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8 **UNITED STATES DISTRICT COURT**
 9 **DISTRICT OF NEVADA**
 10

11 RIGHTHAVEN LLC, a Nevada limited-
 12 liability company,

13
 14 Plaintiff,

15 v.

16 VOTE FOR THE WORST, LLC, an Utah
 limited-liability company; NATHAN E.
 17 PALMER, an individual; and DAVID J.
 DELLA TERZA, an individual,
 18

19 Defendants.
 20

Case No.: 2:10-cv-01045

**COMPLAINT AND DEMAND
 FOR JURY TRIAL**

21
 22 Righthaven LLC (“Righthaven”) complains as follows against Vote For The Worst, LLC
 23 (“Vote For The Worst”), Nathan E. Palmer (“Mr. Palmer”), and David J. Della Terza (“Mr.
 24 Terza”; collectively with Vote For The Worst and Mr. Palmer known herein as the
 25 “Defendants”), on information and belief:

26
 27 **NATURE OF ACTION**

28 1. This is an action for copyright infringement pursuant to 17 U.S.C. § 501.

1 **PARTIES**

2 2. Righthaven is, and has been at all times relevant to this lawsuit, a Nevada limited-
3 liability company with its principal place of business in Nevada.

4 3. Righthaven is, and has been at all times relevant to this lawsuit, in good standing
5 with the Nevada Secretary of State.

6 4. Vote For The Worst is, and has been at all times relevant to this lawsuit, an Utah
7 limited-liability company.

8 5. Mr. Terza is, and has been at all times relevant to this lawsuit, identified as a
9 manager of Vote For The Worst, as evidenced by the Utah Secretary of State business entity
10 database, attached hereto as Exhibit 1.

11 6. Mr. Palmer is, and has been at all times relevant to this lawsuit, identified as a
12 manager of Vote For The Worst, as evidenced by the Utah Secretary of State business entity
13 database, attached hereto as Exhibit 1.

14 7. Vote For The Worst is, and has been at all times relevant to this lawsuit, identified
15 by the current registrar, GoDaddy.com (“GoDaddy”), as the registrant, administrative contact,
16 and technical contact of the Internet domain found at <votefortheworst.com> (the “Domain”).
17

18 **JURISDICTION**

19 8. This Court has original subject matter jurisdiction over this copyright
20 infringement action, pursuant to 28 U.S.C. § 1331 and 28 U.S.C. § 1338(a).

21 9. Righthaven is the copyright owner of the literary work entitled: “Idol’ finalists
22 keep busy in Las Vegas” (the “Work”), attached hereto as Exhibit 2.

23 10. At all times relevant to this lawsuit, the Work depicted and depicts the original
24 source publication as the *Las Vegas Review-Journal*.

25 11. The Defendants willfully copied, on an unauthorized basis, the Work from a
26 source emanating from Nevada.
27
28

1 12. On or about April 12, 2010, the Defendants displayed, and continue to display, an
2 unauthorized reproduction of the Work (the “Infringement”), attached hereto as Exhibit 3, on the
3 Website.

4 13. At all times relevant to this lawsuit, the Infringement depicted and depicts the
5 original source publication as the *Las Vegas Review-Journal*.

6 14. At all times relevant to this lawsuit, the Defendants knew that the Work was
7 originally published in the *Las Vegas Review-Journal*.

8 15. The subject matter, at least in part, of both the Work and the Infringement is the
9 America Idol season nine finalists’ visit to Las Vegas, Nevada.

10 16. At all times relevant to this lawsuit, the Defendants knew that the Infringement
11 was and is of specific interest to Las Vegas, Nevada residents.

12 17. Mr. Palmer purposefully directs activities at Nevada residents, which activities
13 have resulted in the copyright infringement alleged herein.

14 18. Mr. Terza purposefully directs activities at Nevada residents, which activities
15 have resulted in the copyright infringement alleged herein.

16 19. Vote For The Worst purposefully directs activities at Nevada residents, which
17 activities have resulted in the copyright infringement alleged herein.

18 20. The Defendants purposefully direct and effectuate the unauthorized reproduction
19 of a Righthaven-owned copyrighted work on the Website.

20 21. The Defendants’ unauthorized reproduction of a Righthaven-owned copyrighted
21 work found on the Website was and is purposefully targeted at Nevada residents.

22
23 **VENUE**

24 22. The United States District Court for the District of Nevada is an appropriate
25 venue, pursuant to 28 U.S.C. § 1391(b)(2), because a substantial part of the events giving rise to
26 the claim for relief are situated in Nevada.
27
28

1 23. The United States District Court for the District of Nevada is an appropriate
2 venue, pursuant to 28 U.S.C. § 1391(c), because Vote For The Worst is subject to personal
3 jurisdiction in Nevada.

