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THE ORIGINAL TALK RADIO NETWORK, INC.

5 UNITED STATES DISTRICT COURT
6 NORTHERN DISTRICT OF CALIFORNIA
7 SAN FRANCISCO DIVISION
8

9 BRAVE NEW FILMS 501(c)(4),
10 Plaintiff,
11 vs.
12 MICHAEL WEINER aka MICHAEL
13 SAVAGE and ORIGINAL TALK RADIO
14 NETWORK, INC.,
15 Defendants

) Case No.: CV 08-4703 SI
)
) **DEFENDANT THE ORIGINAL TALK**
) **RADIO NETWORK, INC.'S NOTICE OF**
) **MOTION AND MOTION FOR**
) **SUMMARY JUDGMENT AND POINTS**
) **AND AUTHORITIES IN SUPPORT**
) **THEREOF**
)
) Date: April 3rd, 2009
) Time: 9:00 a.m.
) Location: Courtroom 10

16 [filed concurrently with proposed order]
17 Honorable Susan Illston

1
2 **TO ALL PARTIES AND THEIR COUNSEL OF RECORD:**

3
4 **PLEASE TAKE NOTICE** that, on April 3rd, 2009, at 9:00 a.m., in Courtroom 10 of the
5 above-captioned court, located at 450 Golden Gate Avenue, San Francisco, California 94102,
6 defendant THE ORIGINAL TALK RADIO NETWORK, INC., sued herein as Original Talk
7 Radio Network, Inc. (“**Defendant**”) will, and hereby does, move this Court for an Order granting
8 Summary Judgment in the above-captioned action (this “**Action**”) to OTRN against plaintiff
9 BRAVE NEW FILMS 501(c)(4) (“**Plaintiff**”) on all of Plaintiff’s claims.

10
11 This Motion is made pursuant to Federal Rule of Civil Procedure 56 and Civil L.R. 7-2
12 and 7-3 on the basis that Plaintiff’s complaint in this Action fails to establish any issue of
13 material fact requiring trial for resolution, and that Defendant is entitled to judgment as a matter
14 of law, as described with more particularity in the attached Memorandum of Points and
15 Authorities.

16
17 This Motion is based upon this Notice, the accompanying Memorandum of Points and
18 Authorities, all pleadings and other records on file with the Court in this Action, any reply, and
19 any additional argument or evidence which may be presented at or prior to the hearing on this
20 Motion.

21
22 Dated: February 27, 2009

23 By /s/ Benjamin Aaron Shapiro

24 Attorney for Defendant THE ORIGINAL
25 TALK RADIO NETWORK, INC.

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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2
3 Defendant THE ORIGINAL TALK RADIO NETWORK, INC., sued herein as Original
4 Talk Radio Network, Inc. ("**OTRN**" or "**Defendant**"), hereby moves, in the above-captioned
5 action (this "**Action**"), brought by plaintiff BRAVE NEW FILMS 501(C)(4) ("**Plaintiff**"), for an
6 Order granting Summary Judgment in favor of Defendant (the "**Motion**"), pursuant to FRCP 56,
7 on the grounds that the complaint in this Action (the "**Complaint**") fails to establish any issue of
8 material fact requiring trial for resolution and that Defendant is entitled to judgment as a matter
9 of law. All of the record evidence confirms that OTRN did not issue a "takedown notice" under
10 17 U.S.C. §512; that OTRN did not make any knowing misrepresentations under 17 U.S.C.
11 §512(f); that there is no causation for which OTRN is responsible; that Plaintiff alleges no
12 specific damages; that Plaintiff filed this Action in a clear attempt to target defendant MICHAEL
13 WEINER, aka MICHAEL SAVAGE ("**Savage**"), thus violating the Anti-SLAPP Statute under
14 CCP §425.16; and that no continuing controversy exists.

15
16 **I. STATEMENT OF UNDISPUTED FACTS**

17 OTRN is an Oregon corporation which maintains its principal place of business in
18 Oregon. OTRN produces, syndicates and distributes talk radio content, including without
19 limitation "The Michael Savage Show" (the "**Show**"), which is hosted by Savage. OTRN claims
20 the copyright to every airing of the Show except for that certain individual daily program of the
21 Show which aired on October 29, 2007 (the "**10/29/07 Program**").

22 On or before September 29, 2008, counsel for OTRN reviewed several hundred videos
23 posted on YouTube concerning the Show and/or Savage for possible copyright infringement.
24 After viewing several hundred such videos, counsel for OTRN delivered a letter addressed to
25 YouTube's "DMCA Complaints" on September 29, 2008 (the "**09/29/08 Notice**", attached
26 hereto as "**Exhibit A**"). The 09/29/08 Notice listed 259 videos posted at YouTube which
27 constituted a virtual library of archived material from the Show. One of the listed videos was
28 "Michael Savage Hates Muslims" (the "**Video**"), apparently produced by Plaintiff. As is clear

1 from the text of the 09/29/08 Notice itself, the 09/29/08 Notice was not directed toward one
2 particular video, but toward the vast compendium of videos containing content from the Show
3 posted at YouTube. The 09/29/08 Notice was not directed at either Plaintiff or any other
4 YouTube user, and was in fact directed toward YouTube only, with respect to the maintenance
5 of essentially a library of videos containing content from the Show. Defendant at no time
6 challenged Plaintiff's posting of the Video at Plaintiff's website.

7 Plaintiff alleges that on October 2, 2008, YouTube disabled access to the Video and
8 notified Plaintiff that the Video had been removed pursuant to the 09/29/08 Notice (Paragraph
9 24, line 3 of the Complaint). Plaintiff further alleges that it submitted a DMCA counter-notice to
10 YouTube (Paragraph 25, line 1), although such a counter-notice was not attached to Plaintiff's
11 complaint. Plaintiff delivered no such counter-notice to Defendant, and did not contact
12 Defendant concerning either the Video or the 09/29/08 Notice. Instead, Plaintiff precipitously
13 filed the Complaint, dated October 10, 2008, requesting declaratory and injunctive relief and
14 damages.

15 The Complaint specifically and maliciously targeted Savage, who was not a party to the
16 09/29/08 Notice, naming him as a party in this Action and making allegations about Savage's
17 purported "hateful views" (Paragraph 19, line 2) and "intolerance" (Paragraph 19, line 28), as
18 well as a baseless and irrelevant allegation about "Savage's retaliatory lawsuit against CAIR"
19 and "his attempts to censor CAIR by suing the group for copyright infringement" (Paragraph 19,
20 lines 4-6). Plaintiff also demonstrated its animus for Savage in its website posting, attached as
21 "**Exhibit B**" hereto, in which Plaintiff labeled Savage "a bully" who "derides, demeans, and
22 distorts those who don't agree with his hate-filled, right-wing agenda, and when that fails, he
23 files lawsuits." The words "he files lawsuits" link to a story about the case of *Savage v. CAIR*
24 previously pending in this Court (the "**CAIR Case**" and/or "**Savage v. CAIR**").

25 Once YouTube notified Defendant that YouTube would re-post the Video, Defendant did
26 not object to the re-posting.

27 Plaintiff further: (i) alleges that in addition to disabling access to the Video at YouTube,
28 YouTube disabled access to Plaintiff's entire YouTube channel; and (ii) acknowledges that

1 YouTube restored access to Plaintiff's entire channel, apparently within less than 24 hours. At
2 no time did Defendant request that YouTube remove Plaintiff's entire channel, nor did it have
3 the power to make such a request. According to the *Los Angeles Times*, YouTube cited
4 Plaintiff's repeated infringement of copyright for the removal of the entire channel (see "**Exhibit**
5 **C**").

6 While Plaintiff seems to claim in the Complaint that the Video was the focus of the
7 09/28/08 Notice, and essentially alleges that inclusion of the Video in the 09/29/08 Notice was
8 somehow an extension of the CAIR Case, and/or a pursuit of the same issues posed in the CAIR
9 case by Savage. However, as the 09/29/08 Notice clearly reflects, the 09/29/08 Notice clearly
10 dealt with the totality of 259 videos containing content from the Show posted on YouTube,
11 without any special focus whatsoever on the Video, and wholly independent of, and separate
12 from, either the CAIR Case or Savage.

13 Indeed, Plaintiff's fixation on the CAIR Case and resentment of Savage for the CAIR
14 Case is both perplexing and troubling, as Plaintiff was not a party to the CAIR Case, and no
15 party involved in the CAIR Case has anything to do with the issuance of the 09/29/08 Notice.
16 The attorney for OTRN who performed the review of more than 300 videos posted on YouTube
17 concerning either the Show or Savage, Benjamin Aaron Shapiro ("**Counsel**"), was, at the time, in
18 the early stages of his representation of OTRN, and had no knowledge of the CAIR Case.
19 Counsel also had no knowledge prior to the commencement of this Action that OTRN had
20 assigned the copyright to the 10/29/07 Program to Savage (the "**Assignment**"), and that the
21 10/29/07 Program was the one program, of thousands of daily weekday broadcasts of the Show,
22 to which OTRN did not claim the copyright.

23 In reviewing the more than 300 videos posted on YouTube which concerned Savage or
24 the Show, Counsel excluded from the scope of the 09/29/08 Notice those videos which did not
25 contain content understood by Counsel to be taken from the Show, and also excluded any videos
26 which Counsel believed to constitute legitimate "fair use" of content from the Show. After doing
27 so, Counsel then prepared a draft of the 09/29/08 Notice and an attachment to the 09/29/08
28 Notice (the "**Attachment**") identifying those 259 videos on YouTube which Counsel believed,

1 from his review of those 259 videos, constituted violations of OTRN's copyright interests with
2 respect to the Show (the "**259 Videos**").

3 Counsel performed his review of the content of the various videos posted on YouTube
4 that appeared on a You Tube listing for Savage (the "**You Tube Postings**") in cooperation with
5 Severaid & Glahn PC, a California law firm which also represents OTRN as an outside law firm
6 for OTRN. In this regard, Counsel communicated with Ronald H. Severaid ("**Severaid**"), who is
7 a member of Severaid & Glahn, PC and is also an officer of OTRN who spends substantial time
8 working in that capacity from OTRN's executive offices in Oregon, and Carter Glahn
9 ("**Glahn**"), who is located at the Severaid & Glahn, PC offices in Sacramento, California.

