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MICHAEL WEINER aka MICHAEL SAVAGE

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

9 BRAVE NEW FILMS 501(c)(4),

Plaintiff,

vs.

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

Defendants

) Case No.: CV 08-4703 SI

) DEFENDANT MICHAEL WEINER AKA
) MICHAEL SAVAGE'S RESPONSE TO
) FIRST SET OF PRODUCTION OF
) DOCUMENTS BY PLAINTIFF BRAVE
) NEW FILMS 501(c)(4)

16 PROPOUNDING PARTY: PLAINTIFF BRAVE NEW FILMS 501(c)(4)

17 RESPONDING PARTY: DEFENDANT MICHAEL WEINER aka MICHAEL SAVAGE

18 SET NUMBER: ONE (1)

19 Defendant MICHAEL WEINER aka MICHAEL SAVAGE ("**Defendant**") hereby
20 responds, in the above-captioned action (this "**Action**"), for Defendant alone, pursuant to Rule
21 34 of the Federal Rules of Civil Procedure, to plaintiff BRAVE NEW FILMS 501(c)(4)'S FIRST
22 SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS TO DEFENDANT MICHAEL
23 WEINER aka MICHAEL SAVAGE in this Action (the "**Requests**"), propounded to Defendant
24 by plaintiff BRAVE NEW FILMS 501(c)(4) ("**Plaintiff**"), as set forth below.

25 Defendant objects generally and specifically to all of the Requests to the extent that they
26 seek documents concerning communications between Savage and defendant THE ORIGINAL
27 TALK RADIO NETWORK, INC., sued herein as ORIGINAL TALK RADIO NETWORK,
INC. ("**OTRN**"), on the grounds that, in so doing, they seek to secure private, confidential and

1 proprietary documents, and documents which are irrelevant to this Action and not likely to lead
2 to the discovery of admissible evidence in this Action, and on the further grounds that certain of
3 Requests, as phrased, seek potentially thousands of documents relating to day to day
4 communications, over a period of many years, on numerous irrelevant topics. All requests
5 seeking any such documents, whether express or implied or otherwise, and whether deliberately
6 or otherwise, by the wording of any such request are objected to, and, Defendant reserves the
7 right to bring a separate motion for a supplemental protective order with respect to such matters,
8 as well as with respect to any and all other objections by Defendant to the Requests, or any of
9 them, whether or not Defendant expressly cites such right in Defendant's specific response to a
10 particular request.

11 Savage also objects, both generically and specifically, to any requests for production of
12 documents protected by the attorney-client privilege and/or the work product privilege, and to
13 the incorporation of definitions by reference into such requests, as well as to the scope of those
14 definitions, which renders each of the actual requests unduly vague, ambiguous, compound and
15 overbroad, and, in certain cases, unintelligible, as phrased.

16 Defendant further objects generically and specifically to any and all requests calling for
17 production of documents relating to communications and/or agreements between Savage and
18 OTRN for the reasons specified in response to Request No. 1, and/or relating to the so-called
19 "CAIR LITIGATION" to which Plaintiff was not a party and which is now concluded, and/or to
20 other matters and/or communications unrelated to the video actually at issue in this Action (the
21 "Video") and/or the September 29, 2008 letter actually at issue in this Action (the "Letter").
22 Any motion by Defendant for a supplemental protective order in this Action will be applicable to
23 any and all such requests.

24 The following responses are based solely upon the information presently known to
25 Defendant after such diligent investigation and reasonable inquiry as Defendant has reason to
26 believe to be reasonably expected to be productive or meaningful, and without prejudice to the
27 right of Defendant to utilize and rely on any such information and/or documents omitted due to
28 good faith inadvertence or oversight, or presently unknown to Defendant, that Defendant may

1 later discover, learn of, and/or obtain as a result of further discovery, investigation and/or
analysis by or on behalf of Defendant in connection with this Action.