4
5 **FACTS**

6 24. The Work constitutes copyrightable subject matter pursuant to 17 U.S.C.
7 §102(a)(1).

8 25. Righthaven is the owner of the copyright in and to the Work.

9 26. The Work was originally published on April 11, 2010.

10 27. On June 21, 2010, the United States Copyright Office (the “USCO”) granted
11 Righthaven the registration to the Work, copyright registration number TX0007159695
12 (the “Registration”) and attached hereto as Exhibit 4, is evidence of the Registration from the
13 official USCO database record depicting the occurrence of the Registration.

14 28. On or about April 12, 2010, the Defendants reproduced the Infringement on the
15 Website.

16 29. The Defendants did not seek permission, in any manner, to reproduce, display, or
17 otherwise exploit the Work.

18 30. The Defendants were not granted permission, in any manner, to reproduce,
19 display, or otherwise exploit the Work.

20
21 **CLAIM FOR RELIEF: COPYRIGHT INFRINGEMENT**

22 31. Righthaven repeats and realleges the allegations set forth in Paragraphs 1 through
23 30 above.

24 32. Righthaven holds the exclusive right to reproduce the Work, pursuant to 17
25 U.S.C. § 106(1).

26 33. Righthaven holds the exclusive right to prepare derivative works based upon the
27 Work, pursuant to 17 U.S.C. § 106(2).

1 34. Righthaven holds the exclusive right to distribute copies of the Work, pursuant to
2 17 U.S.C. § 106(3).

3 35. Righthaven holds the exclusive right to publicly display the Work, pursuant to 17
4 U.S.C. § 106(5).

5 36. The Defendants reproduced the Work in derogation of Righthaven's exclusive
6 rights under 17 U.S.C. § 106(1).

7 37. The Defendants created an unauthorized derivative of the Work in derogation of
8 Righthaven's exclusive rights under 17 U.S.C. § 106(2).

9 38. The Defendants distributed, and continue to distribute, an unauthorized
10 reproduction of the Work on the Website, in derogation of Righthaven's exclusive rights under
11 17 U.S.C. § 106(3).

12 39. The Defendants publicly displayed, and continue to display, an unauthorized
13 reproduction of the Work on the Website, in derogation of Righthaven's exclusive rights under
14 17 U.S.C. § 106(5).

15 40. Vote For The Worst has willfully engaged in the copyright infringement of the
16 Work.

17 41. Mr. Palmer has willfully engaged in the copyright infringement of the Work.

18 42. Mr. Terza has willfully engaged in the copyright infringement of the Work.

19 43. The Defendants' acts as alleged herein, and the ongoing direct results of those
20 acts, have caused and will continue to cause irreparable harm to Righthaven in an amount
21 Righthaven cannot ascertain, leaving Righthaven with no adequate remedy at law.

22 44. Unless the Defendants are preliminarily and permanently enjoined from further
23 infringement of the Work, Righthaven will be irreparably harmed, and Righthaven is thus
24 entitled to preliminary and permanent injunctive relief against further infringement by the
25 Defendants of the Work, pursuant to 17 U.S.C. § 502.

1 **PRAYER FOR RELIEF**

2 Righthaven requests that this Court grant Righthaven’s claim for relief herein as follows:

3 1. Preliminarily and permanently enjoin and restrain the Defendants, and the
4 Defendants’ officers, agents, servants, employees, attorneys, parents, subsidiaries, related
5 companies, partners, and all persons acting for, by, with, through, or under the Defendants, from
6 directly or indirectly infringing the Work by reproducing the Work, preparing derivative works
7 based on the Work, distributing the Work to the public, and/or displaying the Work, or ordering,
8 directing, participating in, or assisting in any such activity;

9 2. Direct the Defendants to preserve, retain, and deliver to Righthaven in hard copies
10 or electronic copies:

11 a. All evidence and documentation relating in any way to the Defendants’
12 use of the Work, in any form, including, without limitation, all such evidence and
13 documentation relating to the Website;

14 b. All evidence and documentation relating to the names and addresses
15 (whether electronic mail addresses or otherwise) of any person with whom the
16 Defendants have communicated regarding the Defendants’ use of the Work; and

17 c. All financial evidence and documentation relating to the Defendants’ use
18 of the Work;

19 3. Direct GoDaddy and any successor domain name registrar for the Domain to lock
20 the Domain and transfer control of the Domain to Righthaven;

21 4. Award Righthaven statutory damages for the willful infringement of the Work,
22 pursuant to 17 U.S.C. § 504(c);

23 5. Award Righthaven costs, disbursements, and attorneys’ fees incurred by
24 Righthaven in bringing this action, pursuant to 17 U.S.C. § 505;

25 6. Award Righthaven pre- and post-judgment interest in accordance with applicable
26 law; and

27 7. Grant Righthaven such other relief as this Court deems appropriate.
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