1 John L. Krieger (Nevada Bar No. 6023) LEWIS AND ROCA LLP 2 3993 Howard Hughes Parkway, Suite 600 Las Vegas, Nevada 89169 3 Telephone: (702) 949-8200 Facsimile: (702) 949-8398 4 JKrieger@LRLaw.com 5 Attorneys for Defendants Vote for the Worst, LLC. 6 Nathan E. Palmer and David J. Della Terza 7 UNITED STATES DISTRICT COURT 8 9 DISTRICT OF NEVADA 10 RIGHTHAVEN, LLC, a Nevada limited-Case No.: 2:10-CV-01045-KJD-RJJ liability company 11 Plaintiff, DECLARATION OF DAVID J. DELLA 12 VS. TERZA IN SUPPORT OF DEFENDANTS' MOTION TO DISMISS 13 VOTE FOR THE WORST, LLC, an Utah FOR LACK OF SUBJECT MATTER limited-liability company; NATHAN E. JURISDICTION AND LACK OF PALMER, an individual; and DAVID J. 14 PERSONAL JURISDICTION DELLA TERZA, an individual 15 Defendants. 16 17 I, David J. Della Terza, declare under penalty of perjury pursuant to the laws of the United 18 States that the following are true: 19 20 1. I have personal knowledge of the facts set forth below, except for those statements 21 made on information and belief, and I am competent to testify regarding these facts and 22 statements. I declare that all statements made herein of my own knowledge are true and that all 23 statements made on information and belief are believed to be true. 24 2. I am a resident of the State of Illinois. I have never lived or worked in the State of 25 Nevada. 26 27

- I am co-owner of Vote for the Worst, LLC ("VFTW"), a Limited Liability Corporation incorporated and registered in the State of Utah. VFTW's principal place of business is also in Utah.
- 4. I did not post the allegedly infringing portion of an article, nor did I receive any notice that the portion of the allegedly infringing article had been posted on page 8 of one of VFTW's discussion forums. Neither the *Las Vegas Review Journal* nor Righthaven ever notified me or VFTW of the portion of the allegedly infringing article, nor did they ever request that the portion of the article be removed.
- 5. I do not have any contacts with Nevada, and I would suffer severe hardship in terms of cost and asymmetries of information if forced to defend a lawsuit in the District of Nevada. Outside counsel would have to be retained for representation in Nevada. Thus, I would incur significant costs to produce this evidence at trial. It would be plainly unfair for me to be called on to defend myself in a forum with which I have had no contacts and in which I did not anticipate causing injury.

EXECUTED this August 10, 2010

David J. Della Terza