3
4 **REQUEST FOR PRODUCTION NO. 1: ALL DOCUMENTS RELATING TO the**
5 **relationship between YOU and OTRN including but not limited to employment**
6 **agreements, contracts, licenses and assignments.**

7 **ANSWER:** Defendant objects to this request on the grounds that it is vague, ambiguous,
8 compound and overbroad, and on the further grounds that the all encompassing and overbroad
9 definitions purportedly incorporated by reference in this request essentially render this request
10 unintelligible, particularly in view of the overbroad, compound, convoluted and essentially
11 unintelligible definition of the term "RELATING TO" and the overbroad, compound and
12 convoluted definition of the term "YOU" purportedly incorporated by reference into this request,
13 and on the further grounds that this request is not limited to matters or documents that are at
14 issue in, or otherwise relevant to, this Action or otherwise likely to lead to the discovery of
admissible evidence in this Action, both specifically in terms of potential differing
16 interpretations of the applicable scope of the definition of the word "relationship", which
17 potentially seeks thousands of day to day communications concerning any number of irrelevant
18 topics, and on the further and specific grounds that it seeks confidential, proprietary and private
19 compensation and other contract provisions and related information, in violation of the separate
20 commercial and privacy rights of Defendant, and proprietary and confidential business
21 information of OTRN. Without waiving the foregoing objections, Defendant will produce a
22 copy of the assignment by OTRN to Savage of the copyright to the October 29, 2007 broadcast
23 of "The Michael Savage Show", as a "Confidential" document under the terms of the stipulated
24 protective order filed in this Action on April 1, 2009. Defendant expressly reserves the right to
25 seek a Supplemental Protective Order, by motion, addressing Defendant's objections to the
26 balance of this request.

1 **REQUEST FOR PRODUCTION NO. 2: ALL DOCUMENTS RELATING TO times YOU**
2 **have authorized OTRN to act on YOUR behalf with regard to YOUR intellectual property**
3 **rights, including but not limited to copyright and trademark.**

4 **ANSWER:** Defendant objects to this request on the grounds that it assumes facts not in
5 evidence, and is vague, ambiguous, compound and overbroad, and on the further grounds that the
6 all encompassing and overbroad definitions purportedly incorporated by reference in this request
7 essentially render this request unintelligible, particularly in view of the overbroad, compound,
8 convoluted and essentially unintelligible definitions of the terms "RELATING TO" and "YOU"
9 purportedly incorporated by reference into this request, and on the further grounds that it is not
10 limited to matters or documents that are at issue in, or otherwise relevant to, this Action or
11 otherwise likely to lead to the discovery of admissible evidence in this Action, and on the further
12 grounds that it assumes facts not in evidence, in that assumes that Defendant has in fact
13 authorized OTRN to act on Defendant's behalf with regard to any of Defendant's intellectual
14 property rights, and in that it by its terms seeks documents relating to information and/or material
15 not at issue in this Action. Without waiving the foregoing objections, Defendant is not aware of
16 the existence of any documents within the scope of this request.

17
18 **REQUEST FOR PRODUCTION NO. 3: ALL DOCUMENTS identified in YOUR**
19 **Responses to Brave New Films' First Set of Interrogatories served concurrently with these**
20 **Requests.**

21 **ANSWER:** Defendant objects to this request to the extent that it calls for Defendant to produce
22 statutes or other documents equally available to Plaintiff. Defendant will produce all documents,
23 if any, identified by him in his responses to the First Set of Interrogatories propounded to him in
24 this Action which are not equally available to Plaintiff.

25
26 **REQUEST FOR PRODUCTION NO. 4: ALL DOCUMENTS RELATING TO the**
27 **September 29, 2008 TAKEDOWN LETTER.**
28

1 ANSWER: Defendant objects to this request on the grounds that it appears to assume facts not
in evidence and on the further grounds that this request is vague, ambiguous, compound and
3 overbroad, as phrased, particularly in view of the overbroad, compound, convoluted and
4 essentially unintelligible definition of the term "RELATING TO" purportedly incorporated by
5 reference into this request, and on the further grounds that this request appears to seek documents
6 outside of the custody or control of Defendant, and indeed, outside of the knowledge of
7 Defendant. Defendant further objects to this request to the extent that this seeks documents
8 equally or more available to Plaintiff, and further and specifically objects this request as to all
9 documents that are protected from disclosure by the attorney-client privilege or the attorney
10 work product privilege, particularly to the extent that the request is not restricted to the period
11 prior to the initiation of this Action, and therefore seeks to include documents relating to the
12 legal defense of Defendant in this Action. Without waiving the foregoing objections, Defendant
13 states that Defendant is not aware of any non-privileged documents which Defendant
14 understands to be responsive to this request beyond documents attached to pleadings and/or
15 exchanged by and between other parties in this Action, and thus already equally available to
16 Plaintiff.

