

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Action No.: 1:11-cv-00553-JLK

RIGHTHAVEN LLC, a Nevada limited-liability company,

Plaintiff,

v.

PANTHEON PROMOTIONS, INC., a Texas corporation; NATHANIEL BACON, an individual,

Defendants.

**NOTICE OF VOLUNTARY DISMISSAL WITHOUT PREJUDICE PURSUANT TO
FEDERAL RULE OF CIVIL PROCEDURE 41(a)(1)(A)(i) WITH CERTIFICATE OF
SERVICE**

Righthaven LLC (“Righthaven”) hereby files this notice of voluntary dismissal without prejudice pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i) (the “Notice of Dismissal”). Righthaven is permitted to voluntarily dismiss this action without Court action because an answer or motion for summary judgment has not been filed in this action. *See, e.g., Janssen v. Harris*, 321 F.3d 998, 1000 (10th Cir. 2003); *accord Zimmerman v. Legal Assistant at Territorial Prison*, 2010 WL 662716, at * 1 (D. Colo. Feb. 22, 2010) (recognizing that Federal Rule of Civil Procedure 41(a)(1) permits the plaintiff to file a notice of voluntary dismissal before the opposing party files an answer or motion for summary judgment). Righthaven’s Notice of Dismissal is effective upon filing and no subsequent order is required from the Court. *See Hyde Constr. Co. v. Koehring Co.*, 388 F.2d 501, 507 (10th Cir. 1968). The notice closes the file for this case. *See id.*

Righthaven’s Notice of Dismissal is filed in response to the Court’s decision in *Righthaven LLC v. Wolf*, Case No. 1:11-cv-830 (D. Colo. Sept. 27, 2011) (Doc. # 49) (“*Wolf*”),

which determined subject matter jurisdiction was lacking over the company's copyright infringement complaint in that action, as well as the associated Order to Show Cause issued in this action. While Righthaven respectfully disagrees with the Court's determination in *Wolf*, the decision admittedly involved "one of first impression for the Tenth Circuit" (Doc. # 49 at 5.)

Righthaven will seek review of the *Wolf* decision by the Tenth Circuit. As such, Righthaven has filed this Notice of Dismissal to avoid unnecessarily multiplying the proceedings in view of the Court's decision in *Wolf* and in further view of its intent to seek appellate review of that decision. Righthaven will evaluate the propriety of pursuing its copyright infringement claims against the Defendants following an adjudication of the matters presented for review to the Tenth Circuit.

Dated this 7th day of October, 2011.

By: /s/ Shawn A. Mangano
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CERTIFICATE OF SERVICE

Pursuant to Federal Rule of Civil Procedure 5(b), I hereby certify that on October 7, 2011, I caused the foregoing **NOTICE OF VOLUNTARY DISMISSAL WITHOUT PREJUDICE PURSUANT TO FEDERAL RULE OF CIVIL PROCEDURE 41(a)(1)(A)(i)** to be to be served by the Court's CM/ECF system.

By: /s/ Shawn A. Mangano
SHAWN A. MANGANO, ESQ.
SHAWN A. MANGANO, LTD.