10 The text of the 09/29/08 Notice was reviewed briefly by Severaid and forwarded to Glahn
11 who made the final review and edits of the 09/29/08 Notice and issued the 09/29/08 Notice, with
12 the Attachment, from the offices of Severaid & Glahn, PC. Severaid and Glahn both saw, but
13 neither Severaid nor Glahn reviewed or edited, Counsel's itemization of the 259 Videos, nor did
14 they duplicate the substantial time required to review each of the 259 Videos.

15 Severaid did have a very limited familiarity with the existence of the CAIR Case, and
16 certain of the developments in it. However, this familiarity was quite limited, as OTRN was not
17 a party to the CAIR Case, and the CAIR Case was conducted by Savage wholly independent of
18 OTRN. Glahn did not have any knowledge of the CAIR Case prior to the commencement of this
19 Action.

20 The 09/29/08 Notice was neither intended to be, nor issued as, a "takedown notice" under
21 17 U.S.C § 512. Regardless of how the 09/29/08 Notice was allegedly treated by third parties,
22 the 09/29/08 Notice was intended to be, as was, simply a preliminary notice to YouTube that
23 OTRN claimed a copyright in 259 videos posted on YouTube's website and a demand that
24 YouTube cease and desist from posting material subject to OTRN's copyright claims on its site.

25 The 09/29/08 Notice had no relationship whatsoever to the CAIR Case. It was, in fact,
26 issued as a result of the magnitude of the total number of videos containing content from the
27 Show posted on YouTube's site.

1 Similarly, the 09/29/08 Notice was not issued on behalf of Savage, or as some form of
2 extension of claims made by Savage, at any time, in the CAIR Case. To the contrary, there was
3 no communication whatsoever to, from and/or between OTRN and Savage, or any representative
4 of Savage, with respect to the issuance of the 09/29/08 Notice. Savage did not request that it be
5 issued, and OTRN did not seek Savage's advice or authorization concerning the issuance of the
6 09/29/08 Notice, did not advise Savage or his representative of its intent to have the 09/29/08
7 Notice issued, and had not even sent an after-the-fact courtesy copy of the 09/29/08 Notice to
8 Savage or any representative of Savage at the time this Action was filed. The 09/29/08 Notice
9 also expressly disclaimed any suggestion that any portion of the 09/29/08 Notice was sent on
10 behalf of Savage.

11 Only after the filing of this Action and the delivery of copies of the Complaint by
12 Plaintiff's counsel to Severaid & Glahn, PC were any of Plaintiff's contentions in this Action
13 brought to the attention of OTRN. At that time, Severaid did review the one video placed in
14 issue by this Action, out of the totality of the 259 Videos, and ascertained that the Video did
15 appear to relate to the one daily program of the Show, out of thousands of such programs, that
16 OTRN did not claim the copyright on, due to OTRN's prior assignment of the copyright for that
17 one program alone to Savage.

18 From the moment OTRN learned that the Video related to the 10/29/07 Program, OTRN
19 has made no further claims with respect to the Video. The Complaint asserted that the Video
20 was being restored by YouTube, and, while OTRN was still in its initial review of the issues
21 posed by the Complaint, OTRN learned that the Video was in fact restored by YouTube.

22 Although the Complaint appears to allege that the Video was challenged specifically for
23 the purpose of revisiting some of the claims raised in the CAIR Case, the reality was that neither
24 Counsel nor Glahn had any knowledge of either the CAIR Case or the assignment of the
25 copyright to the 10/29/07 Program from OTRN to Savage, and, while Severaid knew of the
26 Assignment, due to the lack of any bearing of the CAIR Case on OTRN's determinations giving
27 rise to issuance of the 09/29/08 Notice, Severaid had not thought of either the CAIR Case or the
28 assignment of the copyright for the 10/29/07 Program from OTRN to Savage while

1 communicating with either Counsel or Glahn concerning the subject matter of the 09/29/08
2 Notice, and thus had not thought to expressly alert either of them to exclude any content from the
3 10/29/07 Program from the 09/29/08 Notice, or otherwise advise either Counsel or Glahn of the
4 Assignment.

5 As per the foregoing, it is clear that Defendant's inclusion of the Video in the 09/29/08
6 Notice was simply a good faith and honest mistake, and oversight, as to one out of 259 videos
7 giving rise to the 09/29/08 Notice. Plaintiff's allegations that Defendant purposefully and
8 willfully included the Video in the 9/29/08 Notice, knowing that Savage held the copyright to the
9 material at issue in the Video, in order to draw attention to the *CAIR Case* (Paragraphs 15-22),
10 or claims that OTRN knew of alleged similarities between the commentary at issue in *Savage v.*
11 *CAIR* and the Video, are wholly devoid of any evidentiary support, for the simple reason that
12 such allegations are wholly devoid of any factual basis, and are wholly untrue.

14 **II. LEGAL STANDARD FOR SUMMARY JUDGMENT**

15 Under Rule 56 of the Federal Rules of Civil Procedure, summary judgment is appropriate
16 when "there is no genuine issue as to any material fact and the moving party is entitled to
17 judgment as a matter of law." This does not mean that an alleged factual dispute can overcome a
18 properly submitted motion for summary judgment. Instead, a responding party must demonstrate
19 a genuine issue of material fact – if evidence "is merely colorable or is not significantly
20 probative summary judgment may be granted." See *Anderson v. Liberty Lobby, Inc.*, 477 U.S.
21 242, 248-250 (1986).

23 **III. THE COURT SHOULD GRANT SUMMARY JUDGMENT AS TO DEFENDANT 24 BECAUSE THERE IS NO GENUINE ISSUE OF MATERIAL FACT AND DEFENDANT IS ENTITLED TO JUDGMENT AS A MATTER OF LAW**

25 **A. Controlling Precedent Permits the Issuance of Good Faith Takedown Notices 26 Under the DMCA.**

27 Although the 9/29/08 Notice issued by Defendant does not meet the technical
28 requirements of a takedown notice under the DMCA, and was, indeed, merely a preliminary

1 notice/demand, Plaintiff makes its claim for damages and attorneys' fees based upon 17 U.S.C.
2 §512(f). That section provides:

3 **“Misrepresentations.** – Any person who knowingly materially misrepresents under this
4 section –

- 5 (1) that material or activity is infringing, or
6 (2) that material or activity was removed or disabled by mistake or misidentification,
7 shall be liable for any damages, including costs and attorneys' fees, incurred by the
8 alleged infringer, by any copyright owner or copyright owner's authorized licensee,
9 or by a service provider, who is injured by such misrepresentation, as the result of the
10 service provider relying upon such misrepresentation in removing or disabling access
11 to the material or activity claimed to be infringing, or in replacing the removed
12 material or ceasing to disable access to it.”

13 The standard is clearly knowing and material misrepresentation. The applicable standard
14 for such misrepresentation is *subjective* bad faith. See Rossi v. Motion Picture Ass'n of
15 America, Inc., 391 F.3d 1000, 1004 (9th Cir. 2004). In *Rossi*, the Motion Picture Association of
16 America believed that Michael J. Rossi's website, “internetmovies.com,” contained illegal
17 infringement of copyrighted material. The MPAA followed the “notice and takedown”
18 procedures of the DMCA and sent notices to both Rossi and Rossi's internet provider. After
19 receiving notice from his ISP that his website would be shut down, Rossi found a new ISP to
20 host internetmovies.com. According to Rossi, internetmovies.com was offline “[a]pproximately
21 1 second to 72 hours”. Rossi filed action, claiming that the MPAA had not had a “good faith
22 belief” of infringement. The Court found that “the ‘good faith belief’ requirement in
23 §512(c)(3)(A)(v) encompasses a subjective, rather than objective, standard.” See Rossi, 391 F.3d
24 at 1004. More specifically, the Court stated, “A copyright owner cannot be liable simply
25 because an unknowing mistake is made, even if the copyright owner acted unreasonably in
26 making the mistake. Rather, there must be a demonstration of some actual knowledge of
27 misrepresentation on the part of the copyright owner.” See Rossi, 391 F.3d at 1005.

28 Under *Rossi*, there is no doubt that the 09/29/08 Notice did not constitute a knowing
material misrepresentation. Defendant listed the Video among 258 other videos constituting a
virtual library of copyrighted material. It did not single out the Video in any way. Defendant did
not object to the re-posting of the Video, nor did it request the removal of Plaintiff's YouTube
channel.

1 In particular, an error/oversight as to 1 of 259 videos in a notice dealing with 259 videos
2 in their totality should not be deemed to be a material misrepresentation in any event. Similarly,
3 whether Severaid ideally should have thought of the Assignment and specifically alerted Counsel
4 and Glahn to check each of the Videos for the possibility it could involve the 10/29/07 Program,
5 Severaid's lack of perfect foresight in this instance, and the fact that OTRN's copyright claim as
6 to the Video, which was actually asserted by Glahn in the 09/29/08 Notice, was in fact in error,
7 simply does not constitute a *knowing* misrepresentation. As such, under the standard enunciated
8 in *Rossi*, OTRN simply cannot, as a matter of law, be held liable for the unknowing mistake
9 made by its representatives with respect to including, in a list of 259 videos, one video that
10 involved content taken from the one broadcast, out of eight years worth of daily weekday
11 broadcasts, to which OTRN did not in fact claim the copyright (unknown at the time to the
12 Counsel who reviewed the 259 Videos or the attorney who actually issued the 09/29/08 Notice
13 and made the representations contained therein).

14 **B. Cases Requiring Consideration of Fair Use Before Issuance of Takedown**
15 **Notices Are Both Non-Binding and Inapplicable.**

16 In an attempt to circumvent the clear ruling of *Rossi*, Plaintiff may attempt to rely on
17 *Lenz v. Universal Music Corp.*, 572 F.Supp.2d 1150 (N.D. Cal 2008). But that case is both non-
18 binding on this Court and easily distinguishable from the present instance. In *Lenz*, Plaintiff
19 Stephanie Lenz videotaped her young children dancing in her family's kitchen to Prince's "Let's
20 Go Crazy." That video was twenty-nine seconds long, and the music was only barely audible for
21 twenty of those seconds. Lenz uploaded that video to YouTube. Universal owned the copyright
22 to "Let's Go Crazy", and issued a takedown notice pursuant to the DMCA. Lenz sent YouTube
23 a DMCA counter-notification and asserted fair use. Lenz demanded that her video be reposted,
24 and YouTube reposted the video approximately six weeks later. Lenz then sued, and Universal
25 filed a motion to dismiss. The Court denied the motion to dismiss, stating that in order for the
26 "good faith" standard of §512(f) to be met for purposes of a motion to dismiss, the owner must
27 evaluate fair use claims. See *Lenz*, 572 F.Supp.2d 1150.

