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10 *Attorneys for Plaintiff*

11 **UNITED STATES DISTRICT COURT**  
12 **DISTRICT OF NEVADA**

14 RIGHTHAVEN LLC, a Nevada limited-  
15 liability company,

16  
17 Plaintiff,

18 v.

19 EMTACITY.COM, an entity of unknown  
20 origin and nature; and CHRISTOPHER J.  
MALLEY, an individual,

21 Defendant.  
22

Case No.: 2:10-cv-0854-JCM-GWF

**MOTION FOR ENTRY OF  
CLERK’S DEFAULT WITH  
CERTIFICATE OF SERVICE**

23  
24 Plaintiff Righthaven LLC (“Righthaven”) hereby moves for entry of clerk’s default in the  
25 above captioned matter against Defendants CHRISTOPHER J. MALLEY d/b/a  
26 EMTACITY.COM (“Defendants”), pursuant to Rule 55(b) of the Federal Rules of Civil  
27 Procedure. On or about June 24, 2010, a process server effectuated service of Righthaven’s  
28 Summons and Complaint (Docket No.’s 1-0, 1-1, 5-0 and 5-1) in this matter personally upon

1 Defendant CHRISTOPHER J. MALLEY (“Mr. Malley”), as well as to EMTCITY.COM  
2 (“EMTCity”), in the care of Mr. Malley. *See*, Docket No. 7.

3 Since that date, Mr. Malley, on behalf of himself and EMTCity, retained counsel and  
4 filed a Motion to Dismiss (Docket No. 8), as well as a renewed Motion to Dismiss (Docket No.  
5 22). On January 24, 2011, this Court denied Defendants’ Renewed Motion to Dismiss (Docket  
6 No. 22). *See*, Docket No. 28. Defendants, represented by Michael J. McCue, Jonathan W.  
7 Fountain, and Nikkya G. Williams of LEWIS AND ROCA LLP, have since failed to file an  
8 answer to Plaintiff’s Complaint, pursuant to Fed.R.Civ.P. 12(a)(4), which was due on or before  
9 February 7, 2011.

10 As Defendants failed to respond to Righthaven’s Complaint within the time prescribed by  
11 the Federal Rules of Civil Procedure, as described in the accompanying Declaration of Anne E.  
12 Pieroni, Esq., Righthaven hereby moves for entry of clerk’s default by the Clerk of this Court  
13 against Mr. Malley and EMTCity.

14 Dated this 11<sup>th</sup> day of March, 2011.

15  
16 RIGHTHAVEN LLC

17 By: /s/ Anne E. Pieroni, Esq.  
18 ANNE E. PIERONI, ESQ.  
19 Nevada Bar No. 9650  
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*Attorneys for Plaintiff*

**DECLARATION OF ANNE E. PIERONI, ESQ.**

Anne E. Pieroni, Esq., declares under the pains and penalties of perjury:

1. I am an attorney-at-law admitted to practice in all courts of the State of Nevada. I represent Righthaven LLC (“Righthaven”) in the matter of *Righthaven LLC v. EMTCITY.COM*, Case No. 2:10-cv-00854-HDM-PAL, in the United States District Court for the District of Nevada.

2. I am over eighteen years old and I am competent to testify to the matters set forth herein.

3. The issuance of the Executed Summonses (Docket No. 5-0, 5-1) occurred on or about June 4, 2010.

4. On or about June 24, 2010, a process server effectuated service of Righthaven’s Summonses and Complaint (Docket No.’s 1-0, 1-1, 5-0 and 5-1) in this matter on Mr. Malley personally.

5. Proof of Service of the Summonses and Complaint upon Defendants (Docket No. 7-0) was filed on June 30, 2011.

6. Defendants retained counsel and filed a Motion to Dismiss (Docket No. 8) and a Renewed Motion to Dismiss (Docket No. 22), which were denied by the Court’s Order, on January 24, 2011 (Docket No. 28).

7. Defendants’ answer/response to Plaintiff’s Complaint was due within fourteen (14) days after receiving notice of the Court’s Order, pursuant to Fed.R.Civ.P. 12(a)(4), which was on or before February 7, 2011.

8. Defendants have failed to file an answer or otherwise respond to Righthaven’s Complaint, since the Court’s Order on January 24, 2011.

Signed and affirmed this 11<sup>th</sup> day of March, 2011 under the pains and penalties of perjury of the State of Nevada and of the United States of America.

RIGHTHAVEN LLC

By: /s/ Anne E. Pieroni, Esq.  
ANNE E. PIERONI, ESQ.

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**CERTIFICATE OF SERVICE**

Pursuant to Federal Rule of Civil Procedure 5(b), I hereby certify that I am an employee of Righthaven LLC and that on this 11<sup>th</sup> day of March, 2011, I caused **MOTION FOR ENTRY OF CLERK’S DEFAULT WITH CERTIFICATE OF SERVICE** to be to be served by the Court’s CM/ECF system.

By: /s/ Anne Pieroni  
An Employee of Righthaven LLC  
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