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 11 *Vote for the Worst LLC,*
 12 *Nathan E. Palmer*
 13 *and David J. Della Terza*

14 **UNITED STATES DISTRICT COURT**
 15 **DISTRICT OF NEVADA**

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

Case No. 2:10-cv-01045-KJD-RJJ

18 Plaintiff,

**ORDER GRANTING
 PARTIES' JOINT STIPULATION TO
 ADMIT EVIDENCE RELATING TO
 PENDING MOTION TO DISMISS FOR
 LACK OF SUBJECT MATTER
 JURISDICTION**

19 vs.

20 VOTE FOR THE WORST, LLC, an Utah
 21 limited-liability company; NATHAN E.
 22 PALMER, an individual; and DAVID J. DELLA
 23 TERZA, an individual,
 24 Defendants.

**PROPOSED ORDER GRANTING PARTIES' JOINT STIPULATION TO ADMIT
 EVIDENCE RELATING TO PENDING MOTION TO DISMISS
 FOR LACK OF SUBJECT MATTER JURISDICTION**

25 THE COURT, having considered the parties' stipulation to admit new evidence (Doc. #
 26 44) with respect to the pending Motion to Dismiss (Doc. # 33) and related briefing (Docs. # 40,
 27 43), hereby GRANTS the parties' stipulation to admit the evidence attached as Exhibit A to their
 28 Stipulation (Doc. # 44-1), Sections 3.2 and 19.4 of Righthaven LLC's Operating Agreement.

This evidence is already on record in another case pending in this District, *Righthaven LLC v. DiBiase*, Case No. 2:10-cv-01343 (Doc. # 51) (D. Nev. Apr. 17, 2011). As such, it is judicially noticeable. The timing of the parties' stipulation and this Court's Order is proper

1 because this relevant evidence was not available to the Defendants at the time their Motion to
2 Dismiss (Doc. # 33) was filed. As the parties have not yet engaged in formal discovery pending
3 the resolution of this Motion to Dismiss, Defendants did not have access to this evidence before
4 it was placed on the public record in *DiBiase*. Moreover, the sections of the Operating
5 Agreement put before this Court are relevant to proving the parties' contentions as to the proper
6 ownership of the copyright underlying this litigation.

7 Therefore, **IT IS HEREBY ORDERED, ADJUDGED AND DECREED** that the
8 evidence submitted by the parties as Exhibit A to their Stipulation (Doc. # 44) is ADMITTED
9 and will be considered by the Court in conjunction with the Defendants' pending Motion to
10 Dismiss and related briefing.

11
12 **IT IS SO ORDERED:**

13 

14 **UNITED STATES DISTRICT COURT JUDGE**

15 **DATED:** 6/1/11