1 It is important to note, first, that *Lenz* denied a motion to dismiss. In *Lenz*, Judge Fogel
2 expressly noted his “considerable doubt” that the plaintiff in *Lenz* could prove subjective bad
3 faith as required by *Rossi*. In fact, Judge Fogel went even further, stating that the plaintiff’s
4 §512(f) claim and others like it “may be appropriate for summary judgment.” In this case, this
5 motion for summary judgment meets the standards expressed by Judge Fogel in *Lenz*, and should
6 be granted. In addition, as is addressed further below, OTRN did in fact evaluate, through
7 Counsel, potential fair use claims as to the 259 Videos, including without limitation the Video.

8 **C. Even If The *Lenz* Standard Is Extended To Cover Summary Judgment**
9 **Motions, Good Faith Belief In The 9/29/08 Notice Existed.**

10 Plaintiff asserts in the Complaint that the Video is “clearly fair use” (Paragraph 22, line
11 21) and thus beyond the possibility of any good faith claim. This is obviously erroneous.

12 Even were the Court to extend Judge Fogel’s decision in *Lenz* to encompass motions for
13 summary judgment – an extension even Judge Fogel questioned in *Lenz* – a reasonable good
14 faith belief in the copyright violation of the Video still exists. The Video, which runs one minute
15 and twenty-three seconds, contains nearly one minute of recorded copyrighted material, played
16 over several images of Savage, capped by a simple listing of Savage’s advertisers and a request
17 to visit an anti-Savage website. As such, unlike the situation in *Lenz*, in which the copyrighted
18 material was incidental background music (and even then probably not sufficient to withstand a
19 summary judgment motion as the dicta in *Lenz* suggested) – in this Action, the predominance of
20 copyrighted material (i.e. the quantity of copyrighted material exceeded the totality of all total
21 commentary – such that the commentary/message was in fact incidental to the copyrighted
22 material, as opposed to incidental use of copyrighted material). This distinction caused Counsel
23 to conclude, in good faith, that the nature and extent of the use of copyrighted material in relation
24 to the totality of the Video did not meet the test of fair use. The content of the Video certainly
25 sustains the veracity of good faith in the 9/29/08 Notice.

26 “Fair use is a mixed question of law and fact.” See Harper & Row Publishers, Inc. v.
27 Nation Enter., 417 U.S. 539, 560 (1985). The elements in determining fair use are listed in 17
28 U.S.C. §107:

- 1 (1) the purpose and character of the use, including whether such use is of a commercial
nature or is for nonprofit educational purposes;
- 2 (2) the nature of the copyrighted work;
- 3 (3) the amount and substantiality of the portion used in relation to the copyrighted work
as a whole; and
- 4 (4) the effect of the use upon the potential market for or value of the copyrighted work.

5 These elements demonstrate that even under the inapplicable *Lenz* standard, Defendant
6 had a good faith belief in the copyright infringement of the Video. The Video was one of 259
7 videos posted at YouTube containing copyrighted material from the Show. While Plaintiff is a
8 501(c)4, the amount and substantiality of the portion used in relation to the copyrighted work as
9 a whole is significant, particularly when the 259 Videos are taken together. The availability of
10 hundreds of videos of copyrighted material creates a virtual library which dramatically reduces
11 the value of the copyrighted material in its entirety.

12 Even leaving aside the 258 other videos, it is clear that the Video sustains a good faith
13 belief that the Video violated copyright protections. The first factor listed by the Copyright Act
14 – “the purpose and character of the use” -- cuts in Defendant’s favor. In *Los Angeles News*
15 *Service v. KCAL-TV Channel 9*, 108 F.3d 1119 (9th Cir. 1997), for example, a television station
16 news broadcast used 30 seconds from a copyrighted videotape of the 1992 Los Angeles beating
17 of Reginald Denny. The Court found that the television news station had violated copyright.
18 The Court stated, quoting *Harper & Row*, 471 U.S. at 560, “[t]he crux of the profit/non-profit
19 distinction is whether the user stands to profit from exploitation of the copyrighted material
20 without paying the customary price.” See *Los Angeles News Service*, 148 F.3d 994. The Video
21 presents a similar issue – Plaintiff claims in this Action that Plaintiff was using the Video to raise
22 money for itself. The Video opens by referring to Plaintiff. Plaintiff’s website solicits
23 donations. The Complaint acknowledges that Plaintiff uses YouTube as a way to raise money:
24 “Brave New Films’ entire YouTube channel is Brave New Films’ main channel of distribution
25 for its videos temporary disablement of Brave New Films’ channel caused damages to Brave
26 New Films, including the visibility Brave New Films had worked so hard to achieve” (Paragraph
27 26, lines 15-19).

1 The second factor determining fair use – the “nature of the copyrighted work” also cuts in
2 favor of Defendant. Courts usually distinguish “informational” works from “creative” works,
3 stating that creative works are “closer to the intended copyright protection.” *Campbell v. Acuff-*
4 *Rose Music, Inc.*, 510 U.S. 569, 586 (1994). The Show is a creative work; Savage’s style and
5 content are the main appeal of the Show. Plaintiff admits as much in the Complaint,
6 acknowledging that “Defendant Michael Weiner is a nationally syndicated talk show host who
7 *performs* under the name Michael Savage” (Paragraph 4, lines 6-7) (emphasis added). As a
8 creative work, the Show is entitled to more stringent copyright protection.

9 The third factor weighed in “fair use” cases is the amount and substantiality of the
10 portion used. Here, the length of the clip utilized is not dispositive. In *Roy Export Co. Estab. of*
11 *Vaduz v. Columbia Broadcasting Sys., Inc.*, 672 F.2d 1095 (2d. Cir. 1982), for example, the
12 Court found that a television news program could not use a one minute and fifteen second clip
13 from a 72-minute Charlie Chaplin film in reporting about Chaplin’s death, since the use was so
14 qualitatively or quantitatively substantial that it constituted an infringement. In this case,
15 Plaintiff asserts that Savage’s monologue was evocative of his entire body of work in titling the
16 Video “Michael Savage Hates Muslims” - the idea conveyed is that this clip represents Savage’s
17 entire worldview with regard to a particular religion as expressed on the Show.

18 The fourth factor weighed in “fair use” cases – the effect of the use upon the potential
19 market – also weighs in Defendant’s favor. This factor “requires courts to consider not only the
20 extent of market harm caused by the particular actions of the alleged infringer, but also ‘whether
21 unrestricted and widespread conduct of the sort engaged in by the defendant would result in a
22 substantially adverse impact on the potential market’ for the original.” See Campbell, 510 U.S.
23 at 590 (citing Nimmer § 13.05 [A] [4], p. 13-102.61 (footnote omitted)). In this case, it is
24 obvious that the type of infringement presented by the Video presents an enormous harm to
25 Defendant if such conduct were unrestricted and widespread. In fact, such conduct *is*
26 unrestricted and widespread – the 9/29/08 Notice dealt not with the Video, alone, but with the
27 totality of 259 videos involving content from the Show on a host of subjects, such that someone
28 desiring to go to archived content of the Show could spend hours listening to the copyrighted

1 content on YouTube rather than seek out such content through paying fees to OTRN to access its
2 archived material for the Show.

3 Examination of the four elements of “fair use” claims demonstrates that the 09/29/08
4 Notice’s copyright infringement claim has a good faith cognizable basis, both as to the totality of
5 the 259 Videos and as to the Video itself. Even if the Court were to find that the Video was fair
6 use (an inquiry which is moot/irrelevant now fact that OTRN makes no claims with respect to the
7 Video), it is clear that Defendant had a good faith belief in the violation of its copyright (and the
8 foregoing discussion is now advanced as a reflection of OTRN’s fair use evaluation through
9 Counsel – and not as a present challenge to the Video, since OTRN does not claim a copyright in
10 the 10/29/07 Program).

11 Recognizing the debatable nature of the Video’s “fair use” claim – and, by extension,
12 Defendant’s good faith belief in its 09/29/08 Notice -- Plaintiff alternatively alleges that
13 Defendant knew the Video to be fair use already. In particular, Plaintiff alleges that Defendant
14 knew that the material at issue in *Savage v. CAIR* was similar to the Video, and that Defendant
15 knew the result in *Savage v. CAIR* and its ramifications for the Video’s “fair use” claim. But,
16 Plaintiff presents no evidence to support this allegation. Defendant was not a party to *Savage v.*
17 *CAIR*, nor did Defendant’s Counsel who performed the fair use analysis know about either the
18 details of the case or its outcome (or, indeed, its existence) at the time of his fair use analysis of
19 the Video, or prior to the filing of the Complaint. The “good faith” nature of the “fair use” claim
20 of the Defendant must therefore be analyzed independent of *Savage v. CAIR*.

21 In fact, the material at issue in *Savage v. CAIR* is utterly unlike the material at issue in the
22 Video. In *Savage v. CAIR*, according to Plaintiff’s own complaint, CAIR “posted a detailed
23 criticism of Savage on its website (www.cair.com) entitled ‘National Radio Host Goes ON Anti-
24 Muslim Tirade’” (Paragraph 15, lines 2-3). The detailed criticism, which tallies 669 words, was
25 accompanied by four minutes of audio clips from the 10/29/07 Program. No such detailed
26 criticism by Plaintiff appears in the Video, other than a general admonishment of Savage, a list
27 of Savage advertisers, and a link to NoSavage.org. The use in the video is obviously not
28 transformative in the manner of the CAIR criticism.

