

RIDDER, COSTA & JOHNSTONE LLP
SAN FRANCISCO, CALIFORNIA

1 CHRIS K. RIDDER (*pro hac vice*)
2 Email: chris@rcjlawgroup.com
3 RIDDER, COSTA & JOHNSTONE LLP
4 California State Bar No. 218691
5 12 Geary Street, Suite 701
6 San Francisco, California 94108
7 Telephone: (415) 391-3311
8 Facsimile: (415) 358-4975

6 CHAD BOWERS
7 Email: bowers@lawyer.com
8 CHAD A. BOWERS, LTD
9 Nevada State Bar No. 7283
10 3202 West Charleston Boulevard
11 Las Vegas, Nevada 89102
12 Telephone: (702) 457-1001

11 Attorneys for Defendant and Counterclaimant
12 AZKAR CHOUDHRY, and Defendant and
13 PAK.ORG.

13 UNITED STATES DISTRICT COURT
14 DISTRICT OF NEVADA

15 RIGHTHAVEN LLC, a Nevada limited liability
16 company,

17 Plaintiff,

18 v.

19 AZKAR CHOUDHRY, an individual; and
20 PAK.ORG, a corporation of unknown origin
21 and nature,

21 Defendants.

22

AZKAR CHOUDHRY, an individual,

23 Counterclaimant,

24 v.

25 RIGHTHAVEN LLC, a Nevada limited
26 liability company,

27 Counter-defendant.

Case No. 2:10-cv-02155-MMD-PAL

**NOTICE OF RIGHTHAVEN’S NON-
OPPOSITION TO DEFENDANT AND
COUNTERCLAIMANT AZKAR
CHOUDHRY AND DEFENDANT
PAK.ORG’S STATUS REPORT AND
MOTION FOR JUDGMENT ON THE
PLEADINGS, WITH PREJUDICE**

1 PLEASE TAKE NOTICE that Plaintiff and Counter-defendant Righthaven LLC
2 (“Righthaven”) has failed to file a memorandum of points and authorities in opposition to
3 Defendant and Counterclaimant Azkar Choudhry and Defendant Pak.org’s Status Report and
4 Motion for Judgment on the Pleadings, With Prejudice (the “Motion for Judgment”). See Docket
5 No. 43, *filed* December 24, 2012. Pursuant to Local Rule 7-2(d), this failure to file an opposition
6 constitutes Righthaven’s consent to the requested order. Therefore, for the reasons set forth both
7 in the previous filing, see Docket No. 43, and below, Defendant and Counterclaimant Azkar
8 Choudhry and Defendant Pak.org (collectively, “Choudhry”) respectfully asks this Court to grant
9 the unopposed Motion for Judgment.

10 **STATEMENT OF FACTS**

11 Choudhry filed the Motion for Judgment on December 24, 2012. Under District of
12 Nevada Local Rule 7-2(b), “points and authorities in response [to a motion] shall be filed and
13 served by an opposing party fourteen (14) days after service of the motion.” Righthaven was thus
14 required to file a response to Choudhry’s Motion for Judgment no later than January 10, 2013.
15 As of the date of this filing, Righthaven has not filed or served any response in opposition to the
16 Motion for Judgment.

17 **MEMORANDUM OF POINT AND AUTHORITIRES**

18 **A. Righthaven’s Failure to File an Opposition Constitutes Consent Under District 19 of Nevada Local Rule 7-2(d).**

20 Local Rule 7-2(d) states that the “failure of an opposing party to file points and
21 authorities in response to any motion shall constitute a consent to the granting of the motion.”
22 The Ninth Circuit has repeatedly found implicit consent under Local Rule 7-2(d) when a party
23 fails to file an opposition. *See Trice v. Clark County School Dist.*, 376 Fed. Appx. 789, 790 (9th
24 Cir. 2010) (unpublished) (affirming dismissal after party failed to file an opposition with time
25 constraints of Local Rule 7-2(d)); *Powell v. DEF Express, Inc.*, 265 Fed. Appx. 672, 675 (9th
26 Cir. 2008) (unpublished) (same); *Kearns v. Comba*, 252 Fed. Appx. 141 (9th Cir. 2007)

1 (unpublished) (affirming grant of summary judgment in favor of defendants when plaintiffs
2 failed to respond to motion under Local Rule 7-2(d)).

3 Thus, under Local Rule 7-2(d), Righthaven has consented to Choudhry’s Motion for
4 Judgment.

5 **CONCLUSION**

6 For the reasons set forth in the previously filed Motion for Judgment, and for the reason
7 set forth above, Choudhry respectfully requests that this Court grant the uncontested Motion for
8 Judgment. A proposed order was attached thereto as Docket No. 43-1.

9
10 Dated: January 14, 2013.

RIDDER, COSTA & JOHNSTONE LLP

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12 By: /s/
CHRIS K. RIDDER
Ridder, Costa & Johnstone LLP
13 CA State Bar Number: 218691 (*pro hac*
14 *vice*)
12 Geary Street, Suite 701
15 San Francisco, CA 94108

16 CHAD A. BOWERS, LTD.

17 By: /s/
CHAD A. BOWERS
18 NV State Bar Number: 7283
3202 W. Charleston Blvd.
19 Las Vegas, Nevada 89102

20 Attorneys for Defendant and Counterclaimant
21 AZKAR CHOUDHRY and Defendant PAK.ORG.
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CERTIFICATE OF SERVICE

Pursuant to Federal Rule of Civil Procedure 5(b), I hereby certify that I am a representative of Azkar Choudhry and Pak.org and that on this 14th day of January, 2013, I caused NOTICE OF RIGHTHAVEN’S NON-OPPOSITION TO DEFENDANT AND COUNTERCLAIMANT AZKAR CHOUDHRY AND DEFENDANT PAK.ORG’s STATUS REPORT AND MOTION FOR JUDGMENT ON THE PLEADINGS, WITH PREJUDICE to be served by the Court’s CM/ECF system.

RIDDER, COSTA & JOHNSTONE LLP

By: /s/

Benjamin A. Costa

CA State Bar Number: 245953

Email: ben@rcjlawgroup.com

12 Geary Street, Suite 701

San Francisco, California 94108

Telephone: (415) 391-3311

Facsimile: (415) 358-4975

*Attorneys For Defendant and Counterclaimant
Azkar Choudhry and Defendant Pak.org*

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SAN FRANCISCO, CALIFORNIA

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