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11 *Vote for the Worst LLC,*
12 *Nathan E. Palmer*
13 *and David J. Della Terza*

14 **UNITED STATES DISTRICT COURT**

15 **DISTRICT OF NEVADA**

16 RIGHTHAVEN, LLC, a Nevada limited liability
17 company,

18 Plaintiff,

19 vs.

20 VOTE FOR THE WORST, LLC, an Utah
21 limited-liability company; NATHAN E.
22 PALMER, an individual; and DAVID J. DELLA
23 TERZA, an individual,

24 Defendants.

Case No. 2:10-cv-01045-KJD-RJJ

**PARTIES' JOINT STIPULATION TO
ADMIT EVIDENCE RELATING TO
PENDING MOTION TO DISMISS FOR
LACK OF SUBJECT MATTER
JURISDICTION**

**PARTIES' JOINT STIPULATION TO ADMIT EVIDENCE
RELATING TO PENDING MOTION TO DISMISS FOR LACK OF SUBJECT
MATTER JURISDICTION**

Righthaven LLC ("Plaintiff"), by and through its counsel of record, and Defendants Vote for the Worst LLC, Nathan E. Palmer and David J. Della Terza (collectively, the "Defendants"), by and through his counsel of record, known together herein as the "parties," hereby notify the Court that they have stipulated to the admission of the attached evidence with respect to the Court's analysis of Defendants' pending Motion to Dismiss (Docs. # 33, 43) and Plaintiff's Opposition (Doc. # 40).

A partially redacted, excerpted copy of the Operating Agreement of Righthaven LLC (the "Operating Agreement"), containing sections 3.2 and 19.4, is attached hereto as Exhibit A. This

1 evidence, in its complete and redacted form submitted is contained in the public record as an
2 exhibit to a filing in *Righthaven LLC v. DiBiase*, Case No. 2:10-cv-01343 (D. Nev. Apr. 17,
3 2011) (Doc. # 51). The public filing in the *Righthaven LLC v. DiBiase* occurred after briefing on
4 Defendants' Motion to Dismiss (Doc # 33) in this action had concluded. Moreover, given the
5 procedural posture of this action, the parties have not yet produced initial disclosures or
6 otherwise engaged in discovery efforts that would have resulted in the Operating Agreement's
7 production.

8 The parties acknowledge the potential relevance of the submitted portions of the
9 Operating Agreement with regard to their respective arguments. It is therefore agreed that the
10 submitted portions of the Operating Agreement may be admitted as part of the record for
11 purposes of adjudicating the pending Motion (Doc. # 33). As the portion of the Operating
12 Agreement attached as Exhibit A is available in this District's public records in a redacted and
13 complete format, it is judicially noticeable, and pursuant to the parties' agreement, it is deemed
14 admissible and is thereby included in the record for the Court's consideration in deciding the
15 pending Motion (Doc. # 33).

16 Dated May 24, 2011

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18 Respectfully Submitted,

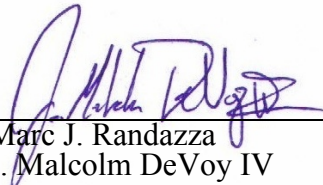
19 SHAWN A. MANGANO LTD.

RANDAZZA LEGAL GROUP

21
22 /s/ Shawn A. Mangano

23 _____
24 Shawn A. Mangano
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26 Suite 170
27 Las Vegas, NV 89129

28
29 Attorney for Plaintiff,
Righthaven LLC

30
31 
32 _____
33 Marc J. Randazza
34 J. Malcolm DeVoy IV

35 Attorneys for Defendants,
Vote for the Worst LLC, Nathan
E. Palmer and David J. Della
Terza

CERTIFICATE OF SERVICE

Pursuant to Federal Rule of Civil Procedure 5(b), I hereby certify that I am a representative of Randazza Legal Group and that on this 24th day of May, 2011, I caused the document(s) entitled:

PARTIES' JOINT STIPULATION TO ADMIT EVIDENCE RELATING TO PENDING MOTION TO DIMISS FOR LACK OF SUBJECT MATTER JURISDICTION

to be served as follows:

by depositing same for mailing in the United States Mail, in a sealed envelope addressed to Steven A. Gibson, Esq., Righthaven, LLC, 9960 West Cheyenne Avenue, Suite 210, Las Vegas, Nevada, 89129-7701, upon which first class postage was fully prepaid; and/or

Pursuant to Fed. R. Civ. P. 5(b)(2)(D), to be sent via facsimile as indicated; and/or

to be hand-delivered;

by the Court's CM/ECF system.

/s/ J. Malcolm DeVoy_____

J. Malcolm DeVoy