1 Further, in *Savage v. CAIR*, Savage did not claim damages based on aggregated use of
2 copyrighted material. Defendant in this case claims that the unrestricted use of numerous
3 segments of the Show, in the aggregate, constitutes a substantial harm to Defendant by flooding
4 the market with copyrighted material from the Show.

5 In any event, Plaintiff's contentions to the effect that determinations as to the material at
6 issue in *Savage v CAIR* are dispositive, binding or otherwise applicable to the Video are wholly
7 without foundation, and indeed, frivolous. First and foremost, OTRN was not a party in *Savage*
8 *v. CAIR*. Secondly, as noted above, the material at issue is different in the two cases and a
9 determination as to one set of factual circumstances cannot be dispositive as to the proper
10 determination with respect to different factual circumstances, regardless of whether the Court
11 would agree with Plaintiff's legal contentions, or Counsel's legal analysis, should an actual fair
12 use determination be deemed to be necessary at some point in time.

13 Finally, OTRN retained Counsel to review the YouTube Postings and determine which
14 ones should be the subject of the 09/29/08 Notice. Plaintiff may disagree with the analysis by
15 Counsel. However, Counsel nevertheless reached his conclusions based upon his review of the
16 YouTube Postings, inclusive of the 259 Videos, and his interpretation of the applicable statutory
17 provisions and legal precedents, in good faith. Whether or not any of his interpretations are
18 considered to be erroneous, there was no knowing, material misrepresentation on his part, nor on
19 the part of OTRN which relied upon his judgment, review and analysis as to what videos should
20 be the subject of the 09/29/08 Notice.

21 **D. There Is No Ongoing Controversy.**

22 Plaintiff's claim for injunctive and declaratory relief is barred if no continuing
23 controversy exists with respect to Plaintiff's use of the Video. Under *EBay Inc. v.*
24 *Mercexchange, L.L.C.*, 126 S.Ct. 1837, 1839 (2006), permanent injunctive relief must satisfy a
25 four-factor test before a court may grant such relief. The plaintiff must demonstrate "(1) that it
26 has suffered an irreparable injury; (2) that remedies available at law, such as monetary damages,
27 are inadequate to compensate for that injury; (3) that, considering the balance of hardships
28 between the plaintiff and defendant, a remedy in equity is warranted; and (4) that the public

1 interest would not be disserved by a permanent injunction.” Similarly, under *Clark v. City of*
2 *Lakewood*, 259 F.3d 996, 1011 (9th Cir. 2001) (citations omitted), a cause of action becomes
3 moot “when the issues presented are no longer ‘live’ or the parties lack a legally cognizable
4 interest in the outcome.”

5 In this case, OTRN has never challenged Plaintiff’s use of the Video on its website, and
6 OTRN has made no objection to any use of the Video on YouTube, once OTRN was in fact
7 aware that it relates to the one broadcast of the Show which OTRN does not claim the copyright
8 to. A reference to the Video was mistakenly included in the 9/29/08 Notice, which addressed
9 259 videos. Any content posted by Plaintiff on YouTube and removed as a result thereof was
10 restored to YouTube within a short period of time without further objection by Defendant. No
11 irreparable injury exists under the *EBay* standard, since (1) Plaintiff has in fact suffered no
12 injury, as explained below, and (2) all possibility of continuing injury has already been
13 foreclosed by Defendant. Because Defendant has made no objection to any use of the Video
14 once OTRN was made aware that the Video relates to the 10/29/07 Program, the issue presented
15 is “no longer ‘live’” under *Clark*. Regardless of any prior circumstances, therefore, there is no
16 legal basis for issuance of any injunction in this Action, as there is, and can be, no actual
17 showing of ongoing or future actions by OTRN justifying any injunctive relief.

18
19 **E. All Possible Damages Are Speculative And Must Be Attributed to a Third**
20 **Party.**

21 In order for Plaintiff to establish damages attributable to Defendant, Plaintiff must first
22 establish causation. Under 17 U.S.C. 512(f), damages can be attributed to a party only if “the
23 service provider [relies] upon such misrepresentation in removing or disabling access to the
24 *material or activity claimed to be infringing* The only possible damages for Plaintiff to
25 claim against OTRN are those resulting from the removal of “material or activity claimed to be
26 infringing.” Defendant made no such claim with regard to Plaintiff’s entire channel, only with
27 regard to the Video. Plaintiff has demonstrated no loss of revenue as a result of the removal of
28 the Video alone (independent of any damages attributable to the short removal of Plaintiff’s

1 channel in an independent action by YouTube – if and to the extent Plaintiff could show any
2 damages at all). All of its claimed damages are speculative and would result from YouTube’s
3 unrequested removal of its entire channel based upon Plaintiff’s prior history with YouTube
4 wholly unrelated to OTRN. The 09/29/08 Notice does not mention Plaintiff by name, nor does it
5 request removal of any of Plaintiff’s material other than the Video.

6 Moreover, the Video’s period of removal from YouTube was short-lived in any event,
7 and, as the Video related to a broadcast (and controversy) which was almost a year old at the
8 time the 09/29/08 Notice was issued, the Video was rather stale besides. Any alleged damages
9 resulting from the removal of Plaintiff’s channel and/or the Video are therefore attributable to a
10 third party and/or otherwise not recoverable from OTRN in any event.

11
12 **F. The Complaint Is An Attempt To Target Savage and Defendant In Violation**
13 **of the Anti-SLAPP Statute.**

14 This Action seeks declaratory and injunctive relief and damages for the issuance of the
15 09/29/08 Notice by Defendant. The Complaint was issued precipitously, without first contacting
16 Defendant (which would have caused Defendant to revoke the 09/29/08 Notice with regard to the
17 Video), and was designed to target Savage. The Complaint, without any evidence to support its
18 contentions, and with all actual evidence to the contrary: (i) claims the involvement of Savage in
19 Defendant’s issuance of the 09/29/08 Notice; (ii) claims that Defendant had purported active
20 knowledge that the claims in the 09/29/08 Notice as to the Video were barred by rulings in the
21 *Savage v. CAIR* case; and (iii) expressly targets Savage by name for his beliefs and public
22 statements, which have nothing to do with any legitimate issues posed by this Action.

23 In targeting Savage, Plaintiff makes allegations about Savage’s purported “hateful views”
24 (Paragraph 19, line 2) and “intolerance” (Paragraph 19, line 28), as well as baseless allegations
25 about “Savage’s retaliatory lawsuit against CAIR” and “his attempts to censor CAIR by suing
26 the group for copyright infringement” (Paragraph 19, lines 4-6). Plaintiff also demonstrates its
27 animus for Savage in its website posting, attached as “**Exhibit B**”, in which Plaintiff labeled
28 Savage “a bully” and claimed that he “derides, demeans, and distorts those who don’t agree with

1 his hate-filled, right-wing agenda, and when that fails, he files lawsuits.” The words “he files
2 lawsuits” link to a story about *Savage v. CAIR*, demonstrating Plaintiff’s attempt to retaliate
3 against Savage for his lawsuit against CAIR which is wholly unrelated to issues in this Action,
4 and, quite frankly, are solely within the province of this Court in *Savage v. CAIR*, and not for
5 Plaintiff to address outside of the *Savage v. CAIR* case.
6

7 **IV. CONCLUSION**

8 For the foregoing reasons, this Court should grant Defendant’s motion for summary
9 judgment and enter judgment for Defendant on all causes of action in the Complaint.
10
11

12 Respectfully submitted,

13 /s/ Benjamin Shapiro

14 Benjamin Shapiro
15 Benjamin Shapiro Legal Consulting
16 12330 Magnolia Blvd., #114
17 Valley Village, CA 91607
18 (818)620-0137
19 Bshapiro708@gmail.com

20 Attorney for Defendant THE ORIGINAL
21 TALK RADIO NETWORK, INC.
22
23
24
25
26
27
28

1 **PROOF OF SERVICE BY E-MAIL**

2 I am employed in the County of Sacramento, California. I am over the age of eighteen
3 years and not a party to the within case. My business address is 1787 Tribute Rd., Suite D,
4 Sacramento, California 95815. On February 27, 2009, I served the attached

5 **DEFENDANT THE ORIGINAL TALK RADIO NETWORK, INC.'S NOTICE OF**
6 **MOTION AND MOTION FOR SUMMARY JUDGMENT AND POINTS AND**
7 **AUTHORITIES IN SUPPORT THEREOF**

8 on the interested parties in the above captioned action by E-mail as follows:

9
10 Anthony T. Falzone:
falzone@stanford.edu, asmith@law.stanford.edu

Christopher Kay Ridder:
cridder@stanford.edu

11 Julie Angela Aherns:
jaherns@law.stanford.edu

Sheila Marie Pierce:
Sheila.poerce@bingham.com,
ruth.difalco@bingham.com

13 William Frederick Abrams:
William.abrams@bungham.com

14
15 I declare under penalty of perjury that the foregoing is true and correct, and that this declaration
16 was executed on February 27, 2009 at Sacramento, California.

17
18 _____
/s/

19 Pam Sauter
20
21
22
23
24
25

EXHIBIT A

September 29, 2008

VIA E-MAIL, TELEFAX AND FEDERAL EXPRESS

DMCA Complaints
YouTube, Inc.
901 Cherry Ave.
Second Floor
San Bruno, CA 94066
Fax: (650) 872-8513
Email: copyright@youtube.com

Re: The Original Talk Radio Network Inc. v. YouTube, Inc., et al.

Dear YouTube, Inc.:

The information in this notification is accurate, and, under penalty of perjury, I state that this office represents the owner of an exclusive right infringed by the specified material.

This office has been retained by The Original Talk Radio Network ("OTRN") to take such actions as may be appropriate, including without limitation initiation of legal action for all proper relief, with respect to your repeated and ongoing unlawful actions in posting numerous segments from OTRN's "The Michael Savage Show" ("OTRN Content") on your YouTube.com website, including without limitation those certain segments identified in the list of OTRN Content currently posted on your website as of 4 PM Pacific Time on September 26, 2008, which is set forth as Appendix A hereto.

