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 11 Stephens Media, LLC

12 **UNITED STATES DISTRICT COURT**
 13 **DISTRICT OF NEVADA**

14 RIGHTHAVEN LLC, a Nevada limited-
 15 liability company,

Case No.: 2:10-cv-01356-RLH-GWF

16 Plaintiff,

17 v.

18 DEMOCRATIC UNDERGROUND, LLC, a
 19 District of Columbia limited-liability
 20 company; and DAVID ALLEN, an
 21 individual,

**COUNTER-DEFENDANT STEPHENS
 MEDIA LLC'S REPLY TO
 DEMOCRATIC UNDERGROUD, LLC'S
 COUNTERCLAIM**

22 Defendants.

23 DEMOCRATIC UNDERGROUND, LLC, a
 24 District of Columbia limited-liability
 25 company,

26 Counterclaimant,

27 v.

28 RIGHTHAVEN LLC, a Nevada limited-
 liability company; and STEPHENS MEDIA
 LLC, a Nevada limited-liability company,

Counterdefendants.



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 & WILLIAMS**
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1 Counter-Defendant Stephens Media LLC (“Stephens Media”) hereby responds to the
2 Counterclaim of Democratic Underground, LLC (“Democratic Underground”) [Dkt. No. 13]
3 following the Court’s June 14, 2011 Order (the “June 14th Order”) [Dkt. No. 116] as follows:
4

5 1. In responding to paragraph 1 of the Counterclaim, Stephens Media admits the
6 Court has determined that sufficient subject matter jurisdiction exists for purposes of sustaining a
7 declaratory relief action. [Doc. # 116.] Stephens Media maintains that subject matter jurisdiction
8 does not exist given that it is a non-exclusive licensee under the operative agreements, which
9 were not considered by the Court in its June 14th Order. *Id.* at 8 n.1.

10 2. In responding to paragraph 2 of the Counterclaim, Stephens Media denies the
11 allegations contained therein.

12 3. In responding to paragraph 3 of the Counterclaim, Stephens Media admits the
13 allegations contained therein.

14 4. In responding to paragraph 4 of the Counterclaim, Stephens Media admits the *Las*
15 *Vegas Review-Journal* was the source publication for the News Article and that it assigned all
16 rights, title and interest, including the right to sue for past, present and future infringement, of the
17 News Article to Righthaven LLC (“Righthaven”). Stephens Media further admits that all, or a
18 portion of, the News Article was composed by a writer as a work for hire. To the extent this
19 paragraph calls for a response to additional information, Stephens Media denies any such
20 allegations.

21 5. In responding to paragraph 5 of the Counterclaim, Stephens Media denies that it
22 has not fully assigned all rights in the News Article, but admits that it has been granted certain
23 non-exclusive rights to use the News Article under the current and operative version of its
24 contract with Righthaven. To the extent this paragraph calls for a response to additional
25 information, Stephens Media denies any such allegations.
26
27
28



1 6. In responding to paragraph 6 of the Counterclaim, Stephens Media maintains that
2 the allegations contained therein are exclusively directed to Righthaven and, as such, it lacks
3 sufficient information and belief to formulate a response to this paragraph. Accordingly,
4 Stephens Media denies the allegations contained in this paragraph based on its lack of
5 information and belief.
6

7 7. In responding to paragraph 7 of the Counterclaim, Stephens Media maintains that
8 the allegations contained therein are exclusively directed to Righthaven and, as such, it lacks
9 sufficient information and belief to formulate a response to this paragraph. Accordingly,
10 Stephens Media denies the allegations contained in this paragraph based on its lack of
11 information and belief.
12

13 8. In responding to paragraph 8 of the Counterclaim, Stephens Media maintains that
14 the allegations contained therein are exclusively directed to Righthaven and, as such, it lacks
15 sufficient information and belief to formulate a response to this paragraph. Accordingly,
16 Stephens Media denies the allegations contained in this paragraph based on its lack of
17 information and belief.
18

19 9. In responding to paragraph 9 of the Counterclaim, Stephens Media maintains that
20 the allegations contained therein are exclusively directed to Righthaven and, as such, it lacks
21 sufficient information and belief to formulate a response to this paragraph. Accordingly,
22 Stephens Media denies the allegations contained in this paragraph based on its lack of
23 information and belief.
24

25 10. In responding to paragraph 10 of the Counterclaim, Stephens Media maintains that
26 the allegations contained therein are exclusively directed to Righthaven and, as such, it lacks
27 sufficient information and belief to formulate a response to this paragraph. Accordingly,
28



1 Stephens Media denies the allegations contained in this paragraph based on its lack of
2 information and belief.

3
4 11. In responding to paragraph 11 of the Counterclaim, Stephens Media maintains that
5 the allegations contained therein are exclusively directed to Righthaven and, as such, it lacks
6 sufficient information and belief to formulate a response to this paragraph. Accordingly,
7 Stephens Media denies the allegations contained in this paragraph based on its lack of
8 information and belief.

9
10 12. In responding to paragraph 12 of the Counterclaim, Stephens Media maintains that
11 the allegations contained therein are exclusively directed to Righthaven and, as such, it lacks
12 sufficient information and belief to formulate a response to this paragraph. Accordingly,
13 Stephens Media denies the allegations contained in this paragraph based on its lack of
14 information and belief.

