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8
9 Attorneys for Defendant
THE ORIGINAL TALK RADIO NETWORK, INC.

10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12 SAN FRANCISCO DIVISION

14 BRAVE NEW FILMS 501(c)(4),
15 Plaintiff,

16 vs.

17 MICHAEL WEINER aka MICHAEL
18 SAVAGE and ORIGINAL TALK RADIO
NETWORK, INC.,

19 Defendants

) Case No.: CV 08-4703 SI

) **DECLARATION OF RONALD H.**
) **SEVERAID IN SUPPORT OF**
) **DEFENDANT THE ORIGINAL TALK**
) **RADIO NETWORK, INC.'S NOTICE OF**
) **MOTION AND MOTION FOR**
) **SUPPLEMENTAL PROTECTIVE**
) **ORDER**

) Date: May 22, 2009
) Time: 9:00 a.m.
) Location: Courtroom

22 _____ Honorable Susan Illston

23
24 I, RONALD H. SEVERAID, hereby declare that:

25 1. I am an attorney at law duly licensed to practice before all courts of the State of
26 California.
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1 2. I am one of the California attorneys for defendant THE ORIGINAL TALK
2 RADIO NETWORK, INC. (“OTRN” or “**Defendant**”), and am a member of the law firm of
3 Severaid & Glahn, P.C.

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

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

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

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

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

15 8. The document attached as Exhibit “A” hereto is a true and correct copy of the first
16 request for production of documents to OTRN in this Action (the “**Production Demand**”).

17 9. The all-inclusive demand for “ALL DOCUMENTS RELATING TO the
18 relationship between YOU and SAVAGE” in the first request from the Production Demand (the
19 “**First Request**”) is the focus of OTRN’s motion for a protective order simply because it is so
20 all-encompassing (especially as expanded by the all-inclusive definitions incorporated by
21 reference into it). However, documents requested by this broad request are also within
22 categories of documents within the scope of other requests, and OTRN’s motion for a protective
23 order is intended to apply (by its terms) to all documents (for any defendant) within its scope,
24 not solely to documents from the Production Demand or the First Request.

25 10. There are many thousands of documents that relate, at some level – from trivial to
26 significant – to the “relationship” between OTRN and Savage. It would, indeed, be almost
27 impossibly burdensome to attempt to identify, much less quantify, copy and categorize, all of
28 them.

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Exhibit “A”

1 Anthony T. Falzone (SBN 190845)
Julie A. Ahrens (SBN 230170)
2 Christopher K. Ridder (SBN 218691)
STANFORD LAW SCHOOL CENTER FOR
3 INTERNET AND SOCIETY
559 Nathan Abbott Way
4 Stanford, California 94305-8610
Telephone: (650) 736-9050
5 Facsimile: (650) 723-4426
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6 William F. Abrams (SBN 88805)
7 Sheila M. Pierce (SBN 232610)
BINGHAM MCCUTCHEN LLP
8 1900 University Avenue
East Palo Alto, CA 94303-2223
9 Telephone: 650.849.4400
Facsimile: 650.849.4800
10 E-mail: william.abrams@bingham.com

11 Attorneys for Plaintiff
BRAVE NEW FILMS 501(c)(4)

12
13 UNITED STATES DISTRICT COURT
14 NORTHERN DISTRICT OF CALIFORNIA
15 SAN FRANCISCO DIVISION

16
17 BRAVE NEW FILMS 501(C)(4),
18 Plaintiff,
19 v.
20 MICHAEL WEINER aka MICHAEL SAVAGE,
and ORIGINAL TALK RADIO NETWORK,
21 INC.,
22 Defendants.

No. CV 08-04703 SI

**PLAINTIFF BRAVE NEW FILMS
501(C)(4)'S FIRST SET OF
REQUESTS FOR PRODUCTION OF
DOCUMENTS TO DEFENDANT
ORIGINAL TALK RADIO
NETWORK, INC.**

23 PROPOUNDING PARTY: PLAINTIFF BRAVE NEW FILMS 501(C)(4)
24 RESPONDING PARTY: DEFENDANT ORIGINAL TALK RADIO NETWORK, INC.
25 SET NUMBER: ONE (1)

26 Pursuant to Rule 34 of the Federal Rules of Civil Procedure, Plaintiff BRAVE NEW
27 FILMS 501(C)(4) ("Brave New Films") requests that Defendant ORIGINAL TALK RADIO
28 NETWORK ("OTRN") produce, for inspection and copying, the documents and things within

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CV 08-04703 SI

FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS TO DEFENDANT ORIGINAL TALK
RADIO NETWORK, INC.