By this letter, OTRN is hereby serving formal notice on you that such actions are in violation of OTRN's exclusive rights with respect to the OTRN Content, and formally demanding that you immediately remove all OTRN Content from your website, and cease and desist all further publications, broadcasts, and/or reproductions of any and all OTRN Content, *immediately*. OTRN further demands that you confirm in writing to OTRN, forthwith, that you have removed all OTRN Content from the YouTube.com website, and that no further OTRN Content will be posted to that website, or any other website under your control, in the future, except, if at all, as shall be expressly permitted under a written license agreement duly executed by an authorized officer of OTRN.

Please be advised that OTRN reserves all of its rights with respect to your wrongful conduct to date in posting OTRN Content without authorization. Please also be advised that OTRN does not, by this letter, disclaim, release or speak for the separate rights of Michael Savage, and/or the separate rights of any other parties,

with respect to any content appearing on your website, and/or their recourse with respect to your actions and conduct.

The nature and substance of the next communication from this office will be dependent, in part, on whether you take immediate actions to eliminate such unlawful actions on a going forward basis.

Respectfully,

Carter Glahn

Carter Glahn

cc: Benjamin Shapiro, Esq.
Ian Boyd, Esq.
The Original Talk Radio Network, Inc.

**Appendix A: Certain OTRN Content Posted at YouTube.com as of 4 PM,
September 26, 2008**

Michael Savage on libs (listen fully)
<http://www.youtube.com/watch?v=f13Tp93c6aw>

Michael Savage hates Muslims
<http://www.youtube.com/watch?v=CtY-JWahHQs>

Michael Savage Ridiculously Goes Off on Gay Marriage
<http://www.youtube.com/watch?v=u7Ub6NfovCk>

Michael Savage: Black on White Hate Crime
<http://www.youtube.com/watch?v=DwoKQg3oHko>

Michael Savage: Making the World Safe for Theocracy
<http://www.youtube.com/watch?v=IU4UEegXJdo>

Michael Savage – Sarah Palin Must Withdraw From VP Slot Immediately to Save McCain Campaign (September 2, 2008)
<http://www.youtube.com/watch?v=PXMJVEewHuE>

Michael Savage discusses Pastor Rod Parsley's comments
<http://www.youtube.com/watch?v=dbJuHAB88dc>

Michael Savage Takes On Racist NOI Supporter
http://www.youtube.com/watch?v=pi-HP_oHZFU

Michael Savage Attacks a Dumb Liberal Named Dan on Politics
<http://www.youtube.com/watch?v=8x9sRiab05Y>

Michael Savage on Mitt Romney as President
http://www.youtube.com/watch?v=QjfH5VT_Xcl

Michael Savage How to Get Girls
<http://www.youtube.com/watch?v=lo0z4e09MXE>

Michael Savage on Fascist Caller
<http://www.youtube.com/watch?v=Kjog9dZLgqc>

Michael Savage on California's Gay Marriage – Part 1
<http://www.youtube.com/watch?v=CeY10oOSZIM>

Americans Against Hate Calls Michael Savage
<http://www.youtube.com/watch?v=nwrHnDwF6j4>

Michael Savage on the death of Tim Russert
<http://www.youtube.com/watch?v=zsTrqog-8e0>

Michael Savage interviews Rev. James Manning Part 1
<http://www.youtube.com/watch?v=I9qT4jLAjwQ>

Michael Savage: Islamborg and Islam Part 1
<http://www.youtube.com/watch?v=x7FUQCdc9ZA>

Michael Savage on Bush, Israel and the US
<http://www.youtube.com/watch?v=gHG7HxZGGWA>

Michael Savage: Islamberg and Islam Part 2
<http://www.youtube.com/watch?v=6KMVMOdRyS8>

Michael Savage Gets Pissed Off About Islam and Terrorists
<http://www.youtube.com/watch?v=BtpYJI06mcs>

Michael Savage on the Threat of Liberal Fascists Democrats
http://www.youtube.com/watch?v=1mXoF_-w_Vg

Michael Savage – Gay Mafia Trying Gods Patience!
http://www.youtube.com/watch?v=eM70_hLaC94

Michael Savage – Designa Vagina
<http://www.youtube.com/watch?v=g83404ewtCl>

Michael Savage Tries to Wake Up a Liberal Jew about Muslims
http://www.youtube.com/watch?v=zmr_PBNtErk

Michael Savage: Kosovo's Independence "Immoral," Part 2 of 2
http://www.youtube.com/watch?v=1cV0_AawP7c

Michael Savage: The Perfect Storm Is Coming
<http://www.youtube.com/watch?v=01SV4rrQK9o>

Michael Savage – 2002 Classic!
<http://www.youtube.com/watch?v=tNBpLXMXfSA>

Michael Savage: The Historical Truth About the Serbs/Kosovo
<http://www.youtube.com/watch?v=JfPKumQHts4>

Michael Savage Monday 28
http://www.youtube.com/watch?v=B_AhCuqKAA0

Michael Savage Hate Speech Exposed
<http://www.youtube.com/watch?v=rWGrgBKojXY>

Michael Savage on Obama's Women Problems and Mother Issues
<http://www.youtube.com/watch?v=ZtytCT08g-Q>

Michael Savage Talks To an African American Man about James Watson
http://www.youtube.com/watch?v=S_R9Zly2Cc4

Michael Savage 9/11 2001 Broadcast
<http://www.youtube.com/watch?v=3Jx9fqaZSxA>

Michael Savage Rants on Ignorant Black Muslims
<http://www.youtube.com/watch?v=DTjUZI53bFg>

Michael Savage A Day In the Life of Johnny Jihad
<http://www.youtube.com/watch?v=AP18VsZKFec>

Michael Savage interviews Rev. James Manning Part 2
<http://www.youtube.com/watch?v=Rb-U56UzMAI>

Michael Savage Talks to a Muslim about Radical Jihadist
<http://www.youtube.com/watch?v=xmTCk-ir3W4>

Michael Savage – Alan Dershowitz Bashing God
<http://www.youtube.com/watch?v=lZhyU0hoJfo>

Michael Savage on Sulejman talovic's shooting spree
<http://www.youtube.com/watch?v=jghiQ35BFGM>

Michael Savage on Rap Music and its Negative Role on Society
<http://www.youtube.com/watch?v=Xa1gsSHpdcl>

Michael Savage on "Global Warming" Caller
<http://www.youtube.com/watch?v=ddP2I97ypjw>

Michael Savage 2000 Classic – Shameless Clinton
<http://www.youtube.com/watch?v=kC1h9UJpY5Q>

The Best Rants of Michael Savage 2
<http://www.youtube.com/watch?v=aduY3bpgMw>

Michael Savage talks truth facts about the Serbian nation
<http://www.youtube.com/watch?v=t3k3P96fKiQ>

Michael Savage Explains the Mental Disorder of Liberalism
<http://www.youtube.com/watch?v=t0HCiPlIiGw>

Michael Savage – Lesbian Sex
<http://www.youtube.com/watch?v=fB2Sw4bDFW4>

Michael Savage – Liberal and Muslim Nuts
<http://www.youtube.com/watch?v=k24NTM2pU4>

Michael Savage Akbar! He is The Knight of True!
<http://www.youtube.com/watch?v=rnz62T4KbEk>

Michael Savage on Global Warming
<http://www.youtube.com/watch?v=RLxiZqtrhac>

Michael Savage: Freedom of Speech 1 of 7
<http://www.youtube.com/watch?v=AdupCC9tN68>

Michael Savage on a coming American Revolution
<http://www.youtube.com/watch?v=QZ8E1xixfcU>

Michael Savage on Sean Penn and Hugo Chavez
<http://www.youtube.com/watch?v=qfCFR6GIupA>

Michael Savage talks with Selwyn Duke about CAIR

<http://www.youtube.com/watch?v=FWv59IP4Pc4>

Michael Savage: Radical Islam
<http://www.youtube.com/watch?v=NfMSFjAoO3g>

Michael Savage announces formation of the Nationalist Party
<http://www.youtube.com/watch?v=EHU1NY6HYiA>

Michael Savage on Keith Ellison
<http://www.youtube.com/watch?v=eJOf9-u9nik>

Michael Savage on Feminization and Gay Agendas in our Future
http://www.youtube.com/watch?v=IJI5ZD2kY_1

Michael Savage Interviews Pat Buchanan 2002 1 of 2
<http://www.youtube.com/watch?v=8OFvnM4JACs>

Michael Savage Goes Into Talk Radio RAGE
<http://www.youtube.com/watch?v=2HiLrVSr-Jg>

Michael Savage on Rosie O'Donnell
<http://www.youtube.com/watch?v=SrTVjZxquOo>

Michael Savage on Hedge Funds and Aspartame
<http://www.youtube.com/watch?v=3GEcgJmwcyc>

Michael Savage on Deportation of Immigrants
<http://www.youtube.com/watch?v=GhgcdMmfPhI>

Michael Savage on the Anti-War Movement – Part 1 of 2
<http://www.youtube.com/watch?v=X5sZ1mvx4gg>

Michael Savage ~ Hispanics, gays, and Jews
http://www.youtube.com/watch?v=TXwm2_29giM

Michael Savage on Problems with Immigrants
http://www.youtube.com/watch?v=L_eSr7yiZF0
Michael Savage discusses Hollywood Leftists – Part 1
<http://www.youtube.com/watch?v=jweWdSaQUr8>

Michael Savage Radio Interview on Future Recession or Depression
http://www.youtube.com/watch?v=7QoN_DFcK-c

Michael Savage Talking to His Son Russell Weiner on 9/11 2001 Day of the Attack on Twin Towers
<http://www.youtube.com/watch?v=Y9qwCi-dIL8>

Michael Savage on Current Events – Part 4 of 7
<http://www.youtube.com/watch?v=7aHGITHiKpl>

Michael Savage on Current Events – Part 7 of 7
http://www.youtube.com/watch?v=aAmnuiGnk_Q

Michael Savage vs. Media Matters
<http://www.youtube.com/watch?v=V4g3P6LPFI>

Michael Savage on the Defeat of the Fairness Doctrine
<http://www.youtube.com/watch?v=siajFIQab3g>

Michael Savage is my Hero!
<http://www.youtube.com/watch?v=KZXZcr7vLI8>

Michael Savage Comments on I 35 Bridge Collapse
<http://www.youtube.com/watch?v=cRxBatJCBBU>

Michael Savage – the Million Mom March
<http://www.youtube.com/watch?v=bY4Y4XxKn4w>

