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 THOMAS A. DIBIASE

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

14 RIGHTHAVEN LLC, a Nevada limited-)
 15 liability 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-)
 liability company,)
 25 Counter-defendant.)
 26)
 27 _____)

CASE NO.: 2:10-cv-01343-RLH-PAL
**DEFENDANT-COUNTERCLAIMANT
 THOMAS A. DIBIASE'S MOTION TO
 FILE DOCUMENTS UNDER SEAL**

1 **MOTION TO FILE DOCUMENTS UNDER SEAL**

2 Defendant and Counterclaimant Thomas A. DiBiase (“Mr. DiBiase”) respectfully
3 requests that the Court permit him provisionally to file under seal portions of his Motion to
4 Dismiss for Lack of Subject-Matter Jurisdiction (“Motion to Dismiss,” Dkt No. 47), portions of
5 the Supporting Declaration of Bart E. Volkmer (“Volkmer Declaration,” Dkt No. 48), and
6 Exhibit B to that declaration (“Exhibit B”), pending a stipulation from the parties or a decision
7 by this Court concerning which portions—if any—of those materials should be made public.

8 Exhibit B to the Declaration of Bart E. Volkmer is a document produced by
9 Plaintiff/Counter-defendant Righthaven LLC (“Righthaven”) in this action. Righthaven
10 designated Exhibit B as “Confidential” under the Stipulated Protective Order entered by the
11 Court on April 5, 2011. Documents and information that have been designated by a party as
12 “Confidential” may not be filed publicly in the first instance. While Mr. DiBiase does not
13 believe that the entirety of Exhibit B is appropriately designated “Confidential” under either the
14 terms of the Stipulated Protective Order or the law concerning public access to judicial
15 documents, he is required at this time to seek permission to file that document under seal. The
16 same is true for portions of the Motion to Dismiss and the Declaration of Bart E. Volkmer that
17 quote from or describe the contents of Exhibit B.

18 While Mr. DiBiase is willing to allow Righthaven to redact certain sensitive information
19 from a public version of Exhibit B, Mr. DiBiase has requested that Righthaven agree to de-
20 designate portions of Exhibit B to allow for public disclosure, including the portions of Exhibit B
21 quoted and described in the Motion to Dismiss and Volkmer Declaration. *See Volkmer Decl.*,
22 ¶ 5. Provided an agreement can be reached with Righthaven, Mr. DiBiase intends to submit a
23 stipulation for the public filing of Exhibit B—redacted as may be agreed— as well as unredacted
24 versions of the Motion to Dismiss and Volkmer Declaration. If no such agreement can be
25 reached, Mr. DiBiase intends to file a motion to have portions of Exhibit B de-designated under
26 the protective order and to have the Motion to Dismiss and the Volkmer Declaration placed on
27 the public docket in unredacted form.

1 Accordingly, Mr. DiBiase requests that the Court allow him provisionally to file under
2 seal portions of the Motion to Dismiss, portions of the Volkmer Declaration, and Exhibit B,
3 pending an agreement of the parties concerning the appropriate level of confidentiality for these
4 materials, or a decision by the Court concerning this matter.

5 Dated: May 4, 2011

Respectfully submitted,

6 WILSON SONSINI GOODRICH & ROSATI
7 Professional Corporation

8 By: /s/ Bart E. Volkmer
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