17
18 **REQUEST FOR PRODUCTION NO. 5: ALL DOCUMENTS RELATING TO THE**
19 **CAIR LITIGATION.**

20 ANSWER: Defendant objects to this request to the extent that it calls for Defendant to produce
21 statutes or other documents equally available to Plaintiff. Defendant further objects to this
22 request on the grounds that it is vague, ambiguous, and overbroad, as phrased, particularly in
23 view of the overbroad, compound, convoluted and essentially unintelligible definition of the term
24 "RELATING TO" purportedly incorporated by reference into this request. Defendant further
25 objects to this request on the grounds that it encompasses every document passing between
26 Defendant and any party, including without limitation Defendant's attorneys, with regard to the
27 "CAIR LITIGATION", it seeks documents equally available to Plaintiff outside of the custody
or control of Defendant, and, indeed, outside the knowledge of Defendant, in that it appears to

1 request all documents anywhere in the universe relating, in any way, to the so-called "CAIR
2 LITIGATION". Defendant further and specifically objects to this request as to all documents
3 that are protected from disclosure by the attorney-client privilege or the attorney work product
4 privilege, including without limitation documents relating to the representation of Savage in the
5 "CAIR LITIGATION". Defendant further objects to this request on the grounds that it is not
6 limited to matters or documents that are at issue in, or otherwise relevant to, this Action or
7 otherwise likely to lead to the discovery of admissible evidence in this Action, particularly since
8 the issuance of the September 29, 2008 letter from counsel for OTRN to YouTube at issue in this
9 Action had nothing whatsoever to do with Defendant, and therefore bears no relation to the
10 "CAIR LITIGATION" whatsoever, and further, that neither Plaintiff nor OTRN were parties to
11 the CAIR LITIGATION, and therefore such documents are wholly irrelevant to this Action.
12 Defendant expressly reserves the right to seek a supplemental protective order with respect to
13 this request.

14
15 **REQUEST FOR PRODUCTION NO. 6: ALL DOCUMENTS BETWEEN YOU and**
16 **OTRN RELATING TO THE TAKEDOWN LETTER.**

17 **ANSWER:** Defendant objects to this request as assuming facts not in evidence, and as being
18 unduly vague, compound, ambiguous, unintelligible and overboard, particularly in view of the
19 overbroad, compound, convoluted and essentially unintelligible definitions of the terms "YOU"
20 and "RELATING TO" purportedly incorporated by reference into this request. Defendant
21 further objects to this request to the extent that it seeks documents invasive of the attorney-client
22 privilege, and on the grounds that it is overbroad and not limited to matters or documents that are
23 at issue in, or otherwise relevant to, this Action or otherwise likely to lead to the discovery of
24 admissible evidence in this Action. Notwithstanding the foregoing objections, Defendant is not
25 aware of any documents whatsoever within any possible construction Defendant can place on
26 this request relating in any manner to communications (whether written or oral) between OTRN
27 and Defendant relating to the September 29, 2008 letter to You Tube at issue in this Action prior
28 to the time Defendant learned of the commencement of this Action. It is Defendant's

1 understanding that this request has been narrowed in scope by Plaintiff to apply only to
2 communications prior to the commencement of this Action, and that, as a result, the foregoing
3 sentence fully responds to this request.
4

5 **REQUEST FOR PRODUCTION NO. 7: ALL DOCUMENTS BETWEEN YOU and**
6 **OTRN RELATING TO THE CAIR LITIGATION.**

7 **ANSWER:** Defendant objects to this request on the grounds that it is vague, ambiguous,
8 compound, unintelligible and overbroad, particularly in view of the overbroad, compound,
9 convoluted and essentially unintelligible definitions of the terms "RELATING TO" and "YOU"
10 purportedly incorporated by reference into this request, and on the further grounds that it is not
11 limited to matters or documents that are at issue in, or otherwise relevant to, this Action or
12 otherwise likely to lead to the discovery of admissible evidence in this Action. Defendant
13 expressly reserves the right to seek a supplemental protective order with respect to this request.
14

15 **REQUEST FOR PRODUCTION NO. 8: ALL DOCUMENTS supporting YOUR**
16 **contention in YOUR Motion to Dismiss that OTRN was not acting as YOUR agent when it**
17 **sent the September 29, 2008 "TAKEDOWN LETTER" to YouTube.**

18 **ANSWER:** Defendant objects to this request on the grounds that it is vague, ambiguous,
19 compound and unintelligible, and is hopelessly confusing, and on the further grounds that it
20 assumes facts not in evidence and requests documents beyond the possession, custody or control
21 of Defendant, in that it does not request documents on which Defendant bases a designated
22 contention, but rather seeks all documents supporting such contention (whether or not known to
23 Defendant), and Defendant is not able to discern what third parties would consider to support
24 such contention, in contrast to any document on which Defendant bases such contention, and in
25 that it requests documents supporting the absence of a fact (agency), rather than documents on
26 which Defendant bases a claim to the existence of a fact. Without waiving the foregoing
27 objections, Defendant agrees to produce a copy of the 9/29/08 letter from OTRN to YouTube,

1 which was attached to Plaintiff's complaint in this Action, which clearly states that OTRN does
2 not represent Defendant.