Michael Savage: White Kids Aping the Styles of the Ghetto
<http://www.youtube.com/watch?v=NnDrBo0hdEo>

Michael Savage on Sushi Mercury Marijuana and Liberals
<http://www.youtube.com/watch?v=6y4wp2sErn4>

Michael Savage on Gay Mafia
<http://www.youtube.com/watch?v=xuyWvjHEbf8>

Michael Savage gets pranked by a fake muslim
<http://www.youtube.com/watch?v=3dEJcNhLwhA>

Michael Savage Discusses Immorality of Marijuana Use Today
<http://www.youtube.com/watch?v=i7oB8N-HBkQ>

Michael Savage on God and America
<http://www.youtube.com/watch?v=VrGx5Nhcwhw>

Michael Savage Talks to a Liberal Woman about the Gay Agenda
<http://www.youtube.com/watch?v=zGk8fCi39Qs>

Michael Savage Rejects Dennis Miller
<http://www.youtube.com/watch?v=qQn6kLzpMIE>

Michael Savage Condoms on Cucumbers Early Sex Ed and Females
<http://www.youtube.com/watch?v=YM5Y6BK3TbE>

Michael Savage: Making the World Safe for Theocracy
<http://www.youtube.com/watch?v=IU4UEeqXJdo>

Michael Savage talks to Iranian Man about Hitler of Iran
http://www.youtube.com/watch?v=R930Mli_m4o

Michael Savage on Evil Liberals
<http://www.youtube.com/watch?v=SMWBX3b8TIk>

Michael Savage: US media MANIPULATION regarding KOSOVO Part 1

<http://www.youtube.com/watch?v=37HqEe8qH3Q>

Michael Savage: Interview with Sylvester Stallone (1 of 2)

<http://www.youtube.com/watch?v=-idL9WUaQw0>

Michael Savage August 13, 2007

<http://www.youtube.com/watch?v=23Pzbq5Y9hl>

Michael Savage discusses John Edwards – Part 3 of 3

<http://www.youtube.com/watch?v=lbwypCuMn1U>

Michael Savage: The Threat of Islam

<http://www.youtube.com/watch?v=VR69ngd6vrw>

Michael Savage on Masturbation and Prostate Cancer

<http://www.youtube.com/watch?v=5k1RruyKigU>

Michael Savage on Left Wing Nuts

<http://www.youtube.com/watch?v=btaFApQcLbU>

Michael Savage on Marijuana 2-7-07

<http://www.youtube.com/watch?v=ej5DVTi2HTc>

Michael Savage goofs on Paul Newman

<http://www.youtube.com/watch?v=9fiQiRF8bNY>

Live Audio: What Michael Savage Said about Autism

<http://www.youtube.com/watch?v=8gofSjzTfJk>

Michael Savage slams Muslim caller for his lies

<http://www.youtube.com/watch?v=6AUbPB0NAIw>

Michael Savage and his views on Islam

<http://www.youtube.com/watch?v=TLWLvYVeWhM>

Michael Savage rants on illegals

<http://www.youtube.com/watch?v=05nBE3WQi1U>

Michael Savage August 21, 2007

<http://www.youtube.com/watch?v=GZjZccrAbAQ>

Michael Savage: Benazir Bhutto Assassination

<http://www.youtube.com/watch?v=MHoMoEjZXj0>

Michael Savage Rips Freaks @ White House dinner

<http://www.youtube.com/watch?v=ERc13IWsdNo>

Michael Savage on James Watson and Internet Pornography

<http://www.youtube.com/watch?v=VRv79FVtyZw>

Michael Savage Ripping Holocaust Myth Believer

http://www.youtube.com/watch?v=oQIA_I4X3hM

Michael Savage – Barack Hussein Obama Admits Being a Muslim Plus George Bush as a Fiscal Socialist FannieMae Bail Outs – Aired on September 8, 2008

<http://www.youtube.com/watch?v=tG9-MHFctZU>

Michael Savage – Orthodox Jews & Guns

<http://www.youtube.com/watch?v=Ntov9g1vK00>

Michael Savage on the Muslim Airport Controversy

<http://www.youtube.com/watch?v=6jgczneWu9s>

Listen to Michael Savage Online for Free

<http://www.youtube.com/watch?v=eVBuimFRaog>

Michael Savage: Brain-Dead Sluts and Weak Western Men

<http://www.youtube.com/watch?v=WOLTtuaBLMo>

Michael Savage mimicks Rush Limbaugh

<http://www.youtube.com/watch?v=jhYyLEpEZnk>

Michael Savage on Haditha Caller

<http://www.youtube.com/watch?v=F1Vb47036nY>

Michael Savage on Heath Ledger and the Brainless Liberals

<http://www.youtube.com/watch?v=lu7YX6igxk4>

Michael Savage; Barack Obama lets call it quits talk it out

<http://www.youtube.com/watch?v=yA1UE43vFew>

Michael Savage on Cho Murderer School Shootings

<http://www.youtube.com/watch?v=ggzMSHFK8XY>

Michael Savage on Dennis Kucinich, Cars and Hybrids

<http://www.youtube.com/watch?v=LNWNfc2Jig8>

Michael Savage on California's Gay Marriage – Part 2

<http://www.youtube.com/watch?v=cJ0F6sC90Yc>

Michael Savage Rejects Larry King and MSNBC

<http://www.youtube.com/watch?v=poBeWx60V3E>

Michael Savage Has a Frank Conversation About Women

<http://www.youtube.com/watch?v=k16N-Zt2QcE>

Savage Nation: Michael Savage, the best radio personality

<http://www.youtube.com/watch?v=JtjrrjHBPXA>

Michael Savage – Biggest Pimp Rap

<http://www.youtube.com/watch?v=nA4Nt4h4EQc>

Michael Savage on the day of September 11, 2001

<http://www.youtube.com/watch?v=7PXNlnx7f0c>

Michael Savage Interviews Dr. Peter Breggin on Autism
<http://www.youtube.com/watch?v=eocYUcoWoxM>

Michael Savage is Running for President?
<http://www.youtube.com/watch?v=XhKns42pcoc>

Michael Savage chats about Great Neck and Nymphomaniacs
<http://www.youtube.com/watch?v=zhDAbofhIDl>

Michael Savage – Financial Crisis (September 15, 2008)
<http://www.youtube.com/watch?v=N6GXdgT7YCg>

Michael Savage Rails the Sopranos
<http://www.youtube.com/watch?v=Qh2w1sl0d6c>

Michael Savage on the Danger of Progressive Liberalism
<http://www.youtube.com/watch?v=fkTRUjSmow>

Michael Savage on Religion and Loss of Culture
<http://www.youtube.com/watch?v=3lwvMEq06s0>

Michael Savage on Conservatives and Government Policies
http://www.youtube.com/watch?v=lzEN_IA7mt8

Michael Savage on Elliot Spitzer, George Bush, Bail Outs, Financial Crisis, Depression Economic Decline – Aired on September 18, 2008
<http://www.youtube.com/watch?v=CRXODPEhLf8>

Michael Savage on Veiled Women
<http://www.youtube.com/watch?v=x7RwmctGdsE>

Dr. Chesler on Michael Savage
<http://www.youtube.com/watch?v=DA-wlHaPvK4>

Michael Savage February 1 Show
<http://www.youtube.com/watch?v=LSabsmBm3Fo>

Michael Savage on Current Events – Part 7 of 7
<http://www.youtube.com/watch?v=WOJbY8m9n7U>

Michael Savage on Censorship of His Show and Communism
<http://www.youtube.com/watch?v=dPXW4oWlYm4>

Michael Savage on Gay Caller
<http://www.youtube.com/watch?v=XfJQnNQAp5M>

Michael Savage on Bush Aids and Africa
<http://www.youtube.com/watch?v=YVQfzoX4xck>

Michael Savage on Current Events – Part 6 of 7

<http://www.youtube.com/watch?v=iXcxvr5IWwM>

Michael Savage – War with Iran Radical Islam Jihadist – Aired on July 10, 2008
<http://www.youtube.com/watch?v=29sgUCOVHP4>

Michael Savage Monologue 9-12-08
<http://www.youtube.com/watch?v=2Pjz4T7cNqA>

Michael Savage – A New American Revolution
<http://www.youtube.com/watch?v=gkcJNBtoIXw>

Michael Savage Autism Remix
<http://www.youtube.com/watch?v=AsPGQNZsPdE>

Michael Savage on Cancer
<http://www.youtube.com/watch?v=WAPLedgnSxA>

Michael Savage on Ultra Tolerance and its Effect on Society
<http://www.youtube.com/watch?v=27qJivQICQQ>

Michael Savage Owns Black Muslim
<http://www.youtube.com/watch?v=T0zbcjWXvDg>

Michael Savage – Psychological Nudity
<http://www.youtube.com/watch?v=s-6cz4mayEU>

Michael Savage Talking to a Conservative on How to Pick Up Liberal Women in New York City
<http://www.youtube.com/watch?v=EKyRB2cL0RU>

Michael Savage: Only anger and hatred can save America
<http://www.youtube.com/watch?v=yvsjwF2hmk>

Michael Savage discusses Hollywood Leftists – Part 2
<http://www.youtube.com/watch?v=igl2bmxqPZc>

Michael Savage Monday 19, 2008
<http://www.youtube.com/watch?v=qYlr-w2eyJE>

Michael Savage on Current Events – Part 5 of 7
<http://www.youtube.com/watch?v=s7q9GheEOXU>

Michael Savage – Mein Kampf and its Relativity to The Quran
<http://www.youtube.com/watch?v=McQWM-TAZBI>

Michael Savage – Immorality of Pornography Explicit Sex Kids
<http://www.youtube.com/watch?v=mpFki3dLIL0>

Michael Savage On Lesbians
<http://www.youtube.com/watch?v=wd-l9bYly3E>

Michael Savage – Swearing on the Koran

<http://www.youtube.com/watch?v=Scq61iw30Oc>

Trying to silence Michael Savage

<http://www.youtube.com/watch?v=rWFOnt9oH7U>

Michael Savage on Irrational Confusion About Homosexuals

<http://www.youtube.com/watch?v=OH4gLiSXX-E>

Michael Savage Talks About the Threat of Iran and Islam

<http://www.youtube.com/watch?v=oO BXJNP4u8>

Illegal Alien Murders Family: Michael Savage Interviews Danielle Bologna

<http://www.youtube.com/watch?v=dqulwbSkEq8>

Ultravan #299, First Bath While Listening to Michael Savage

<http://www.youtube.com/watch?v=CczCGWdGHKo>

Michael Savage on Kosovo independence

<http://www.youtube.com/watch?v=hUJXPxs iP8>

Michael Savage – Danielle Bologna and Family Tragedy Due to Corruption of Law and Illegals

<http://www.youtube.com/watch?v=O7uzEkKqAq0>

Michael Savage: "Bring in 10 million more from Africa."

