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11 Attorneys for Defendants / Counterclaim Plaintiffs
EVONY, LLC and REGAN MERCANTILE, LLC

12 **UNITED STATES DISTRICT COURT**
13 **NORTHERN DISTRICT OF CALIFORNIA (SAN FRANCISCO)**

14
15 HEROIC ERA, LTD.,
16 Plaintiff /
Counterclaim Defendant,
17
18 v.
19 EVONY, LLC, et al.,
20 Defendants /
Counterclaim Plaintiffs.

Case No. 10-cv-2458-SBA (BZ)
**COUNTERCLAIM PLAINTIFFS'
REQUEST FOR
TELEPHONIC HEARING**
The Honorable Sandra B. Armstrong
Magistrate Judge Bernard Zimmerman
Date: May 4, 2011
Time: 10:00 a.m.
Location: Courtroom G, 15th Floor

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22 Defendants / counterclaim plaintiffs Evony, LLC and Regan Mercantile, LLC
23 (collectively, "Evony") respectfully request that the Court permit Evony's counsel to attend the
24 hearing on Evony's motion for default judgment telephonically. The hearing is currently
25 scheduled for Wednesday, May 4, 2011 at 10:00 a.m. in Courtroom G, 15th Floor, before the
26 honorable Magistrate Judge Zimmerman. [Order Scheduling Hearing on Defendants' Motion for
27 Default Judgment, ECF No. 97].
28

1 Good cause exists for Evony's request to conduct the May 4, 2011 hearing telephonically.
2 First, plaintiff / counterclaim defendant Heroic Era, Ltd. ("Heroic Era") has not filed any
3 opposition to Evony's Motion for Default Judgment, which such opposition was due April 13,
4 2011. *See* L.R. 7-3(a) ("Any opposition to a motion must be served and filed not less than 21 days
5 before the hearing date."). Second, the Court is intimately familiar with this case and there are no
6 issues of fact to be determined because Heroic Era defaulted. Third, the calculation of damages in
7 this case rests primarily on statutory damages and a document produced by Heroic Era detailing
8 its revenues. Since Heroic Era has not opposed Evony's request for damages or the amount of
9 damages, the damages calculation is straightforward and does not require live testimony. Fourth,
10 the added expense of having to travel to California from Boston (the location of Evony's lead
11 counsel) for a hearing on an unopposed default judgment motion will add to the expenses already
12 unnecessarily incurred as a result of Heroic Era's decision to bring this suit then wait until the
13 close of discovery to default.

14 Additionally, the undersigned lead counsel for Evony, who will be attending the hearing, is
15 currently a member of the defense team in the matter of *Cornerstone Healthcare Group Holdings,*
16 *Inc. v. Reliant Hospital Partners*, Civil Action No. 11-04399, in the Dallas County District Court,
17 Texas. Presently, the parties in the action are engaged in emergency discovery in relation to
18 temporary injunctive relief. Over the next several weeks, Evony's counsel will be actively
19 participating in the emergency discovery, including traveling for depositions, relating to that case
20 and will be participating in the injunction hearing currently scheduled for May 6, 2011. Traveling
21 back and forth to San Francisco from Boston for a hearing on an unopposed motion would occupy
22 at least two days of counsel's time and significantly hinder counsel's ability to conduct the
23 emergency discovery and participate in the hearing in the aforementioned litigation.

24 In light of the foregoing, Evony respectfully requests that the Court permit Evony to
25 attend the hearing on May 4, 2011 by telephone. If the Court permits the hearing to be conducted
26 telephonically, Evony proposes that it proceed as previously recommended by this Court and will
27 contact CourtCall at 1-888-882-6878 to make arrangements for the telephonic hearing.
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Respectfully submitted,

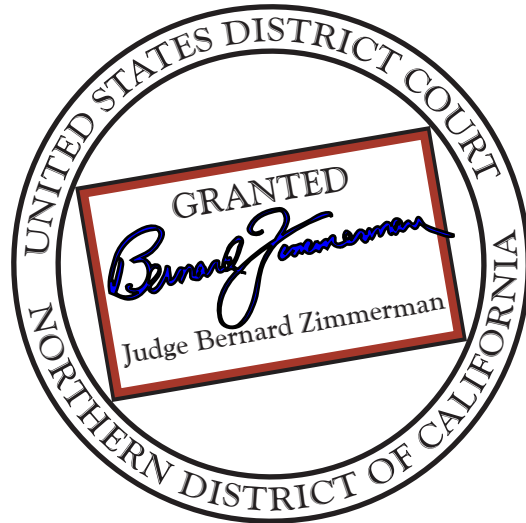
Dated: April 20, 2011

EDWARDS ANGELL PALMER & DODGE LLP

By: *Steven M. Cowley*

Steven M. Cowley
Andrew T. O'Connor
Joshua W. Gardner
Jon-Paul LaPointe

Attorneys for Defendants /
Counterclaim Plaintiffs
EVONY, LLC and REGAN MERCANTILE, LLC



DATED: 4/21/2011

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CERTIFICATE OF SERVICE

COMMONWEALTH OF MASSACHUSETTS, COUNTY OF SUFFOLK:

I, Andrew T. O'Connor, declare as follows:

I am employed in the County of Suffolk, Commonwealth of Massachusetts. I am over the age of 18 and not a party to the within-entitled action. My business address is 111 Huntington Avenue, Boston, Massachusetts 02119. On April 20, 2011, I served a true and correct copy of the following document(s) on all parties via the Court's ECF system:

**MEMORANDUM IN SUPPORT OF MOTION FOR
ENTRY OF DEFAULT JUDGMENT**

Derek Linke, Esq.
linke@newmanlaw.com

Derek A. Newman, Esq.
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Attorneys for Plaintiff Heroic ERA, Ltd.

I declare under penalty of perjury under the laws of the United States and the State of California that the above is true and correct. Executed on April 20, 2011, at Boston, Massachusetts.

/s/ Andrew T. O'Connor

Andrew T. O'Connor