

1 COLLEEN BAL (*pro hac vice*)
2 cbal@wsgr.com
3 WILSON SONSINI GOODRICH & ROSATI
4 650 Page Mill Road
5 Palo Alto, CA 94304-1050
6 Telephone: (650) 493-9300
7 Facsimile: (650) 493-6811

KURT OPSAHL (*pro hac vice*)
kurt@eff.org
CORYNNE MCSHERRY (*pro hac vice*)
corynne@eff.org
ELECTRONIC FRONTIER FOUNDATION
454 Shotwell Street
San Francisco, CA 94110
Telephone: (415) 436-9333
Facsimile: (415) 436-9993

6 CHAD BOWERS
7 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

10 Attorneys for Defendant & Counterclaimant
11 THOMAS A. DIBIASE

12 **UNITED STATES DISTRICT COURT**
13 **FOR THE DISTRICT OF NEVADA**

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

16 Plaintiff,)

17 v.)

18 THOMAS A. DIBIASE, an individual,)

19 Defendant.)

20 _____)
21 THOMAS A. DIBIASE, an individual,)

22 Counterclaimant,)

23 v.)

24 RIGHTHAVEN LLC, a Nevada Limited-)
25 Liability Company,)

26 Counter-defendant.)
27 _____)
28

CASE NO.: 2:10-cv-1343 RLH PAL

**[PROPOSED] ORDER SCHEDULING
JUDGMENT DEBTOR EXAMINATION
AND TO PRODUCE DOCUMENTS**

1 Pursuant to the Motion of the Judgment Creditor for issuance of this Court's Order
2 Scheduling Judgment Debtor Examination and Productions of Documents, and Good Cause
3 Appearing therefor,

4 Good cause appearing, IT IS HEREBY ORDERED that:

5 1. Steven Gibson, Chief Executive Officer of Plaintiff, Counter-defendant and
6 Judgment Debtor Righthaven LLC ("Righthaven"), shall personally appear before this Court on
7 _____ at _____ .m. in Courtroom _____ and shall be sworn to tell the
8 truth and give testimony at a Judgment Debtor Examination. Mr. Gibson shall be examined with
9 regard to the extent and location of Righthaven's assets that may be available for satisfying the
10 Judgment entered by this Court.

11 2. At least one week prior to the above-scheduled Judgment Debtor Examination,
12 Judgment Debtor shall produce the following documents to Kurt Opsahl, Electronic Frontier
13 Foundation, 454 Shotwell Street, San Francisco, CA 94110:

- 14 a. Any and all information and documentation identifying real property,
15 computers, intellectual property, vehicles, brokerage accounts, bank deposits
16 and all other assets that may be available for execution to satisfy the Judgment
17 entered by the Court, including, but not limited to, information relating to
18 financial accounts, monies owed to Righthaven by others, etc.
- 19 b. Documents sufficient to show Righthaven's balance sheet for each month for the
20 years 2010 through the present.
- 21 c. Documents sufficient to show Righthaven's gross revenues for each month for
22 the years 2010 through the present.
- 23 d. Documents sufficient to show Righthaven's costs and expenses for each month
24 for the years 2010 through the present.
- 25 e. All tax returns filed by Righthaven with any governmental body for the years
26 2010 through the present, including all schedules, W-2s and 1099s.
- 27 f. All of Righthaven's accounting records, computerized, electronic and/or in
28 printed or paper format for the years 2010 through the present.