<http://www.youtube.com/watch?v=i4cBBLerqM>

Michael Savage discusses America's collapse of it's morals and values

<http://www.youtube.com/watch?v=gbfnl8kQnZ4>

Michael Savage on Why Hollywood is Failing – Part 1 of 4

<http://www.youtube.com/watch?v=Mfj7MtDUcFI>

Michael Savage Argues With a Caller About Obama and His Credentials to be President

<http://www.youtube.com/watch?v=0M44MkHnJBs>

Michael Savage Nation Radio Spots Commercials Part 2

<http://www.youtube.com/watch?v=ZlriqffVhJs>

Michael Savage on Hitler of Iran and Columbia University

<http://www.youtube.com/watch?v=5xQ6hxrYHE>

Michael Savage on gay marriage caller

<http://www.youtube.com/watch?v=R7v7OCTMVAA>

Michael Savage predicts the destruction of Israel

<http://www.youtube.com/watch?v=oRHZ28YWXu4>

Michael Savage on the JFK Terror Plot

<http://www.youtube.com/watch?v=Ovi11r-D20>

Michael Savage on Bible Passages and More

<http://www.youtube.com/watch?v=Aia8T2wirk0>

Michael Savage Classic Caller on Health Plus Report on Abortion and Cancer
<http://www.youtube.com/watch?v=my8Cjs6mATs>

Michael Savage goes off on Islamo-Fascists
<http://www.youtube.com/watch?v=nkWgSeSc8cA>

Michael Savage discusses the end of America's Liberal Arc
<http://www.youtube.com/watch?v=Enwt4-Pw4aq>

Michael Savage – Generation of Weaklings
<http://www.youtube.com/watch?v=G5WdMHjjJ5E>

Michael Savage – Sixty Year Old Woman has Twins
<http://www.youtube.com/watch?v=3-CRP1qx78>

Michael Savage Admits to Taking Lipitor (then quits on 10/29)
<http://www.youtube.com/watch?v=T-7Dqd-zIEs>

Michael Savage on The Homosexual Mafia
<http://www.youtube.com/watch?v=kBPG09D8B-Y>

Michael Savage Here Comes The Judge
<http://www.youtube.com/watch?v=zJNzfRWbUug>

Michael Savage on bill clintons propaganda against serbs
<http://www.youtube.com/watch?v=wJKtQufnnds>

Michael Savage on Fear of Marriage in Society Today
<http://www.youtube.com/watch?v=JFCzLfsEddQ>

Michael Savage slams a Nancy Pelosi supporter
<http://www.youtube.com/watch?v=X4w39SHqTVA>

Michael Savage on the state of Israel in 2006
<http://www.youtube.com/watch?v=YYxtZ0bQC8o>

Michael Savage discusses today's bizarre political climate
<http://www.youtube.com/watch?v=Xz2FKdi9ktE>

Michael Savage translates liberal Headline
<http://www.youtube.com/watch?v=VjxARbHr6TE>

Michael Savage OWNS pro-Muslim liberal – Liberals SUCK!
<http://www.youtube.com/watch?v=BuOmtQhNwm0>

Duncan Hunter with Michael Savage
<http://www.youtube.com/watch?v=D0qKFEQdJ-E>

Michael Savage KSFO Classic – Savage Matchmaker

<http://www.youtube.com/watch?v=ISVqINUXKU0>

Michael Savage on Radical Muslims CAIR Future Expectations
<http://www.youtube.com/watch?v=iejM8emTJW4>

Michael savage on bill clintons war against serbs
<http://www.youtube.com/watch?v=2sURLF83V9A>

Censure Carter Michael Savage
<http://www.youtube.com/watch?v=HvqFih8p25w>

Michael Savage on Iran, weakness, and liberal attack dogs
<http://www.youtube.com/watch?v=yJ40KqkOt8M>

Michael Savage on Barack Hussein Obama as President
http://www.youtube.com/watch?v=Qnj_7t_9adM

Michael Savage: Vinnie Calls Part 1
<http://www.youtube.com/watch?v=xdZYe0Z9TSM>

Michael Savage on Sharing Bedrooms Couples Husband and Wife
<http://www.youtube.com/watch?v=a0UQHs6o5bw>

Michael Savage takes a call from Todd in New Hampshire
<http://www.youtube.com/watch?v=ZdJK6varWQE>

Michael Savage on the Power of Man in Good and Evil
http://www.youtube.com/watch?v=JkJy1H7B_vY

Michael Savage hates gays
<http://www.youtube.com/watch?v=8GOEnXp9VnQ>

Michael Savage: A balanced immigration solution (Part 2)
<http://www.youtube.com/watch?v=20U905Z4wIw>

Michael Savage On Obama and What He Wants for America
<http://www.youtube.com/watch?v=x871n28-xNE>

Michael Savage Rants on Illegals
<http://www.youtube.com/watch?v=D0jk1qSNVbA>

Michael Savage on Financial Schemes and Intuitive Intelligence (9/23/08)
http://www.youtube.com/watch?v=5G_MBkIhmQ

Michael Savage: Liberals Want an Illiterate America
<http://www.youtube.com/watch?v=5YDhHh2yoXE>

Michael Savage – Discussion about Lawyers and Doctors in Society Today – Part 1 of 2
<http://www.youtube.com/watch?v=rCjSOAAazW0>

Michael Savage – What Not To Say On The Savage Nation

http://www.youtube.com/watch?v=Vxs_bNcAY4o

Michael Savage Talks About Fahrenheit 451 and Fascism
<http://www.youtube.com/watch?v=sADM1YHej04>

Michael Savage on Shameless Liberals and His Boosted Ratings
<http://www.youtube.com/watch?v=EzBkCPExnD0>

Michael Savage on Nancy Pelosi
<http://www.youtube.com/watch?v=9IbXyqLG-4M>

Michael Savage: Vinne Calls Part 2
http://www.youtube.com/watch?v=_ir4T5qlxsg

Michael Savage – Brainwashing of Global Warming and More
<http://www.youtube.com/watch?v=iwXhmnqjLE>

Michael Savage – “The Most Important Thing I’ve Ever Said”
<http://www.youtube.com/watch?v=9G2NfVJipll>

Michael Savage on Lucky Louie
<http://www.youtube.com/watch?v=soSur400DN4>

Michael Savage Explains Clipped Hair Type's
<http://www.youtube.com/watch?v=3YLYPpzY88c>

St. Michael: Liberal Slayer – Prepare 4 War!
<http://www.youtube.com/watch?v=vi5CLIO6SZ0>

Michael Savage on Celebrating Purim
<http://www.youtube.com/watch?v=N5uYb4viBCU>

Michael Savage Welcome To the Sheocracy
<http://www.youtube.com/watch?v=pXWl0goYbpbk>

Michael Savage on the new leadership of the Democrats
<http://www.youtube.com/watch?v=kpoES0aZtL8>

Michael Savage on How Drugs Spoil Our Spiritual Strengths
<http://www.youtube.com/watch?v=agDRfIQ8PnQ>

Michael Savage Update on Health and Return to Show (September 17, 2008)
<http://www.youtube.com/watch?v=JcF8cuDCthY>

Michael Savage – Freakshows
<http://www.youtube.com/watch?v=xEOuydrjVzM>

Michael Savage on Why He's Famous – Immigrants and Epidemics
<http://www.youtube.com/watch?v=mkaqujIwDY>

Michael Savage to Question Barack Hussein Obama and his Credentials for Presidency

<http://www.youtube.com/watch?v=mNRbi2RUxOI>

Michael Savage discusses the 2nd Amendment ruling by high court
<http://www.youtube.com/watch?v=6UqdK9gvD84>

Michael Savage talks about the 50's versus today
<http://www.youtube.com/watch?v=uKUAZ0NoSts>

Michael Savage Nation Radio Spots Commercials Part 4
<http://www.youtube.com/watch?v=E6R57DrteeQ>

Michael Savage listening to Kansas City
<http://www.youtube.com/watch?v=501mwwIUd-c>

Michael Savage Censored
<http://www.youtube.com/watch?v=esKn8GaiDM0>

Michael Savage on San Francisco and NutJob Liberals
http://www.youtube.com/watch?v=BKRPbgGw_cg

Michael Savage Marry a Liberal??
<http://www.youtube.com/watch?v=wWc50gaiucs>

Michael Savage Gets Pissed off at John McCain (9/24/08)
<http://www.youtube.com/watch?v=250ocbm2q1c>

Michael Savage on Children and Parenting
<http://www.youtube.com/watch?v=QcW8IvZkq88>

Michael Savage on CNN, Wolf Blitzer & Larry King
<http://www.youtube.com/watch?v=sE6Oal924HQ>

Michael Savage on the insanity of current political trends
<http://www.youtube.com/watch?v=-Pqj-bsvbog>

Michael Savage discusses Tim Russert
<http://www.youtube.com/watch?v=GCU4WuOqG-A>

Michael Savage on just leaving it all one day to live on an island
<http://www.youtube.com/watch?v=mLxFI8ueaoA>

Michael Savage On Lack of Outrage in Financial Crisis (9/23/08)
<http://www.youtube.com/watch?v=ERAP2Jc2h8g>

Michael Savage Endorses TrustedID Identity Theft Protection
<http://www.youtube.com/watch?v=QDnlsOH1kg4>

Michael Savage on corporate corruption and labor practices
<http://www.youtube.com/watch?v=HIGFmRxAsVk>

Dr. Savage on Coronary Artery Disease

http://www.youtube.com/watch?v=VU0b8NE5_NQ

Michael Savage on how the US National Anthem is treated
<http://www.youtube.com/watch?v=QYW3Pfr2aN4>

