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12 *Wayne Hoehn*

13 **UNITED STATES DISTRICT COURT**

14 **DISTRICT OF NEVADA**

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

17 Plaintiff,

18 vs.

19 WAYNE HOEHN, an individual,

20 Defendant.

Case No. 2:11-cv-00050

**NOTICE OF PLAINTIFF'S NON-
OPPOSITION TO DEFENDANT'S
MOTION FOR WRIT OF BODY
ATTACHMENT**

**NOTICE OF PLAINTIFF RIGHTHAVEN LLC'S NON-OPPOSITION TO
DEFENDANT'S MOTION FOR WRIT OF BODY ATTACHMENT**

21 Defendant Wayne Hoehn ("Hoehn"), through his attorneys, files this Notice with respect
22 to his pending Motion for Judgment Debtor Examination, filed on December 19, 2011 (Doc. #
23 68). To date, Plaintiff Righthaven LLC ("Righthaven") has not filed the notice required by this
24 Court's December 12 Order granting Hoehn's Motion for a Receiver's appointment (*see* Docs. #
25 62, 66), and the Receiver's recent report indicates that this transfer of rights has not yet occurred
26 (Doc. # 70).

27 At present, Righthaven has not filed a memorandum of law and points of authority in
28 opposition to Hoehn's Motion seeking a writ of body attachment. Under Local Rule 7-2(d), this
failure to oppose Hoehn's motion constitutes Righthaven's concession to the pending Motion's
desired relief. As seen in the recently filed Receiver's Report, Righthaven's counsel was aware

1 of Hoehn's pending motion on December 21, 2011 (Doc. # 70-1 at 4). Nonetheless, Righthaven
2 has not opposed it within the period allowed by this District's Local Rules. It is well established
3 that a party's failure to timely oppose a motion constitutes the non-moving party's consent to
4 granting of the motion. *U.S. v. Warren*, 601 F.2d 471, 474 (9th Cir. 1979).

5 Local Rule 7-2(b) allows 14 days for the filing of responsive briefing. Even allowing an
6 additional three days for a filing to be made under Fed. R. Civ. P. 6(d), Righthaven's responsive
7 briefing would have been due on January 5, 2012. At the time of this filing, Righthaven has filed
8 no opposition in this matter. This is consistent with Righthaven's non-oppositions to Hoehn's
9 Motions seeking the appointment of a receiver and scheduling of a debtors examination (*see*
10 Docs. # 64, 65), and failure to appear at the January 5, 2012 debtors examination scheduled by
11 this Court on December 12 (Doc. # 67).¹

12 Righthaven is not entitled to a stay in this matter. (Docs. # 56, 57) Righthaven previously
13 moved both this Court and the Ninth Circuit Court of Appeals for a stay from the execution of
14 Hoehn's Judgment; both courts rejected this request. (*Id.*) Moreover, on November 1, 2011, this
15 Court granted Hoehn a writ of execution against Righthaven (Doc. # 59), which Hoehn has been
16 using in an effort to freeze and seize Righthaven's assets. (*See, e.g.*, Docs. # 61, 63)

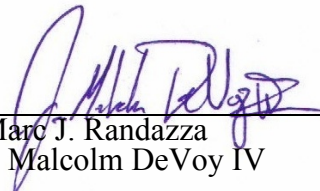
17 For the foregoing reasons, Hoehn respectfully requests that this Court grant his
18 unopposed motion (Doc. 68). The Court shall issue writs of body attachment for Steven A.
19 Gibson and Raisha Y. "Drizzle" Gibson, summoning them before this Court. The Court shall
20 then order the U.S. Marshals execute its above-described writs and apprehend these officers of
21 Righthaven, bringing them to the Court in order to complete the assignments necessary to
22 transfer Righthaven's intellectual property to the court-appointed Receiver, Ms. Pearson, for
23 auction (*see, e.g.*, Docs. # 62 Exhs C-F, 66, 70-5 at 4-8).

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26 ¹ Righthaven's counsel claims that it had miscalendared the January 5 examination for Friday, January 6, 2012.
27 Steve Green, *Righthaven Defendant Frustrated Again in Debt Collection Attempt*, Vegas Inc. (Jan. 6, 2012),
28 <http://www.vegasinc.com/news/2012/jan/06/righthaven-defendant-frustrated-again-debt-collect/> (last accessed Jan.
6, 2012). The undersigned are incredulous of this explanation in light of the many correspondences sent to
Righthaven's counsel from December 19, 2011 to December 29, 2011, reminding him of the debtors examination,
and even requesting confirmation that his client's officers would attend (Doc. # 70 Exhs. A-D).

1 Dated January 6, 2012

Respectfully Submitted,

2 RANDAZZA LEGAL GROUP

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5 Marc J. Randazza
6 J. Malcolm DeVoy IV

7 Attorneys for Defendant,
8 *Wayne Hoehn*

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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 Randazza Legal Group and that on this 6th day of January, 2012, I caused the document(s) entitled:

**NOTICE OF PLAINTIFF RIGHTHAVEN LLC'S NON-OPPOSITION TO
DEFENDANT'S MOTION FOR WRIT OF BODY ATTACHMENT**

and all attachments to be served as follows:

- Pursuant to Fed. R. Civ. P. 5(b)(2)(D), to be sent via facsimile as indicated; and/or
- by the Court's CM/ECF system.

/s/ J. Malcolm DeVoy_____

J. Malcolm DeVoy