

EXHIBIT 98

Declaration of Scott R. Carpenter re Motion to Disqualify

LAW OFFICES OF JOSEPH W. SCALIA, APC
Joseph W. Scalia, Esq. (Bar No. 72526)
E-mail: joe@scaliafirm.com
Joseph W. Scalia, Esq.
Law Offices of Joseph W. Scalia
1620 Lead Hill Boulevard
Roseville, CA 95661
Telephone: (916) 622-6939; Fax (916) 652-4027

CUMMINS & WHITE, LLP
Scott R. Carpenter (Bar No. 144259)
E-mail: scarpenter@cwlawyers.com
2424 S.E. Bristol Street, Suite 300
Newport Beach, CA 92660-0764
Telephone: (949) 852-1800; Fax: (949) 852-8510
Attorneys for TYLER B. DAVIS

KIRK & TOBERTY, Attorneys at Law
J. Douglas Kirk, Esq. (Bar No. 125808)
Email: jdkirk@kirkandtobery.com
2201 Dupont Drive, Suite 820
Irvine, CA 92612
Telephone: (949) 851-0355; Fax: (949) 851-1250
Attorneys for TOPDEVZ, LLC

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO- CENTRAL COURTHOUSE

TYLER DAVIS, an Individual; TOPDEVZ,
LLC, a California Limited Liability Company;

Plaintiffs,

vs.

ASHKAN M. RAJAE, an Individual; NIMA
AKHBARI, Individually and as Trustee of the
6625 Muirlands Drive Qualified Personal
Residence Trust #1, an entity of unknown form;
NIMI AKBARI, Individually and as Trustee
of the 6625 Muirlands Drive Qualified Personal
Residence Trust #2, an entity of unknown form;
NASSIM RAJAE, an Individual; UNITED
UNICORNS ENTERPRISES, LLC, a
Delaware Limited Liability Company; and
DOES 1 through 50, inclusive,

Defendants.

CASE NO.: 37-2022-00015126-CU-OR-CTL

**DECLARATION OF SCOTT R.
CARPENTER IN OPPOSITION TO THE
MOTION OF DEFENDANT RAJAE TO
DISQUALIFY SCOTT R. CARPENTER
AS ATTORNEY OF RECORD FOR
TYLER B. DAVIS**

**DATE: February 2, 2024
TIME: 1:30 p.m.
DEPT: C-67**

ASSIGNED FOR ALL PURPOSES TO THE
HONORABLE EDDIE STURGEON,
DEPARTMENT C-67

First Amended Complaint Filed: 1/27/2023
Trial Date: 3/15.2024

1 I, Scott R. Carpenter, declare:

2 1. I am an attorney at the firm of Cummins & White, LLP. I am duly licensed to practice
3 before all courts in the State of California. I am personally familiar with the matters set forth herein
4 and, if called as a witness, I could and would testify competently thereto.

5 2. I am counsel of record for Plaintiff Tyler Davis, in the above-captioned case. I have
6 also served as counsel for Davis numerous other cases, including *Davis v. Rajae*, San Diego
7 Superior Court Case No. 37-2022-00026691 (judgment entered in favor of Davis and against Rajae
8 on August 15, 2023); *Rajae v. Davis*, San Diego S.C Case No. 37-2022-00001968 (dismissal
9 entered in favor of Davis on June 2, 2022); *Davis v. Rajae*, Sacramento S.C. Case No. 34-2021-
10 00295173 (stayed/consolidated with *Rajae v. Davis*, Sacramento S.C. Case No. 34-2033-00316510
11 (also stayed); *Mobile Monster, Inc., a Canadian corporation* (wholly owned by Defendant Rajae)
12 *v. Tyler Davis*, Sacramento S.C. Case No: 34-2021-00301817-CU-BT-GDS in which a judgment in
13 favor of TopDevz has been entered against Mobile Monster in the amount of \$2,512,669.80 and in
14 favor of DAVIS against Mobile Monster in the amount of \$500,000.00 (a copy of the Judgment is
15 being submitted herein as part of the opposition); *Rajae v. Davis*, USDC SD of California Case No.
16 3:24-CV-00001-CU-OE-CTL, pending. I have also advised Davis in connection with numerous
17 other lawsuits file by Rajae against Davis or others.

18 3. I first represented Davis in February, 2021 in the Arbitration proceeding initiated by
19 Ashkan Rajae before the American Arbitration Association, and after the Arbitrator had made
20 findings that Tyler Davis owned a 95.308% membership interest in TOPDEVZ, that TOPDEVZ was
21 to be dissolved, and that Davis, and only Davis, was the person responsible for winding up the affairs
22 of TOPDEVZ. The final Arbitration Award was subsequently confirmed by the San Diego Superior
23 Court and judgment entered. The Arbitration award also resulted in a Judgment in favor of
24 TOPDEVZ, LLC against Rajae in the amount of \$7, 670,151.00 and in favor of DAVIS against
25 Rajae in the amount of \$1,704,415.64. (A copy of the judgment is submitted herein as part of
26 DAVIS' opposition; see *Davis v. Rajae*, San Diego Superior Court Case No. 37-2022-00026691.)

27 4. A true and correct copy of the Judgment in the main underlying case, including the
28 Arbitration Award, is attached hereto, marked as Exhibit A and incorporated herein by this reference.

1 5. A true and correct copy of the Judgment in Mobile Monster v. Davis is attached
2 hereto, marked as **Exhibit B** and incorporated herein by this reference.

3 6. I have been practicing law for 33 years.

4 7. I have never had an Attorney-Client Relationship with Defendant Rajae. In fact, I
5 have never met with Defendant Rajae in person. His preposterous allegations of violations of ethics
6 rules and/or "criminal" conduct are nothing more than a transparent attempt to subvert the
7 \$9,374,566.64 judgment against him arising out of the Arbitration, as well as the \$3,012,699.80
8 judgment being entered against his wholly owned Canadian corporation, Mobile Monster, Inc., a
9 Canadian corporation.

10 8. Rajae's purported "evidence" does not and cannot establish any violations of ethical
11 Rules or criminal laws by the undersigned. For example, Rajae claims that "CARPENTER,
12 SCALIA, and KIRK have filed and maintained this lawsuit against RAJAE even though the case
13 itself has no merit and is premised entirely on criminal activity." (Mot., p.18.) If this case had no
14 merit, then Rajae has had multiple opportunities (demurrers, motion for summary judgment, etc.)
15 to prove so. He also makes no showing as to how the lawsuit is "premiered entirely on criminal
16 activity." In fact, all the work performed for TOPDEVZ by the undersigned in the Arbitration, the
17 Mobile Monster case, and the instant case, were "routine litigation tasks" for TOPDEVZ.

18 9. Defendant Rajae simply has no standing to challenge the work I performed for my
19 client Tyler Davis, and Tyler Davis, as the adjudicated managing member of TOPDEVZ, LLC, has
20 absolute authority hire and engage with any counsel, including me, Mr. Scalia or Mr. Kirk, who
21 represents TOPDEVZ.

22 I declare under penalty of perjury under the laws of the State of California that the foregoing
23 is true and correct. Executed this 22nd day of January, 2024 at Newport Beach, California

24
25 

26
27 _____
28 Scott R. Carpenter, Declarant