Savage News Reel
<http://www.youtube.com/watch?v=zhPeJD8zLUU>

Intelligent, Moderate Muslim Calls The Savage Nation
<http://www.youtube.com/watch?v=5BWRAYjBpk4>

Michael Savage on Bosnian muslim shooter
http://www.youtube.com/watch?v=k_0b3KTazu4

Michael Savage on Matt Damon and Sarah Palin
<http://www.youtube.com/watch?v=6ybBqhE3oZ4>

Michael Savage Freaking Out (During my Video Diary)
<http://www.youtube.com/watch?v=7aDisa2m7y8>

Moronic Caller on The Savage Nation 8-9-06
<http://www.youtube.com/watch?v=9fgTAQDyqAg>

Michael Savage: Benazir Bhutto Assassination (Part 2)
<http://www.youtube.com/watch?v=AEVsXil1wWM>

Michael Savage straight talk on Autism
<http://www.youtube.com/watch?v=g0U7HizUe54>

Michael Savage – Radical Islam divine punishment on West
<http://www.youtube.com/watch?v=0tj3L4u1IPM>

Texas Polygamy, Durham Dirtbag, Rocky Mountain White Trash
<http://www.youtube.com/watch?v=vhNWMZJxHuU>

Michael Savage Explains the Fraud of Autism
<http://www.youtube.com/watch?v=WiZBC8lIOik>

Michael Savage on How to Lower Gas Prices LMFAO!
<http://www.youtube.com/watch?v=bloU9C3EOdM>

Savage Nation – Sonny Barger Interview
<http://www.youtube.com/watch?v=bfSBGi88SAE>

Jewish Radio Host Michael Savage On Autism
<http://www.youtube.com/watch?v=GWYQqGDaYfY>

Internment Camps In America ? Savage Nation May 30, 2007
<http://www.youtube.com/watch?v=kyzSn2ALZi0>

Obama coddles San Francisco sponsors; drops middle America

<http://www.youtube.com/watch?v=NrZA1oTjme4>

EXHIBIT B

NO SAVAGE

CENSORED

MICHAEL SAVAGE TRIES TO CENSOR BRAVE NEW FILMS



Michael Savage Hates Muslims
Also on Bip and Quicktime
Listen to clip: MP3

Embed on blog/MySpace:

THE SAVAGE HISTORY:

Brave New Films Sues Shock Jock Michael Savage, Press Release
Michael Savage's long, strange trip, David Gilson, Salon.com

JUST SOME OF SAVAGE'S HATE:

"90 percent of the people on the Nobel Committee are into child pornography and molestation, according to the latest scientific studies" — Listen

Savage advocating "kill[ing] 100 million" Muslims — Listen

Savage on immigrant students' hunger strike: "[L]et them fast until they starve to death. ... Go make a bomb where you came from" — Listen

Citing more sex-change operations, increased lesbian fertility clinics, Savage said of 9-11: "That was God speaking" — Listen

On MLK Day, Savage called civil rights a "racket" designed to steal "white males' birthright" — Listen

To "save the United States," lawmakers should institute "outright ban on Muslim immigration" and on "the construction of mosques" — Listen

U.S. Senate "more vicious and more histrionic than ever, specifically because women have been injected into" it — Listen

"Jimmy Carter is like Hitler" — Listen

"Burn the Mexican Flag!" — Listen

Savage on the tsunami: "I wouldn't call it a tragedy. ... We shouldn't be spending a nickel on this" — Listen

Check out our previous campaign against Savage →

Help spread the word about Michael Savage's hate speech:

1. Send the video Savage tried to censor to your friends and encourage them to pass it on.
2. Click the "digg it" button the right. Be sure you're logged in to digg so your vote counts.
3. **Become a Savage Watcher:**

153 diggs

digg it

Email:

Zip Code (optional):

We'll never sell, share or spam you.

4. Add the video to your Facebook or MySpace page.

Shock jock Michael Savage is a bully. He derides, demeans, and distorts those who don't agree with his hate-filled, right-wing agenda, and when that fails, he files lawsuits. Now, Savage has tried to silence Brave New Films -- this bully has pushed us too far.

Here's what happened: Last Thursday night, YouTube removed over 300 of our videos from their site and disabled our account, including our highly popular Real McCain and FOX Attacks series. They didn't restore the account until Friday afternoon. We were furious to discover that our entire account was disabled over one unjust copyright complaint from Michael Savage and the Original Talk Radio Network, Inc., regarding a video we made eight months ago titled "Michael Savage Hates Muslims" -- a video that fell well within the terms of fair use of the material.

Here's what we're doing: On Friday, Brave New Films filed a lawsuit against Savage for his effort to suppress and silence us. Thanks to help from the Stanford Law School's Fair Use Project, we will take the fight right back to Savage and the Original Talk Radio Network, Inc.

Here's how you can help: Sign up to become a Savage Watcher. Help us be on the lookout for more of Savage's harmful behavior that you can report back to us, and get the latest on our No Savage campaign as we escalate this battle. Then, take the video Savage tried to censor and spread it far and wide; if we can't get it back on YouTube, then we can post it on blogs and networking sites like Digg to makes sure people continue to see it. Let's stop the savage behavior once and for all!

Instead of letting Savage continue to step all over our rights, values, and the U.S. Constitution, let's stand up to this savage behavior once and for all!

Got Some Savage Behavior to Report? Leave a comment:

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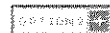
Add New Comment

Type your comment here.

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Name

Record video comment

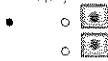


Showing 4 of 4 Comments.



The Doctor Is In 4 months ago
YOU are the haters. Go back to the Communist hole you crawled from.

reply



SKG 4 months ago
At least Savage is not afraid of speaking his mind! So many of us are to afraid to speak up, traped in this politically correct society where any act of American Pride is sqashed for fear of offending someone. I find it Ironic that you are fighting for your cause of "Free Speech" by trying to censor someone. God I love the logic of the extrem left!!!

reply



andrew pegalis 4 months ago
Brave New Films and Michael Savage have one thing in common... the constitutionally protected right to voice an opinion. Of all the forms of speech, political speech must receive the greatest protection of all. Hence what constitutes "Fair Use" under copyright law must be interpreted as broadly as possible when it comes to political speech. Keep it up Robert Greenwald.

reply



jtt 4 months ago
ironically michael savage denies any involvement in asking for the video to be removed. it probably helps his campaign to protect our language culture and borders to have the audio of this clip played to anyone who cares enough to listen. thanks for promoting the american values that savage so gallantly upholds but please leave out the senseless spin.

reply

Anyone is allowed to post content on this site, but Brave New Films 501(c)(4) is not responsible for that content. We will, however, remove anything unlawful, threatening, libelous, defamatory, obscene, racist, or that contain other material that would violate the law. By posting, you agree to this.

Brave New Films / 10510 Culver Blvd., Culver City, CA 90232 / info@bravenewfilms.org / 310-204-0448

close *andrew pegalis*(ca6333558db89ab1...) unclaimed profile

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- Brave New Films and Michael Savage have one thing in common... the constitutionally protected right to voice an opinion. Of all the forms of speech, political speech must receive the greatest protection of all. Hence what constitutes "Fair Use" under copyright law must be interpreted as broadly as possible when it comes to political speech. Keep it up Robert Greenwald.
4 months ago · Michael Savage hates Muslims · No Savage

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EXHIBIT C



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Web Scout: Spinning through online entertainment and connected culture.

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Brave New Films sues Michael Savage over YouTube takedown

04:42 PM PT, Oct 10 2008

Brave New Films, the Web video production company run by liberal filmmaker Robert Greenwald ("Outfoxed," Walmart: The High Cost of Low Price"), is suing conservative talk-show host Michael Savage in a copyright dispute that hinges on the takedown of a one-minute-long YouTube video.



The video called "Michael Savage Hates Muslims" (and still available here) features a photo of Savage, along with a short audio excerpt from the "Savage Nation" program, in which Savage makes clear his disdain for Muslims and Islam. "You can take your religion and shove it up your behind," he yells at one point. "I'm sick of you."

Brave New Films has an adversarial history with Savage. The company maintains a site called NoSavage.org, which features the "Michael Savage Hates Muslims" video along with links to other inflammatory remarks by the host.

The complaint holds that Talk Radio Network Inc., the Oregon company that syndicates Savage's show, sent a takedown request to YouTube for the video on Oct. 2 -- the night of the vice presidential debate, and a moment of intense interest in online political news. As a result of the network's request, YouTube not only removed the offending video but disabled Brave New Films' YouTube channel completely. Because Brave New Films uses the YouTube player to embed its videos on its own public website, that site suffered as well.

According to YouTube, copyright law requires the company to terminate accounts that repeatedly infringe, and Brave New Films had problems with Viacom last year when they used material from the "Colbert Report." Suspensions can be lifted if one or more of the claims are retracted.

Reached for a comment before the suit was officially filed, Phil Newmark, a producer at Talk Radio Network, said on behalf of Savage, "Michael never sent a complaint to YouTube about anything. This did not come from him in any way, shape or form." Newmark said he had no information about where the complaint originated, but said he would contact TRN's chief executive, Mark Masters, to inquire. TRN is also named in the suit.

Brave New Films' channel is No. 71 of all time among YouTube directors -- a highly competitive category. The company's 300 separate videos have collectively earned 36 million views. Greenwald was able to get his channel reactivated by midmorning on Friday, but by then it had missed the big wave of debate-related traffic. Adding to the trouble was that Brave New Films had taken out a full-page ad in the New York Times that morning, while its site was still incapacitated.

Greenwald called the situation, which left most of his company's content "dead" during a time of peak political interest, "incredibly scary and troubling."

"On some level, no matter what the damages are, we can't get back the views of Thursday and the views and impact of Friday, when the New York Times ad came out," he said in a phone interview.

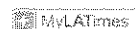


About the Blogger

David Samo is the Times' internet culture and online entertainment writer. His Web Scout print column runs in the L.A. Times Calendar section on Wednesdays.

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- self-explanatory
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- Sports
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RE: Fred's YouTube channel is programming for kids by kids comment by jelly

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