

UNITED STATES DISTRICT COURT

DISTRICT OF CONNECTICUT

DENIS MARC AUDET, MICHAEL  
PFEIFFER, DEAN ALLEN SHINNERS, and  
JASON VARGAS, Individually and on Behalf  
of All Others Similarly Situated,

Plaintiffs,

vs.

STUART A. FRASER, GAW MINERS, LLC,  
and ZENMINER, LLC, (d/b/a ZEN CLOUD),

Defendants.

Case 3:16-cv-00940

Hon. Michael P. Shea  
Courtroom 2

ECF Case

CLASS ACTION

FEBRUARY 23, 2017

DECLARATION OF COLIN M.  
WATTERSON IN SUPPORT OF  
PLAINTIFFS' MOTION FOR ENTRY OF  
DEFAULT ON FIRST AMENDED  
COMPLAINT AND FOR EXTENSION OF  
DEADLINE TO FILE MOTION FOR  
DEFAULT JUDGMENT

Declaration of Colin M. Watterson In Support of Plaintiff's Motion for Entry of Default on First Amended Complaint and For Extension of Deadline to File Motion for Default Judgment

I, Colin M. Watterson, declare as follows:

1. My name is Colin M. Watterson. I am over the age of twenty-one (21) and have personal knowledge of the facts stated in this declaration and believe they are true and correct.

2. I am an attorney in good standing with the State Bar of Texas and admitted to practice before the highest court in Texas. I am also admitted to practice in the United States District Court for the Southern District of Texas, the United States District Court for the Eastern District of Texas, the United States District Court for the Northern District of Texas, the United States Court of Appeals for the Sixth Circuit, and the United States Court of Appeals for the Federal Circuit.

3. I am an associate at the law firm of Susman Godfrey L.L.P. and represent the

Plaintiffs in the above-captioned action (“Action”). I submit this affidavit in support of Plaintiffs’ request that the Clerk enter default against Defendants GAW Miners, LLC and ZenMiner, LLC pursuant to Rule 55(a) of the Federal Rules of Civil Procedure.

4. The Summons, Complaint, Civil Cover Sheet, Order on Pretrial Deadlines, Standing Protective Order, and Electronic Filing Order in Civil Cases in this Action were served on Defendant GAW Miners, LLC via the Delaware Secretary of State by Granville Morris, a process server employed by Brandywine Process Servers, Ltd, who accomplished service on September 8, 2016, as set forth in Mr. Morris’s affidavit of service attached as Exhibit 1. The Summons, Complaint, Civil Cover Sheet, Order on Pretrial Deadlines, and Standing Protective Order in this Action were also served on Defendant GAW Miners, LLC via the Connecticut Secretary of State by Christine L. Foran, a process server employed by Connecticut Process Serving, LLC, who accomplished service on September 9, 2016, as set forth in Ms. Foran’s affidavit of service attached as Exhibit 2.

5. The Summons, Complaint, Civil Cover Sheet, Order on Pretrial Deadlines, Standing Protective Order, and Electronic Filing Order in Civil Cases in this Action were served on Defendant Zenminer, LLC via the Delaware Secretary of State by Granville Morris, a process server employed by Brandywine Process Servers, Ltd, who accomplished service on September 8, 2016, as set forth in Mr. Morris’s affidavit of service attached as Exhibit 3. The Summons, Complaint, Civil Cover Sheet, Order on Pretrial Deadlines, and Standing Protective Order in this Action were also served on Defendant Zenminer, LLC via the Connecticut Secretary of State by Christine L. Foran, a process server employed by Connecticut Process Serving, LLC, who accomplished service on September 9, 2016, as set forth in Ms. Foran’s affidavit of service attached as Exhibit 4.

6. Plaintiffs filed their First Amended Complaint on November 16, 2016.

7. Defendants GAW Miners, LLC and Zenminer, LLC, have failed to file or serve a pleading responsive to Plaintiffs' Amended Complaint within the time allowed under Rule 12(a) of the Federal Rules of Civil Procedure and the time to file a responsive pleading has not been enlarged or extended.

8. Plaintiffs respectfully request that the Clerk enter default against Defendants GAW Miners, LLC, and ZenMiner, LLC.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Dated: February 23, 2017

/s/ Colin M. Watterson  
Colin M. Watterson

# EXHIBIT 1

AO 440 (Rev. 01/09) Summons in a Civil Action (Page 2)

Civil Action No. 3:16-CV-00940-MPS

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)*

This summons for *(name of individual and title, if any)* GAW MINERS, LLC.  
was received by me on *(date)* 9/8/16

I personally served the summons on the individual at *(place)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_, or

I left the summons at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
\_\_\_\_\_, a person of suitable age and discretion who resides there,  
on *(date)* \_\_\_\_\_, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* KATRINA HARRIS (authorized person), who is  
designated by law to accept service of process on behalf of *(name of organization)* GAW MINERS, LLC.

