition and delaying
23 the general pace of the case. For example, Attorney Hasselback, during the February 5, 2021 hearing, misrepresented and
24 falsely stated that he had not received the deposition transcripts or known that they were available, when in fact Attorney
Hasselback had known of the completed transcripts since October 2020, and painted a false image that the Defendants'
attorneys were attempting to unduly surprise Plaintiff's attorneys. The Plaintiff's attorneys directed blame onto
Defendants' attorneys when it was the Plaintiff's attorneys who were themselves deliberately causing the disruption and
delay.

1 questions. None of the questions posed to Mr. Guo touched upon a need “to preserve a privilege, to
2 enforce a limitation ordered by the court, or to present a motion under Rule 30(d)(3)” to terminate or
3 limit discovery.

4 As already discuss above, information within scope of discovery need not be admissible in
5 evidence to be discoverable. For the purposes of discovery, information is relevant if it might
6 reasonably assist a party in *evaluating* the case, *preparing* for trial, or *facilitating* settlement. These
7 rules are applied liberally in favor of discovery and (contrary to popular belief), fishing expeditions
8 *are* permissible in some cases.” The general scope of discovery is very broad and for discovery
9 purposes, “information is relevant if it ‘might reasonably assist a party in *evaluating* the case,
10 *preparing* for trial, or *facilitating* settlement... These rules are applied liberally in favor of discovery
11 and [...] fishing expeditions *are* permissible in some cases.” *Stewart*, 87 Cal. App. 4th at 1013
12 (emphasis in original). The scope of discovery is therefore not limited by certainty: information that
13 *might* reasonably assist a party is relevant. Thus, the fact that questions relating to Mr. Guo’s
14 background, education and business practices *could* be relevant but are not certain to be relevant does
15 not exclude them from the scope of discovery.

16 A party may seek a protective order. However, in the present case the Plaintiff JZAM did file
17 a Request for Clarification and an initial Moton for a Protective Order. The Court ordered the issue
18 to be briefed. On the eve of the hearing date to resolve the issues of the Request for Clarification and
19 the initial Motion for a Protective Order, it was the Plaintiff’s attorneys who withdrew the Request
20 for Clarification and initial Motion for a Protective Order. Five weeks later, Plaintiff’s attorneys once
21 again filed a Renewed Motion for a Protective Order triggering another round of briefings. As
22 discussed above, the Court finds that Plaintiff’s attorneys fail to cite to any substantial grounds such
23 as evidence indicating an underlying intent by the Defendants to embarrass, annoy, harass or oppress
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1 Mr. Guo, and as such the questions asked by the Defendants’ attorneys do not rise to the level required
2 to justify a protective order under Rule 26(c) of the CNMI Rules.

3 In addition, as noted above, the Court denied Plaintiff JZAM’s Renewed Motion for a
4 Protective Order as it was not justified. The Plaintiff’s attorneys objections to the Defendants’
5 attorneys questions largely concerned the deponent’s background, credibility, and business practices
6 in the years preceding the agreement between the parties. The general scope of discovery is broad
7 and permits questions relating to claims and defenses raised by the parties in relation to the Plaintiff’s
8 September 4, 2019 Motion to Compel Arbitration, and that the “rules are applied liberally in favor of
9 discovery and [...] fishing expeditions *are* permissible in some cases.” *Stewart*, 87 Cal. App. 4th at
10 1013. Thus, questions such as Mr. Guo’s business experience, familiarity with contracts including
11 arbitration agreements, etc. are therefore relevant if it reasonably assist a party in *evaluating* the case,
12 *preparing* for trial, or *facilitating* settlement. Furthermore, questions such as Mr. Guo’s immigration
13 status touch on his ability to own a business under the CNMI-Only Investor visa program, his
14 compliance with federal immigration laws, his ability to enter into a contract including arbitration
15 agreements, etc. are therefore relevant if it reasonably assist a party in *evaluating* the case, *preparing*
16 for trial, or *facilitating* settlement. Thus, questions pertaining to the credibility, bias, business
17 experience and ability to conduct business in the CNMI are relevant and well within the scope of
18 discovery as it relates to the Motion to Compel Arbitration, which relates to the business dealings and
19 the arbitration agreement between the parties.

20 Therefore, for the reasons stated above, the Court grants Defendant Torres’ motion for
21 attorney’s fees and costs under Rule 37(a)(5)(B) of the Commonwealth Rules of Civil Procedure.

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V. CONCLUSION

THEREFORE, for the reasons stated above, Plaintiff Jiang Zheng Asset Management, LLC’s Motion for a Protective Order is DENIED. Defendant Vincent Torres’ Motion for Attorney’s Fees and Costs is GRANTED.⁷ FURTHERMORE, Defendants Vincent Torres and Wang Tao are GRANTED an additional 4 hours to continue the Deposition.

IT IS SO ORDERED this 28th day of July, 2021.

/s/
JOSEPH N. CAMACHO, Associate Judge

⁷ The Court will issue a separate order setting a hearing date and deadlines for the submission of attorney’s fees and costs, and an opportunity to file oppositions/replies.