

1 against Zandian. Plaintiff then filed and served a Notice of Entry of Default on Zandian on  
2 December 7, 2010 and on his last known attorney on December 16, 2010.

3 On February 25, 2011, Plaintiff filed in this Court and served a certificate of service  
4 indicating that the application for entry of default against Zandian was sent to attorney John  
5 Peter Lee. On February 28, 2011, Plaintiff filed an application for default judgment against  
6 Defendants Zandian, Optima Technology Corporation, a California Corporation, and Optima  
7 Technology Corporation, a Nevada Corporation.

8 On March 1, 2011, a default judgment was entered against Zandian and the other  
9 defendants for \$121,594.46. On March 7, 2011, notice of entry of that default was filed and  
10 served by mail on Zandian and his counsel.

11 On June 9, 2011, Zandian filed the motion to dismiss.

### 12 III. ARGUMENT

#### 13 **A. SERVICE OF THE SUMMONS AND COMPLAINT WAS** 14 **EFFECTUATED UPON ZANDIAN**

15 NRCF 4 states that service of the summons and complaint shall be made upon the  
16 "defendant personally, or by leaving copies thereof at the defendant's dwelling house or usual  
17 place of abode with some person of suitable age and discretion then residing therein, or by  
18 delivering a copy of the summons and complaint to an agent authorized by appointment or by  
19 law to receive service of process." NRCF 4(d)(6).

20 In this case, the complaint was filed on December 11, 2009. As Plaintiff was having  
21 difficulty serving Zandian, the summons and complaint were mailed to Zandian's attorney,  
22 John Peter Lee, on January 8, 2010, and a request for assistance in serving Zandian was made.  
23 See Letter, dated 1/8/10, from Cassandra Joseph to John Peter Lee, attached hereto as **Exhibit**  
24 **3.**<sup>3</sup> Moreover, Zandian was personally served with the summons and complaint on February 2,  
25 2010. See Affidavit of Service, dated 2/18/10, attached hereto as **Exhibit 2.**

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28 <sup>3</sup> John Peter Lee never responded to Cassandra Joseph's request for assistance in serving Zandian and the  
Defendant entities. At least, Mr. Lee never responded until well after the default was entered by filing the  
instant motion, even though he represented Zandian prior to this action.

1           Therefore, Zandian was served with the summons and complaint and was given proper  
2 notice of this lawsuit. In fact, Plaintiff took the additional step of mailing the summons and  
3 complaint to Zandian and his lawyer. Unfortunately, for reasons known only to Zandian and  
4 his lawyer, Zandian decided not to answer the complaint or otherwise respond to the complaint  
5 in a timely manner.

6           **B. THIS COURT HAS JURISDICTION OVER ZANDIAN IN THIS ACTION**

7           Nevada's long arm statute states as follows: "A court of this state may exercise  
8 jurisdiction over a party to a civil action on any basis not inconsistent with the Constitution of  
9 this state or the Constitution of the United States." NRS 14.065(1). In addition, "[p]ersonal  
10 service of summons upon a party outside this state is sufficient to confer upon a court of this  
11 state jurisdiction over the party so served if the service is made by delivering a copy of the  
12 summons, together with a copy of the complaint, to the party served in the manner provided by  
13 statute or rule of court for service upon a person of like kind within this state." NRS  
14 14.065(2).

15           In addition, in Nevada, "[t]here are two types of personal jurisdiction: general and  
16 specific." *Baker v. Eighth Judicial Dist. Court ex rel. County of Clark*, 116 Nev. 527, 532,  
17 999 P.2d 1020, 1023 (2000). "General jurisdiction is required in matters where a defendant is  
18 held to answer in a forum for causes of action unrelated to his forum activities." *Baker v.*  
19 *Eighth Judicial Dist. Court ex rel. County of Clark*, 116 Nev. 527, 532, 999 P.2d 1020, 1023  
20 (2000). "General jurisdiction over a nonresident will lie where the nonresident's activities in  
21 the forum are 'substantial' or 'continuous and systematic.'" *Id.* Said another way, "General  
22 jurisdiction over the defendant 'is appropriate where the defendant's forum activities are so  
23 "substantial" or "continuous and systematic" that [he] may be deemed present in the forum.'" *Freeman v. Second Judicial Dist. Court ex rel. County of Washoe*, 116 Nev. 550, 553, 1 P.3d  
24 963, 965 (2000).