- 1 g. All of Righthaven's statements, cancelled checks and related banking documents
- 2 for any bank, brokerage or other financial account at least partially controlled by
- 3 Righthaven, or recorded in the name of Righthaven or one of its directors or
- 4 officers for Righthaven's benefit, for the years 2010 through the present.
- 5 h. All of Righthaven's checkbooks, checkbook stubs and checkbook entries for the
- 6 years 2010 to the present.
- 7 i. Documents sufficient to identify the "significant intangible assets" referenced on
- 8 page 11 of *Righthaven LLC v. Hoehn*, Case No. 2:11-cv-00050-PMP-RJJ,
- 9 Dkt. 52.
- 10 j. Documents sufficient to identify the "significant proprietary rights in its
- 11 copyright infringement search engine software" referenced on page 13 of
- 12 *Righthaven LLC v. Hoehn*, Case No. 2:11-cv-00050-PMP-RJJ, Dkt. 52.
- 13 k. Documents sufficient to identify to the "Business Method IP" referenced in
- 14 Exhibit 9.1(A) of the Righthaven Operating Agreement, as produced with
- 15 Righthaven's Fifth Supplemental Initial Disclosures.
- 16 l. Documents sufficient to show the means and source of payment of the appeal
- 17 fee in the appeal of *Righthaven LLC v. Newman*, Case No. 2:10-cv-01762-JCM-
- 18 PAL, on or around November 7, 2011, receipt number 0978-2175649.
- 19 m. Documents sufficient to show the means and source of payment of any rent or
- 20 other monies paid for the use of 4475 South Pecos Road, Las Vegas, Nevada.
- 21 n. Documents sufficient to show the means and source of payment of Righthaven's
- 22 outside counsel in this matter.
- 23 o. Any settlement agreements by which another party has agreed to pay money to
- 24 Righthaven, such as, but not limited to, the settlement agreement referenced in
- 25 *Righthaven LLC v. Rawlings*, Case No. 2:10-cv-01527-JCM-GWF, Dkt. 25.

26 3. At least one week prior to the above-scheduled Judgment Debtor Examination,
27 Judgment Debtor shall produce documents sufficient to show the whereabouts of the following to
28 Electronic Frontier Foundation, 454 Shotwell Street, San Francisco, CA 94110:

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- a. Each of the “dedicated cellular telephone[s] for use on Company business” referenced in Section 6 (Benefits) of the employment agreements with Steven Gibson, Raisha Gibson, and David Brownell.
- b. Each of the “dedicated laptop computer[s] for use on Company business” referenced in Section 6 (Benefits) of the employment agreements with Steven Gibson, Raisha Gibson, and David Brownell.
- c. The “Additional Furniture/Phone” listed in Exhibit 13 (Budget) to the Righthaven Operating Agreement as produced in the Fifth Supplemental Initial Disclosures.
- d. The computer equipment, cell phones, printers, furniture and other property listed on the following excerpt from the Fifth Supplemental Initial Disclosures:

	Start up
Computer Equipment	
Server	\$ 5,000.00
Desktops	\$ 10,000.00
Laptops	\$ 5,000.00
Cell Phones	\$ 1,500.00
Printers	\$ 1,500.00
Phone System	\$ 7,500.00
Network Switches	\$ 1,000.00
Security	
Email--Barracuda/Defender	\$ 1,000.00
Power--Battery Backup	\$ 500.00
Physical Intrusion--Cameras	\$ 1,000.00
Network Intrusion--Firewall	\$ 2,000.00
Software	\$ 22,500.00
Local Counsel Retainers	\$ 15,000.00
Tenant Improvements	\$ 5,000.00
Furniture	\$ 20,000.00
Section 5.10 Reimbursement	\$ 21,000.00
Totals	\$ 119,500.00

- e. Any other computers equipment, cell phones, or other similar assets that are now, or have been since January 2010, owned by Righthaven.
- f. To the extent that any of the above referenced property is not current owned by Righthaven or is not currently in Righthaven’s possession, custody or control, Righthaven shall provide all documents that refer or relate to any disposition, sale or other transfer of ownership, possession, custody or control.

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4. Judgment Creditor shall personally serve the Judgment Debtor with a copy of this Order and shall provide proof of such service to the Court not less than five (5) days before the Judgment Debtor Examination.

5. Should Judgment Debtor fail or refuse to appear at the Judgment Debtor Examination herein scheduled, or to produce the documents referred to above, this Court may adjudicate the Judgment Debtor guilty of civil contempt for its orders and may issue a warrant or seizure order to compel compliance with this Order.

DATED and DONE this ____ day of _____, 2011.

UNITED STATES DISTRICT/MAGISTRATE JUDGE

Submitted by:
Kurt Opsahl

By: /s/ Kurt Opsahl
Kurt Opsahl, Esq.