1 his possession, custody, or control described in the Requests set forth below, at the offices of
2 Bingham McCutchen LLP, 1900 University Avenue, East Palo Alto, California 94303-2223,
3 within thirty (30) days of service of these requests.

4 **DEFINITIONS**

5 Unless otherwise indicated, the following definitions and terms shall apply to each of the
6 Requests for Production set forth below:

7 1. "YOU," "YOUR" and "OTRN" refer to Defendant Original Talk Radio Network,
8 Inc.

9 2. "ORIGINAL TALK RADIO NETWORK" and "OTRN" mean Defendant
10 Original Talk Radio Network, Inc. and ANY past or present predecessor, successor, parent,
11 subsidiary, division or affiliate thereof, whether domestic or foreign and whether owned in whole
12 or in part, and ANY and ALL PERSONS or entities acting on behalf of ORIGINAL TALK
13 RADIO NETWORK, including but not limited to employees, officers, directors, attorneys,
14 agents, or representatives thereof.

15 3. "DOCUMENT" means a writing as defined by Rule 1001 of the Federal Rules of
16 Evidence, and includes all items, documents, and things which are in the possession, custody or
17 control of YOU either directly or anyone acting on YOUR behalf with respect to the subject
18 matter inquired of by the Requests for Production. "DOCUMENT" also refers to, without
19 limitation, email, all correspondence, memo pads, individual computers or networked computer
20 systems including but not limited to personal information software, flow charts, word processing,
21 desktop publishing, spreadsheets, and all forms of database. Any copy of a document containing
22 therein, or having attached thereto, any alteration, notes, comments, or other material that is not
23 included in the original, or other copies of such documents, shall be deemed a separate
24 "DOCUMENT." Any prototype of, modification of, or change to a tangible thing shall be
25 deemed a separate thing.

26 4. "COMPLAINT" means the Complaint for Declaratory Judgment and Damages
27 filed by Brave New Films 501(c)(4) in this matter on October 10, 2008.

28 5. "ANY" and "ALL" shall both be interpreted in the most inclusive light, and shall

1 include "ANY and ALL."

2 6. "PERSON(S)" includes ANY and ALL natural persons, firms, associations,
3 organizations, partnerships, businesses, trusts, corporations or public or private entities.

4 7. "RELATING TO," "RELATE(S) TO," or "RELATED TO" means regarding,
5 concerning, pertaining to, referring to, respecting, stating, describing, involving, recording,
6 noting, reflecting, containing, embodying, memorializing, mentioning, studying, analyzing,
7 discussing, commenting upon, specifying, listing, summarizing, reviewing, evidencing,
8 supporting, and/or identifying either directly or indirectly.

9 8. "MICHAEL SAVAGE," "SAVAGE" and "MICHAEL WEINER" mean
10 defendant Michael Weiner aka Michael Savage.

11 9. "TAKEDOWN LETTER" means the September 29, 2008 letter sent by the law
12 offices of Severaid & Glahn, PC to YouTube demanding the takedown of Brave New Films'
13 video "Michael Savage Hates Muslims."

14 10. "THE CAIR LITIGATION" means the case filed on December 3, 2007, entitled:
15 *Michael Savage v. Council on American-Islamic Relations, Inc.*, Case No. 3:07-cv-06076.

16 11. "CAIR" means the defendant in *Michael Savage v. Council on American-Islamic*
17 *Relations, Inc.*, Case No. 3:07-cv-06076, Council on American-Islamic Relations, Inc.

18 **REQUESTS FOR PRODUCTION**

19 **REQUEST FOR PRODUCTION NO. 1:**

20 ALL DOCUMENTS RELATING TO the relationship between YOU and SAVAGE
21 including but not limited to employment agreements, contracts, licenses and assignments.

