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1 III

2 LEGAL ANALYSIS

3 A. Service of the Summons and Complaint was Never Effectuated Upon  
4 Zandian.

5 Proper service of a summons and complaint upon an individual must be made upon the  
6 individual "defendant personally, or by leaving copies thereof at the defendant's dwelling house or  
7 usual place of abode with some person of suitable age and discretion then residing therein, or by  
8 delivering a copy of the summons and complaint to an agent authorized by appointment or by law  
9 to receive service of process." NRCPC 4(d)(6). Pursuant to NRCPC 12(b)(4), insufficiency of service  
10 of process is grounds to dismiss a complaint.

11 Zandian was not served a summons and complaint in the U.S. District Court action which  
12 forms the basis of the instant action. Exhibit "A". Zandian is not mentioned in the Order issued  
13 from the U.S. District Court. Exhibits "A" & "B". Zandian was not served a summons and  
14 complaint in the instant action. Notwithstanding, Plaintiff took a default judgment against Zandian.

15 Because no summons was ever issued as to Zandian in the underlying U.S. District Court  
16 action which forms the basis of the instant action, any domestication of the U.S. District Court action  
17 as it pertains to Zandian is a clear violation of Zandian's constitutional right to notice under the Due  
18 Process Clauses of the Fifth and Fourteenth Amendments of the U.S. Constitution. Additionally,  
19 Zandian was not served in the instant case, in furtherance of the deprivation of Zandian's right to due  
20 process.

21 Because Zandian has never been given notice as required by NRCPC 4 and/or the U.S.  
22 Constitution, the default judgment as applied to Zandian must be set aside pursuant to NRCPC 55(c)  
23 or 60(b), and Zandian be dismissed from the instant action upon this instant motion by special  
24 appearance.

25 B. Nevada Does Not Have Personal Jurisdiction Over Zandian in the Instant  
26 Action.

27 "The plaintiff bears the burden of producing *some* evidence in support of all facts necessary  
28 to establish personal jurisdiction [emphasis added]." Trump v. District Court, 109 Nev. 687, 692-93,

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1 857 p.2d 740, 748 (1993). Here, while Plaintiff did allege that Zandian resided in either San Diego  
2 or Las Vegas, Plaintiff did not even attempt to serve Zandian in his alleged places of residence,  
3 which ought to serve as the only evidence that the court needs to determine that the allegation that  
4 Zandian resides in Las Vegas was nothing more than a fraud upon the court to induce the court into  
5 exercising personal jurisdiction over Zandian.

6 "There are two types of personal jurisdiction: general and specific." Trump v. District Court,  
7 109 Nev. 687,699, 857 p.2d 740, 748 (1993). "General jurisdiction over the defendant 'is  
8 appropriate where the defendant's forum activities are so 'substantial' or continuous and systematic'  
9 that it may be deemed present in the forum.'" Id.; see also Baker v. Eighth Jud. Dist. Ct., 116 Nev.  
10 527, 531-31, 999 P.2d 1020, 1023 (2000) (holding that "membership in the state bar, in and of itself,  
11 does not subject an individual to general jurisdiction in the state of membership because such contact  
12 is not substantial, continuous, or systematic."). In this case, Plaintiff has not alleged that Zandian  
13 has ever had any "forum activities" in Nevada. Thus, without more, Nevada cannot exercise general  
14 personal jurisdiction over Zandian.

15 "Specific personal jurisdiction over a defendant may be established only where the cause of  
16 action arises from the defendant's contacts with the forum." Baker, supra. "To subject a defendant  
17 to specific jurisdiction, this court must determine if the defendant 'personally established minimum  
18 contacts' so that jurisdiction would 'comport with fair play and substantive justice [internal  
19 quotations omitted].'" Id. (citing Burger King Corp. V. Rudzewicz, 471 U.S. 462, 476-77, 85 L. Ed.  
20 2d 528, 105 S. Ct. 2174 (1985) (quoting International Shoe Co. v. Washington, 326 U.S. 310, 320,  
21 90 L. Ed. 95, 66 S. Ct. 154 (1945)). "In order for a forum state to obtain personal jurisdiction over  
22 a nonresident defendant, the Due Process Clause of the Fourteenth Amendment requires that the  
23 defendant have 'minimum contacts' with the forum state 'such that the maintenance of the suit does  
24 not offend traditional notions of fair play and substantial justice.'" Baker, supra at 531-31. Here,  
25 Plaintiff has not alleged *any* contacts between Zandian and Nevada, except to allege that Zandian  
26 resides in either San Diego or Las Vegas, and this is simply not enough to find that the court has  
27 personal jurisdiction over Zandian.

28 ...

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1 Zandian has not consented to personal jurisdiction in Nevada. Additionally, Zandian appears  
2 now, by and through his counsel, on a limited basis to respectfully refute the court's jurisdiction over  
3 her. Because Zandian is appearing for the sole purpose of refuting the Court's jurisdiction, Zandian  
4 has neither consented to jurisdiction nor waived the lack thereof.

5 Zandian has not been alleged to reside of the State of Nevada; instead, Plaintiff ambiguously  
6 alleged that he is a resident of California *or* Nevada, then proceeded to attempt service upon him in  
7 California only. Zandian has not consented to personal jurisdiction in Nevada. Plaintiff has not  
8 alleged or produced any facts indicating that Zandian has had minimum contacts with the State of  
9 Nevada. Thus, pursuant to NRCPC 12(b)(2), the Court must set aside the judgment against Zandian  
10 pursuant to NRCPC 55(c) or 60(b) so that Zandian can be dismissed from the instant action on the  
11 grounds that the court does not enjoy personal jurisdiction over Zandian.

12 DATED this 8th day of June, 2011.

13 JOHN PETER LEE, LTD.

14 BY: 

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22 Attorneys for Defendant Reza Zandian

23 CERTIFICATE OF MAILING

24 I HEREBY CERTIFY that on the 8th day of June, 2011, a copy of the foregoing MOTION  
25 TO DISMISS ON A SPECIAL APPEARANCE was served on the following parties by mailing a  
26 copy thereof, first class mail, postage prepaid, addressed to:

27 Cassandra P. Joseph, Esq.  
28 Watson Rounds  
5371 Kietzke Lane  
Reno, NV 89511

  
An employee of  
JOHN PETER LEE, LTD.