C/O THE DELAWARE SECRETARY OF STATE 401 FEDERAL ST. DOVER, DE on *(date)* 9/8/16


I returned the summons unexecuted because \_\_\_\_\_, or

Other *(specify):*

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_

I declare under penalty of perjury that this information is true.

Date: September 8, 2016

  
\_\_\_\_\_  
*Server's signature*

GRANVILLE MORRIS PROCESS SERVER  
*Printed name and title*

BRANDYWINE PROCESS SERVERS, LTD  
PO BOX 1360  
WILMINGTON, DE 19899  
800-952-2288  
\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc:

SERVED: SUMMONS, COMPLAINT, CIVIL COVER SHEET, ORDER ON  
PRETRIAL DEADLINES, STANDING PROTECTIVE ORDER, ELECTRONIC  
FILING ORDER IN CIVIL CASES

SWORN TO ON 9/8/16



KEVIN DUNN  
NOTARY PUBLIC  
STATE OF DELAWARE

My Commission Expires September 27, 2016

# EXHIBIT 2

UNITED STATES DISTRICT COURT

DISTRICT OF CONNECTICUT

Denis Marc Audet, et al Plaintiffs

3:16 CV 00940 MPS

-v-

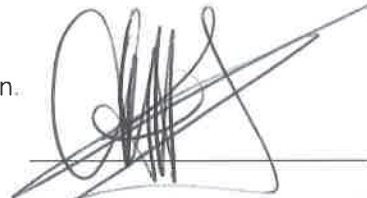
Homero Joshua Garza, et al, Defendants

THAT by and at the direction of the Attorney, on September 9 2016, 2016, 2013, I made due and legal service of the **Affidavit with Exhibit, Reissued Summons Summons in a Civil Action, Complaint, Civil Case Cover Sheet, Order on Pre Trial Deadlines, Standing Protective Order in Civil Cases** upon the within named defendant:

GAW Miners LLC, c/o  
The Secretary of The State  
30 Trinity Street  
Hartford, CT

By Dropping in Writ Box Two Copies per The Secretary of The State protocol

Sworn to and Subscribed before me on 9.9.2016  
by an affiant who is personally known to me or produced identification.



Christine L. Foran, Process Server

Amy Charney  
Notary Public, My Commission Expires: 3/31/18

UNITED STATES DISTRICT COURT  
DISTRICT OF CONNECTICUT

Denis Marc Audet, et al Plaintiffs

3:16 CV 00940 MPS

-v-

Homero Joshua Garza, et al, Defendants

THAT by and at the direction of the Attorney, on August 31, 2016, I made due and legal service of the **Summons in a Civil Action, Complaint, Civil Case Cover Sheet, Order on Pre Trial Deadlines, Standing Protective Order in Civil Cases** upon the within named defendant

GAW Miners, LLC  
"The Secretary"  
c/o VC Corp Services  
1811 Silverside Road  
Wilmington, DE 19810

By depositing at the East Hartford post Office, a verified true and attested copy of the original, certified mail, return receipt requested addressed to the within named defendant: **CERT MAIL # 7015 3430 0001 2027 0870**

THAT by and at the direction of the Attorney, on August 31, 2016, 2013, I made due and legal service of the **Summons in a Civil Action, Complaint, Civil Case Cover Sheet, Order on Pre Trial Deadlines, Standing Protective Order in Civil Cases** upon the within named defendant:

GAW Miners LLC, c/o  
The Secretary of The State  
30 Trinity Street  
Hartford, CT

Serving Dropping in Writ Box Two Copies and a \$50.00 fee per The Secretary of The State protocol

Sworn to and Subscribed before me on 9/1/16  
by an affiant who is personally known to me or produced identifi

Amy Chantry  
Notary Public, My Commission Expires 3/31/18

AMY J. CHANTRY  
NOTARY PUBLIC  
MY COMMISSION EXPIRES 3/31/18

0870 2027 0000 3430 0001 7015

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Return Receipt (electronic) \$

