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Attorneys for Plaintiff
CEATS, INC.

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA, SOUTHERN DIVISION

CEATS, INC.,

Plaintiff,

v.

RICHARD HALAVAIS,

Defendant.

CASE NO. SACV11-0190 DOC (MLGx)

CEATS' NOTICE OF MOTION AND MOTION FOR AN ORDER HOLDING DEFENDANT HALAVAIS IN CONTEMPT; RULE7-3 CERTIFICATION

Date of Hearing: September 12, 2011
Time of Hearing: 8:30 a.m.,
Location: Courtroom 9D

Filed concurrently with Memorandum of Points and Authorities; Declaration of Daniel R. Foster; and [Proposed] Order and Judgment.

NOTICE OF MOTION AND MOTION

PLEASE TAKE NOTICE that on September 12, 2011 at 8:30 a.m., or as or as soon thereafter as the matter may be heard (or otherwise scheduled by the Court), in Courtroom 9D of the above-entitled Court, located at 411 West Fourth Street, Santa Ana, California, before the Honorable David O. Carter, plaintiff CEATS, Inc. will respectfully move the Court for an order holding Defendant Richard Halavais in contempt.

This motion is based on the Memorandum of Points and Authorities and

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Declaration of Daniel R. Foster and the exhibits thereto, the pleadings and other orders in this matter, and all other matters that may be presented at the hearing.

On April 28, 2011, this Court ordered that before the Scheduling Conference, the parties "shall fully comply with the letter and spirit of Rule 26(a)." The Scheduling Conference has come and gone. Despite repeated requests, Mr. Halavais has refused to make his Rule 26(a) disclosures. Instead, Mr. Halavais has demanded that CEATS pay him $250,000 plus $5,000 a week for life (or for 15 years, whichever comes first) for the identification of the people Mr. Halavais asserts have knowledge of the parties' claims and defenses. Both Mr. Halavais' refusal to comply with the Court's April 28, 2011 Order, and his attempt to sell witness information, manifest his contempt for this Court and its processes. Mr. Halavais' contempt, at a minimum, warrants terminating sanctions and judgment against Mr. Halavais.

With this notice of motion, CEATS is filing a supporting memorandum of points and authorities and a proposed order and judgment. CEATS respectfully requests that the motion be granted.

LOCAL RULE 7-3 CERTIFICATION

This motion is made following the conference of counsel and Defendant pursuant to L.R. 7-3 which took place on June 23, 2011, when the undersigned, along with the undersigned's associate Eric Garcia, met in person with Defendant at his medical facility. The undersigned discussed with Mr. Halavais the court ordered disclosures. Thereafter, the undersigned has requested via e-mail that Defendant comply. (E-mail is the only way of communicating with Defendant, because he will not speak over the telephone.) Defendant has not complied with the Court's order. Defendant has been abusive in his communications with CEATS' counsel, including engaging in the activities complained of herein. Given that this motion seeks a finding of contempt and terminating sanctions, the undersigned believes that further efforts to resolve this issue without this Court's intervention

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would be futile.

Dated: August 8, 2011

Respectfully submitted,

By: /s/ Daniel R. Foster
DANIEL R. FOSTER
McDERMOTT WILL & EMERY LLP
FAY E. MORISSEAU
DANIEL R. FOSTER
GREG D. YODER
Attorneys for Plaintiff CEATS, INC.

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CERTIFICATE OF SERVICE

I am over the age of eighteen years and not a party to the within-entitled action. My business address is 18191 Von Karman Avenue, Suite 500, Irvine, CA 92612 . I served a copy of the foregoing as follows:

☐ I electronically filed the with the Clerk of the Court using the CM/ECF system/

☐ By transmitting via electronic mail the document(s) listed above to the email addresses set forth below on this date.

☒ By placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Irvine, California addressed as set forth below:

Mr. Richard Halavais
Cherry Valley Health Care
5800 W. Wilson, Room 113A
Banning, CA 92220

☐ By Personal Service: I served a true copy to each person[s] named at the address[es] shown.

☐ By Federal Express: I placed a true copy in a sealed envelope addressed as indicated above, on the above-mentioned date. I am familiar with the firm's practice of collection and processing correspondence for delivery by Federal Express. Pursuant to that practice, envelopes placed for collection at designated locations during designated hours are delivered to Federal Express with a fully completed air bill, under which all delivery charges are paid by McDermott Will & Emery LLP, that same day in the ordinary course of business

Executed on August 8, 2011 at Irvine, California.

/s/ Daniel R. Foster
Daniel R. Foster

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