3
4 **REQUEST FOR PRODUCTION NO. 9: ALL DOCUMENTS RELATING TO the**
5 **ownership of copyright interests in "The Michael Savage Show" also known as "The**
6 **Savage Nation."**

7 **ANSWER:** Defendant objects to this request on the grounds that it is vague, ambiguous,
8 compound and overbroad, and unintelligible, particularly in view of the overbroad, compound,
9 convoluted and essentially unintelligible definition of the term "RELATING TO" purportedly
10 incorporated by reference into this request. Without waiving the foregoing objections,
11 Defendant will produce a copy of the assignment of the copyright for "the 10/29/07 Broadcast"
12 of "The Michael Savage Show" from OTRN to Defendant as a "Confidential" document under
13 the existing protective order in this Action.

14
15 **REQUEST FOR PRODUCTION NO. 10: ALL DOCUMENTS RELATING to claims**
16 **made by YOU to ANY PERSON RELATING TO copyright interests in "The Michael**
17 **Savage Show" also known as "The Savage Nation."**

18 **ANSWER:** Defendant objects to this request on the grounds that it is vague, compound,
19 unintelligible, ambiguous, and overbroad, as phrased, particularly in view of the overbroad,
20 compound, convoluted and essentially unintelligible definitions of the terms "RELATING TO"
21 and "YOU" purportedly incorporated by reference into this request, and on the further grounds
22 that it appears to seek documents outside of the custody or control of Defendant, and outside the
23 knowledge of Defendant, in that it is not limited to documents known to Defendant or within
24 Defendant's possession, custody or control. Defendant further and specifically objects as to all
25 documents that are within the attorney-client privilege or the attorney work product privilege.
26 Defendant further objects to this request on the grounds that it is not limited to matters or
27 documents that are at issue in, or otherwise relevant to, this Action; or otherwise likely to lead to
28 the discovery of admissible evidence in this Action. Defendant expressly reserves the right to

1 bring a motion for a supplemental protective order with respect to this request. Without waiving
2 the forgoing objections, Defendant will produce a copy of the assignment of the copyright for
3 "the 10/29/07 Broadcast" of "The Michael Savage Show" from OTRN to Defendant as a
4 "Confidential" document under the existing protective order in this Action.

5
6 **REQUEST FOR PRODUCTION NO. 11: ALL DOCUMENTS supporting YOUR**
7 **response for each response to the Requests for Admissions served concurrently with these**
8 **Requests that is not an unqualified admission.**

9 **ANSWER:** Defendant objects to this request on the grounds that it is vague, ambiguous,
10 compound, unintelligible and overbroad, as well as unintelligible, as phrased, and calls for
11 Defendant to produce statutes or other documents equally available to Plaintiff, as well as
12 documents not known to Defendant, and on the further grounds that it is subject to differing
13 opinions as to what documents, of all the documents in the world, whether or not known to exist
14 by Defendant, would be found by third parties to "support" particular responses, and on the
15 further grounds that it purports to seek documents outside the possession, custody, control or
16 knowledge of Defendant, and is not limited to documents identified in Defendant's responses to
17 any requests for admissions, and/or to documents on which Defendant bases any such responses.
18 Notwithstanding the foregoing objections, Defendant will produce those documents within
19 Defendant's custody, possession or control which Defendant would intend, at any stage of this
20 Action, to submit as evidence in this Action in support of Defendant's responses to the subject
21 requests for admissions, and which thus are understood by Defendant to be properly requested by
22 this request, as well as any documents identified by Defendant in his responses to the First Set of
23 Requests for Admissions propounded to him in this Action which are not equally available to
24 Plaintiff.

25
26 **REQUEST FOR PRODUCTION NO. 12: ALL DOCUMENTS RELATING TO the**
27 **transfer or assignment of the copyright interest in the October 29, 2007 broadcast of "The**
Michael Savage Show."