Certified Mail Restricted Delivery \$

Adult Signature Required \$

Adult Signature Restricted Delivery \$

Postage \$

Total Postage and Fees \$

Sent To GAW Miners LLC - The Secretary of the State

Street and Apt. No., or PO Box No. 1811 Silverside Rd

City, State, ZIP+4® Wilmington, DE 19810

EAST HARTFORD, CT 06108  
AUG 31 2016  
Postman Here

USPS

See Reverse for Instructions



# EXHIBIT 3

AO 440 (Rev. 01/09) Summons in a Civil Action (Page 2)

Civil Action No. 3:16-CV-00940-MPS

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)*

This summons for *(name of individual and title, if any)* ZENMINER, LLC  
was received by me on *(date)* 9/8/16

I personally served the summons on the individual at *(place)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_, or

I left the summons at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
\_\_\_\_\_, a person of suitable age and discretion who resides there,  
on *(date)* \_\_\_\_\_, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* KATRINA HARRIS (authorized person), who is  
designated by law to accept service of process on behalf of *(name of organization)* ZENMINER, LLC

C/O THE DELAWARE SECRETARY OF STATE 401 FEDERAL ST. DOVER, DE on *(date)* 9/8/16

I returned the summons unexecuted because \_\_\_\_\_, or

Other *(specify):*

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_

I declare under penalty of perjury that this information is true.

Date: September 8, 2016

\_\_\_\_\_  
*Server's signature*

GRANVILLE MORRIS PROCESS SERVER  
*Printed name and title*

BRANDYWINE PROCESS SERVERS, LTD  
PO BOX 1360  
WILMINGTON, DE 19899  
800-952-2288  
\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc:

SERVED: SUMMONS, COMPLAINT, CIVIL COVER SHEET, ORDER ON  
PRETRIAL DEADLINES, STANDING PROTECTIVE ORDER, ELECTRONIC  
FILING ORDER IN CIVIL CASES

SWORN TO ON 9/8/16

\_\_\_\_\_  
KEVIN DUNN  
NOTARY PUBLIC  
STATE OF DELAWARE

My Commission Expires September 27, 2016

# EXHIBIT 4

UNITED STATES DISTRICT COURT  
DISTRICT OF CONNECTICUT

Denis Marc Audet, et al Plaintiffs

3:16 CV 00940 MPS

-v-

Homero Joshua Garza, et al, Defendants

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The Secretary of The State  
30 Trinity Street  
Hartford, CT

By Dropping in Writ Box Two Copies per The Secretary of The State protocol

Sworn to and Subscribed before me on 9.9.2016  
by an affiant who is personally known to me or produced identification.



Christine L. Foran, Process Server

Amy Chantry  
Notary Public, My Commission Expires: 3/31/18

UNITED STATES DISTRICT COURT  
DISTRICT OF CONNECTICUT

Denis Marc Audet, et al Plaintiffs

3:16 CV 00940 MPS

-v-

Homero Joshua Garza, et al, Defendants

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Zenminer, LLC  
"The Secretary"  
c/o VC Corp Services  
1811 Silverside Road  
Wilmington, DE 19810

By depositing at the East Hartford post Office, a verified true and attested copy of the original, certified mail, return receipt requested addressed to the within named defendant: **CERT MAIL # 7015 3430 0001 2027 0863**

THAT by and at the direction of the Attorney, on August 31, 2016, 2013, I made due and legal service of the **Summons in a Civil Action, Complaint, Civil Case Cover Sheet, Order on Pre Trial Deadlines, Standing Protective Order in Civil Cases** upon the within named defendant:

Zenminer, LLC, c/o  
The Secretary of The State  
30 Trinity Street  
Hartford, CT

Serving Dropping in Writ Box Two Copies and a \$50.00 fee per The Secretary of The State protocol

Sworn to and Subscribed before me on 9/1/16  
by an affiant who is personally known to me or produced identification

Amy Chanmy  
Notary Public, My Commission Expires 3/31/18

8/12/16  
NOTARY PUBLIC  
AMY CHANMY

7015 3430 0001 2027 0863

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<input type="checkbox"/> Return Receipt (electronic)	\$
<input type="checkbox"/> Certified Mail Restricted Delivery	\$
<input type="checkbox"/> Adult Signature Required	\$
<input type="checkbox"/> Adult Signature Restricted Delivery	\$
Postage	\$
Total Postage and Fees	\$
Sent To	Zenminer, "The Secretary" c/o VC Corp Services
Street and Apt. No., or PO Box No.	1811 Silverside Rd
City, State, ZIP+4®	Wilmington, DE 19810