25  
26           In addition, the following citation acknowledges that there must be minimum contacts  
27 for the Court to exercise jurisdiction over a nonresident and states that owning property or  
28 doing business within the state is enough to confer jurisdiction:

1 We acknowledged in *Metal-Matic, Inc. v. 8th Judicial District Court*, 82 Nev.  
2 263, 415 P.2d 617 (1966), citing therein *International Shoe Co. v. State of*  
3 *Washington*, 326 U.S. 310, 66 S.Ct. 154, 90 L.Ed. 95 (1945); *McGee v.*  
4 *International Life*, 355 U.S. 220, 78 S.Ct. 199, 2 L.Ed.2d 223 (1957); and  
5 *Hanson v. Denckla*, 357 U.S. 235, 78 S.Ct. 1228, 2 L.Ed.2d 1283 (1958), that  
6 since *Pennoyer v. Neff*, 5 Otto 714, 95 U.S. 714, 24 L.Ed. 565 (1877), a  
7 jurisdictional evolution has been taking place to such extent that the old  
8 jurisdictional landmarks have been left far behind so that in many instances  
9 states may now properly exercise jurisdiction over nonresidents not amenable  
10 to service within their borders. The point has not been reached, however, where  
11 state boundaries are not without significance. There must still be some  
12 'affiliating' circumstances without which the courts of the state may not  
13 entertain jurisdiction. *Hanson v. Denckla*, supra. Each case depends upon its  
14 own circumstances, but while we adhere to the generalities of 'minimal  
15 contact,' that contact must be of significance. **In this case it must amount to**  
16 **owning property or doing business within this state.**

17 *McCulloch Corp. v. O'Donnell*, 83 Nev. 396, 398, 433 P.2d 839, 840 (1967).

18 In this case, Zandian owns property and does business within the forum state. As a  
19 result, Zandian's forum activities are so "substantial" or "continuous and systematic" that he  
20 may be deemed present in the forum and therefore general jurisdiction is appropriate.

21 In fact, Zandian currently owns real property throughout Nevada. He owns two  
22 properties in Clark County.<sup>4</sup> He owns 10 properties in Washoe County.<sup>5</sup> He owns and/or is  
23 partial owner of 6 properties in Lyon County.<sup>6</sup> He is part owner of two properties in Churchill  
24 County.<sup>7</sup> He is part owner of one property in Elko County.<sup>8</sup>

25 With regards to doing business within Nevada, Zandian is a manager of 11000 Reno  
26 Highway, Fallon, LLC, a Nevada LLC that is in active status.<sup>9</sup> Currently, 11000 Reno  
27 Highway, Fallon, LLC is listed as the owner of 640 acres of real property in Churchill  
28 County.<sup>10</sup>

29 <sup>4</sup> See Zandian's Clark County property information, attached hereto as Exhibit 4.

30 <sup>5</sup> See Zandian's Washoe County property information, attached hereto as Exhibit 5.

31 <sup>6</sup> See Zandian's Lyon County property information, attached hereto as Exhibit 6.

32 <sup>7</sup> See Zandian's Churchill County property information, attached hereto as Exhibit 7.

33 <sup>8</sup> See Zandian's Elko County property information, attached hereto as Exhibit 8.

34 <sup>9</sup> See Zandian's manager information for 11000 Reno Highway, Fallon, L.L.C., attached hereto as Exhibit 9.

35 <sup>10</sup> See 11000 Reno Highway, Fallon, LLC's Churchill County property information, attached hereto as Exhibit  
36 10.

1 Zandian is a managing member and registered agent of Misfits Development LLC, a  
2 Nevada LLC in active status.<sup>11</sup> Zandian is a managing member and registered agent of Elko  
3 North 5<sup>th</sup> Avenue, LLC, a Nevada LLC in active status.<sup>12</sup> Zandian is a managing member and  
4 registered agent for Stagecoach Valley LLC, an active Nevada LLC.<sup>13</sup>

5 Zandian acted as the resident agent for a revoked Nevada limited liability company  
6 named Rock and Royalty LLC where Zandian's resident agent address was 1401 S. Las Vegas  
7 Boulevard, Las Vegas, Nevada 89104.<sup>14</sup> Zandian was a managing member of Gold Canyon  
8 Development LLC, a Nevada LLC that is now in default status.<sup>15</sup> Zandian was a managing  
9 member of High Tech Development LLC, a Nevada LLC that has been dissolved.<sup>16</sup> Zandian  
10 was a managing member of Lyon Park Development LLC, a Nevada LLC that has been  
11 dissolved.<sup>17</sup> Zandian was a managing member of Churchill Park Development LLC, a Nevada  
12 LLC that has been dissolved.<sup>18</sup> Zandian was a manager of Sparks Village LLC, a Nevada LLC  
13 that is in default status.<sup>19</sup> Zandian was president, secretary, treasurer, director and resident  
14 agent of Optima Technology Corporation, a now revoked Nevada close corporation.<sup>20</sup>  
15 Zandian was a managing member of I-50 Plaza LLC, a Nevada LLC in default status.<sup>21</sup>  
16 Zandian was a manager of Dayton Plaza, LLC, a Nevada LLC in default status.<sup>22</sup> Finally,  
17 Zandian was a manager of Reno Highway Plaza, LLC, a Nevada LLC in revoked status.<sup>23</sup>

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19 <sup>11</sup> See Zandian's managing member and resident agent information for Misfits Development LLC, attached hereto  
as Exhibit 11.