22 **REQUEST FOR PRODUCTION NO. 2:**

23 ALL DOCUMENTS identified in YOUR Responses to Brave New Films' First Set of
24 Interrogatories served concurrently with these Requests.

25 **REQUEST FOR PRODUCTION NO. 3:**

26 ALL DOCUMENTS between YOU and YouTube RELATING to ANY demand made
27 by YOU RELATING TO the removal of material from YouTube's website.

28

1 **REQUEST FOR PRODUCTION NO. 4:**

2 ALL DOCUMENTS RELATING TTTTO the ownership of copyright interests in “The
3 Michael Savage Show” also known as “The Savage Nation.”

4 **REQUEST FOR PRODUCTION NO. 5:**

5 ALL DOCUMENTS RELATING TO the September 29, 2008 TAKEDOWN LETTER.

6 **REQUEST FOR PRODUCTION NO. 6:**

7 ALL DOCUMENTS RELATING TO the CAIR LITIGATION.

8 **REQUEST FOR PRODUCTION NO. 7:**

9 ALL DOCUMENTS BETWEEN YOU and SAVAGE RELATING TO the
10 TAKEDOWN LETTER.

11 **REQUEST FOR PRODUCTION NO. 8:**

12 ALL DOCUMENTS BETWEEN YOU and SAVAGE RELATING TO THE CAIR
13 LITIGATION.

14 **REQUEST FOR PRODUCTION NO. 9:**

15 ALL DOCUMENTS that support each affirmative defense YOU included in YOUR
16 Answer to the COMPLAINT.

17 **REQUEST FOR PRODUCTION NO. 10:**

18 ALL DOCUMENTS supporting YOUR response for each response to the Requests For
19 Admissions served concurrently with these Interrogatories that is not an unqualified admission. .

20 **REQUEST FOR PRODUCTION NO. 11:**

21 ALL DOCUMENTS that support YOUR contention in YOUR Answer to Brave New
22 Films’ COMPLAINT that “the 10/29/07 Broadcast” is the only broadcast of “The Michael
23 Savage Show for which YOU do not claim the copyright.

24 **REQUEST FOR PRODUCTION NO. 12:**

25 ALL DOCUMENTS RELATING TO the copyright interests in the videos included in
26 the attachment to the September 29, 2008 TAKEDOWN LETTER.

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1 **REQUEST FOR PRODUCTION NO. 13:**

2 ALL DOCUMENTS supporting YOUR contention in YOUR Answer to the
3 COMPLAINT that YOU were not acting as a agent for MICHAEL SAVAGE in issuing the
4 September 29, 2008 TAKEDOWN LETTER.

5 **REQUEST FOR PRODUCTION NO. 14:**

6 ALL DOCUMENTS RELATING TO the review of the Video by YOU or anyone on
7 YOUR behalf prior to issuing the September 29, 2008 TAKEDOWN LETTER.

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9
10 DATED: February 10, 2009

11 Bingham McCutchen LLP

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14 By: Sheila M. Pierce
15 Sheila M. Pierce
16 Attorneys for Plaintiff
17 BRAVE NEW FILMS
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1 PROOF OF SERVICE

2 I am a citizen of the United States, over 18 years of age, not a party to this action
3 and employed in the County of San Mateo, California at 1900 University Avenue, East Palo
4 Alto, California 94303-2223..

5 Today I served the attached:

6 **PLAINTIFF BRAVE NEW FILMS 501(C)(4)'S FIRST SET**
7 **OF REQUESTS FOR PRODUCTION OF DOCUMENTS TO**
8 **DEFENDANT ORIGINAL TALK RADIO NETWORK, INC.**

9 by causing a true and correct copy of the above to be hand delivered in sealed envelope(s) with
10 all fees fully paid, addressed as follows:

11 Benjamin Aaron Shapiro, Esq.
12 12330 Magnolia Blvd., #114
13 Valley Village, CA 91607

14 I declare that I am employed in the office of a member of the bar of this court at
15 whose direction the service was made and that this declaration was executed on February 10,
16 2009.

17 
18 _____
19 Ruth DiFalco