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4 Attorney for Defendant  
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

11 Plaintiff,

12 vs.

13 MICHAEL WEINER aka MICHAEL  
SAVAGE and ORIGINAL TALK RADIO  
14 NETWORK, INC.,

15 Defendants

) Case No.: CV 08-4703 SI

) **DECLARATION OF RONALD H.  
) SEVERAID IN SUPPORT OF  
) DEFENDANT THE ORIGINAL TALK  
) RADIO NETWORK, INC.'S MOTION  
) FOR SUMMARY JUDGMENT**

) Date: April 3<sup>rd</sup>, 2009  
) Time: 9:00 a.m.  
) Location: Courtroom

16 \_\_\_\_\_ Honorable Susan Illston  
17

18 I, RONALD H. SEVERAID, hereby declare that:

19 1. I am an attorney at law duly licensed to practice before all courts of the State of  
20 California..  
21

22 2. I am one of the California attorneys for defendant THE ORIGINAL TALK  
23 RADIO NETWORK, INC. ("**OTRN**" or "**Defendant**"), and am a member of the law firm of  
24 Severaid & Glahn, P.C.

25 3. I have personal knowledge of all matters addressed in this declaration, and could  
26 testify competently thereto if called upon to do so.

27 4. I am also the Executive Vice President of OTRN and now spend most of my  
28 office time at the corporate office of OTRN.

1           5. OTRN has produced and syndicated “The Michael Savage Show” (the “**Show**”)   
2 for approximately eight years. Defendant MICHAEL WEINER, aka MICHAEL SAVAGE   
3 (“**Savage**”) serves as the host of the Show for OTRN under contract to OTRN.

4           6. OTRN is the holder of the copyrights to the Show and all of the weekday   
5 programs of the Show, with one exception.

6           7. Prior to September 29, 2008, OTRN formally assigned the copyright for the   
7 October 29, 2007 broadcast of the Show (the “**10/29/07 Program**”) to Savage.

8           8. On or before September 29, 2008, I learned from Benjamin A. Shapiro   
9 (“**Shapiro**”), a Southern California attorney that OTRN and I had recently begun working with,   
10 that he had discovered the existence of hundreds of videos containing portions of the Show   
11 posted on YouTube.

12           9. I was aware that OTRN had not granted any authorization to post video   
13 containing content from the Show on YouTube, and that such a large archive of searchable   
14 videos of content from the Show would be damaging to OTRN’s programs of making certain   
15 archived content from the Show available to persons under paid membership programs.

16           10. As a result, I requested that Shapiro review the content of the Show posted on   
17 YouTube and prepare the initial draft of an initial letter to YouTube demanding that it remove   
18 content of the Show improperly posted on YouTube’s website.

19           11. The intent of this letter was to request voluntary removal of material posted   
20 improperly in violation of OTRN’s copyrights prior to consideration of whether to pursue other   
21 actions, including any future possibility of issuing a formal “takedown” notice in accordance   
22 with the provisions of 17 U.S.C. §512(f).

23           12. After investigating the specifics of the postings further, Shapiro submitted a draft   
24 letter and supporting attachment listing 259 videos which he had identified as videos posted on   
25 YouTube which should be removed as containing content of the Show posted improperly on   
26 YouTube in violation of the copyrights for the Show.

27           13. I had, and have, full trust in Shapiro’s abilities. As a result, while I reviewed the   
28 text of the proposed letter to determine whether it had the general tenor and substance that I was

1 looking for in terms of personal preference, and then forwarded it to Carter Glahn (“**Glahn**”) at  
2 my office in Sacramento to finalize it, sign it, and handle any follow up communications with  
3 the Northern California recipient of the letter, I had full confidence in the investigation and  
4 analysis conducted by Shapiro, and did not consider revisiting his investigation and analysis  
5 with respect to the 259 videos that, in my opinion, constituted an incredible aggregate number  
6 of postings that literally was becoming an unauthorized library of content taken from the Show.

7           14. At the time, perhaps because I was in fact stunned to learn of hundreds of  
8 potential infringing videos, followed by an incredible 259 itemized infringing videos following  
9 further investigation and analysis, containing content from the Show posted improperly on  
10 YouTube, the prior assignment of the copyright for the 10/29/07 Program was simply not  
11 something I happened to think of in that context, nor did any aspect of legal action between  
12 Savage and CAIR (the “**CAIR Case**”) come to mind, and it did not occur to me to alert Shapiro  
13 to the fact that there was actually one out of thousands of programs of the Show that OTRN no  
14 longer claimed the copyright to, nor could it have occurred to me to discuss the wholly separate  
15 litigation between Savage and CAIR in the context of this issue.