20 <sup>12</sup> See Zandian's managing member and resident agent information for Elko North 5<sup>th</sup> Avenue, LLC, attached  
hereto as Exhibit 12.

21 <sup>13</sup> See Zandian's managing member and resident agent information for Stagecoach Valley LLC, attached hereto as  
Exhibit 13.

22 <sup>14</sup> See Zandian's resident agent information for Rock and Royalty LLC, attached hereto as Exhibit 14.

23 <sup>15</sup> See Zandian's managing member information for Gold Canyon Development LLC, attached hereto as Exhibit  
15.

24 <sup>16</sup> See Zandian's managing member information for High Tech Development LLC, attached hereto as Exhibit 16.

25 <sup>17</sup> See Zandian's managing member information for Lyon Park Development LLC, attached hereto as Exhibit 17.

26 <sup>18</sup> See Zandian's managing member information for Churchill Park Development LLC, attached hereto as Exhibit  
18.

27 <sup>19</sup> See Zandian's manager information for Sparks Village LLC, attached hereto as Exhibit 19.

28 <sup>20</sup> See Zandian's information for Optima Technology Corporation, attached hereto as Exhibit 20.

<sup>21</sup> See Zandian's information for I-50 Plaza LLC, attached hereto as Exhibit 21.

<sup>22</sup> See Zandian's information for Dayton Plaza, LLC, attached hereto as Exhibit 22.

<sup>23</sup> See Zandian's information for Reno Highway Plaza, LLC, attached hereto as Exhibit 23.

1 Also, Zandian listed Carson City and Las Vegas addresses for his registered agent and  
2 officer information for Rock and Royalty LLC, Optima Technology Corporation, High Tech  
3 Development LLC, Lyon Park Development LLC, Churchill Park Development LLC, Sparks  
4 Village, LLC, I-50 Plaza LLC, Dayton Plaza, LLC, 11000 Reno Highway Fallon LLC, Misfits  
5 Development LLC, Elko North 5<sup>th</sup> Ave, LLC, and Stagecoach Valley LLC.<sup>24</sup>

6 As demonstrated above, Zandian clearly owns or partially owns 21 properties within  
7 and throughout the state of Nevada and Zandian clearly does a significant amount of business  
8 within the state. His property ownership holdings and his business dealings, alone, show that  
9 Zandian's forum activities are so "substantial" or "continuous and systematic" that he may be  
10 deemed present in the forum and therefore general jurisdiction is appropriate.

11 **C. NEVADA HAS ABROGATED THE DOCTRINE OF SPECIAL/GENERAL**  
12 **APPEARANCES**

13 Zandian argues that he is making a special appearance "for the purpose of testing both  
14 the sufficiency of service and the jurisdiction of the court; thus, Zandian has not consented to  
15 personal jurisdiction of any Nevada court by bringing the instant motion." *See Motion to*  
16 *Dismiss on a Special Appearance, dated 6/8/11, 2:12-15, on file herein.*

17 However, the Nevada Supreme Court has abrogated the doctrine of special/general  
18 appearances. *Hansen v. Eighth Judicial Dist. Court ex rel. County of Clark*, 116 Nev. 650,  
19 656, 6 P.3d 982, 985 (2000). "Now, before a defendant files a responsive pleading such as an  
20 answer, that defendant may move to dismiss for lack of personal jurisdiction, insufficiency of  
21 process, and/or insufficiency of service of process, and such a defense is not 'waived by being  
22 joined with one or more other defenses.' Alternatively, a defendant may raise its defenses,  
23 including those relating to jurisdiction and service, in a responsive pleading." *Hansen*, 116  
24 Nev. at 656, 6 P.3d at 986.

25 Zandian could have raised his alleged defenses of insufficiency of service of process  
26 and lack of jurisdiction in a motion to dismiss without waiving such defenses and his "special"  
27 appearance is a nullity. Therefore, Zandian's motion is merely a motion to dismiss. However,

28 <sup>24</sup> See Exhibits 10, 11, 12, 13, 14, 16, 17, 18, 19, 20, 21, and 22, attached hereto.