

1 Accordingly, Margolin was to effectuate service by November 2, 2011, pursuant to Court order. *Id.*  
2 To date, there is no evidence in the record that Zandian was ever served by November 2, 2011.

3 **B. Undisputed Facts.**

4 Zandian hereby incorporates the Statement of Fact as stated in his last Motion to Dismiss  
5 Plaintiff's Complaint as though fully stated herein.

6 Margolin was involved in a action before the United States District Court for the District of  
7 Arizona related to the same subject matter that is the subject of the instant action. Exhibit "B". In  
8 the Arizona action, Margolin, along with his co-defendants, was granted relief against "Optima  
9 Technology Corporation, a Nevada corporation," who is a defendant in the instant action. *Id.* That  
10 action involved the same transactions and occurrences that are involved in this action: (1) that  
11 Margolin was the rightful owner of Patents Nos. 5,566,073 and 5,904,724, dated July 20, 2004; (2)  
12 that the assignment of those patents was "forged, invalid, void, of no force and effect"; and (3) that  
13 the assignment was to be "struck from the records of the USPTO." *Id.* The Arizona action,  
14 therefore, involving the same transactions and occurrences has been litigated to a final judgment.  
15 *Id.* Zandian was not a part of that action. *Id.*

16 In the Amended Complaint, Margolin has represented to the Court that "[i]n the Arizona  
17 Action, Mr. Margolin and OTG filed a cross-claim for declaratory relief against Optima Technology  
18 Corporation (Zandian) in order to obtain legal title to their respective patents." Am. Compl., ¶ 17.  
19 Again, however, Zandian was not a party to the Arizona Action! Exhibit "B".

20 In the Amended Complaint there is not a single allegation suggesting that Zandian acted in  
21 his individual capacity in such a way to cause a justiciable injury to Margolin. *See* Am. Compl.  
22 Also, Zandian was never named as a party in the Arizona action where the same transactions and  
23 occurrences have already been litigated to a final judgment. Exhibit "B". Most importantly,  
24 Margolin has not alleged that any transactions or occurrences that are the subject of the Amended  
25 took place within the State of Nevada or within the County of Storey. *See* Am. Compl. The only  
26 conceivable, although speculative, connections between Nevada and Zandian that is provided in the  
27 Amended Complaint include the following: (1) that Zandian "at all relevant times resided in Las  
28 Vegas, Nevada"; (2) that "the Defendants at all times herein mentioned has been and/or is residing