16           15. I had a passing familiarity with the CAIR Case, to the extent that I heard  
17 references to it from time to time, and occasionally received information concerning it posted  
18 on publicly available websites. However, OTRN was not a party to the CAIR Case, and I had  
19 no information concerning it beyond this limited scope.

20           16. As OTRN was proceeding independently with respect to its own copyright claims  
21 with respect to the discovery of the 259 infringing videos, neither Savage nor any representative  
22 of Savage was notified that a removal demand was being sent to YouTube, and no information  
23 concerning the issuance of such demand was sent to Savage or any representative of Savage  
24 after the fact. I was the coordinator of all communications relating to that demand, and there  
25 were no communications from or to Savage concerning that demand prior to the time that he  
26 learned that he had been named as a defendant in this Action.

1           17. There was no contact by the Plaintiff that I am aware of to either OTRN or  
2 Severaid & Glahn, P.C. following the issuance of the initial takedown notice to YouTube prior  
3 to the commencement of this Action.

4           18. Following the commencement of this Action, I learned from reviewing the  
5 complaint in this Action that the video at issue apparently involved content from the 10/29/07  
6 Program, and then immediately recognized that, following the assignment of the copyright on  
7 that one broadcast out of thousands, OTRN could not have a copyright claim to infringement of  
8 that one broadcast.

9           19. As OTRN was in fact acting solely for its own account in issuing the demand as  
10 to the totality of 259 videos posted on YouTube, it appears that this one video should be outside  
11 the scope of that demand.

12           20. Had the plaintiff simply contacted OTRN to address their contentions, OTRN  
13 would have promptly withdrawn its demand as to that video. As it was, the complaint in this  
14 Action specified that video was in the process of being restored by YouTube, and it was in fact  
15 restored by YouTube while OTRN was in the initial stages of review and analysis of the  
16 contentions in that complaint.

17           21. While the Plaintiff asserts that OTRN was somehow stalking Plaintiff and its one  
18 video as some form of joint effort with Savage somehow connected to the CAIR Case, the  
19 reality is that this one video simply got lost within the magnitude of the other 258 videos, and,  
20 had in fact there been any focus on the particulars of this one video by management of OTRN,  
21 as Plaintiff alleges, that one video would not have been included in the YouTube demand –  
22 contrary to the implication that the demand was somehow designed to get this video because it  
23 dealt with the 10/29/07 Program. The reality was that neither Shapiro, who was doing the  
24 specific review and analysis, nor Glahn, who actually issued the demand to YouTube, had any  
25 knowledge of either the copyright assignment on the 10/29/07 Program or the CAIR Case, as  
26 there was simply no effort to single out this one video, in contrast to dealing with a virtual  
27 library of 259 videos as a collective problem compounded by the sheer number of videos at  
28 issue.

1           22. Since OTRN management learned the particulars of this one video, there has been  
2 no further claim by OTRN with respect to it, and OTRN does not intend to assert any claim  
3 with respect to it.

4           23. The Plaintiff has separately posted this one video at its own website and OTRN  
5 has never made any claim with respect to that individual posting.

6           24. OTRN did not at any time request, or demand or otherwise suggest that YouTube  
7 take any action other than simply remove those specific videos which infringed OTRN's  
8 copyright.

9  
10           I declare under penalty of perjury that the foregoing is true and correct and that this  
11 declaration is executed under the laws of the State of California on the 27<sup>th</sup> day of February,  
12 2009, at Rogue River, Oregon.

13  
14  
15   /s/  
16   \_\_\_\_\_  
17   RONALD H. SEVERAID

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 **DECLARATION OF RONALD H. SEVERAID IN SUPPORT OF DEFENDANT**  
6 **THE ORIGINAL TALK RADIO NETWORK, INC.'S MOTION FOR SUMMARY**  
7 **JUDGMENT**

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

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

Christopher Kay Ridder:  
cridder@stanford.edu

12 Julie Angela Aherns:  
13 jaherns@law.stanford.edu

Sheila Marie Pierce:  
14 Sheila.pierce@bingham.com,  
ruth.difalco@bingham.com

15 William Frederick Abrams:  
16 William.abrams@bungham.com

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

19 \_\_\_\_\_  
20 /s/

21 Pam Sauter  
22  
23  
24  
25