15
16 13. In responding to paragraph 13 of the Counterclaim, Stephens Media admits it has a
17 general understanding that Righthaven typically does not send cease and desist letters before
18 filing suit. Stephens Media lacks sufficient information and belief to formulate a response to the
19 remaining allegations in this paragraph and, therefore, denies the same.

20
21 14. In responding to paragraph 14 of the Counterclaim, Stephens Media maintains that
22 the allegations contained therein are exclusively directed to Righthaven and, as such, it lacks
23 sufficient information and belief to formulate a response to this paragraph. Accordingly,
24 Stephens Media denies the allegations contained in this paragraph based on its lack of
25 information and belief.

26
27 15. In responding to paragraph 15 of the Counterclaim, Stephens Media maintains that
28 the allegations contained therein are exclusively directed to Righthaven and, as such, it lacks
sufficient information and belief to formulate a response to this paragraph. Accordingly,



1 Stephens Media denies the allegations contained in this paragraph based on its lack of
2 information and belief.

3 16. In responding to paragraph 16 of the Counterclaim, Stephens Media admits that it
4 has assigned all rights, title and ownership, including the right to sue for past, present and future
5 infringement, in more than one copyright protectable literary or other work to Righthaven with
6 the express permission to seek registration with the United States Copyright Office. Stephens
7 Media further admits that copyright infringement claims have been asserted by Righthaven based
8 upon the assigned rights, including the rights to sue for past, present and future infringements. To
9 the extent this paragraph calls for a response to additional information, Stephens Media denies
10 any such allegations.
11

12 17. In responding to paragraph 17 of the Counterclaim, Stephens Media admits that
13 Righthaven filed suit against Sharon Angle and/or her political campaign. Stephens Media lacks
14 sufficient information and belief to formulate a response to the remaining allegations in this
15 paragraph and, therefore, denies the same.
16

17 18. In responding to paragraph 18 of the Counterclaim, Stephens Media maintains that
18 the allegations contained therein are exclusively directed to Righthaven and, as such, it lacks
19 sufficient information and belief to formulate a response to this paragraph. Accordingly,
20 Stephens Media denies the allegations contained in this paragraph based on its lack of
21 information and belief.
22

23 19. In responding to paragraph 19 of the Counterclaim, Stephens Media maintains that
24 the allegations contained therein are exclusively directed to Righthaven and, as such, it lacks
25 sufficient information and belief to formulate a response to this paragraph. Accordingly,
26 Stephens Media denies the allegations contained in this paragraph based on its lack of
27 information and belief.
28



1 20. In responding to paragraph 20 of the Counterclaim, Stephens Media denies that its
2 media news publication or its personnel are acting in concert with Righthaven to propagate
3 lawsuits. Any resulting legal action is based upon the unauthorized use of copyright protected
4 literary or other works and such actionable conduct is not within the control of either Stephens
5 Media or Righthaven. To the extent this paragraph calls for a response to additional information,
6 Stephens Media denies any such allegations.
7

8 21. Stephens Media admits that Sherman Frederick was formerly the CEO of Stephens
9 Media. Stephens Media denies the remaining allegations contained in paragraph 21 of the
10 Counterclaim to the extent they are inconsistent with the foregoing response.
11

12 22. In responding to paragraph 22 of the Counterclaim, Stephens Media admits that it
13 is the publisher of the *Las Vegas Review-Journal* and that content appearing therein is owned by
14 Stephens Media. To the extent this paragraph calls for a response to additional information,
15 Stephens Media denies any such allegations.

16 23. In responding to paragraph 23 of the Counterclaim, Stephens Media denies the
17 allegations contained therein.

18 24. In responding to paragraph 24 of the Counterclaim, Stephens Media denies the
19 allegations contained therein.
20

21 25. In responding to paragraph 25 of the Counterclaim, Stephens Media admits that
22 under at least its original contract with Righthaven, it could potentially receive funds derived
23 from a recovery in legal proceedings related to assigned copyrighted works. To the extent this
24 paragraph calls for a response to additional information, Stephens Media denies any such
25 allegations.
26

27 26. In responding to paragraph 26 of the Counterclaim, Stephens Media admits that
28 under at least its original contract with Righthaven, it could potentially receive funds derived



1 from a recovery in legal proceedings related to assigned copyrighted works. To the extent this
2 paragraph calls for a response to additional information, Stephens Media denies any such
3 allegations.

4
5 27. In responding to paragraph 27 of the Counterclaim, Stephens Media admits that
6 the listed entities are members of Righthaven to the extent such information accurately reflects
7 the information submitted to the Nevada Secretary of State.

8 28. In responding to paragraph 28 of the Counterclaim, Stephens Media denies the
9 allegations contained therein to the extent they do not accurately reflect the members of the listed
10 entity or entities. Stephens Media further lacks sufficient information and belief as to the full
11 extent of "Warren Stephens' family" and the "Stephens family" intended by this paragraph and
12 on that basis denies such allegations.

13
14 29. In responding to paragraph 29 of the Counterclaim, Stephens Media admits that SF
15 Holding Corp. and/or Stephens Holding Company are its managers or managing members as
16 reflected by records filed with the Nevada Secretary of State.

17 30. In responding to paragraph 30 of the Counterclaim, Stephens Media admits the
18 allegations contained therein as reflected by records filed with the Arkansas Secretary of State.

19 31. In responding to paragraph 31 of the Counterclaim, Stephens Media admits the
20 allegations contained therein as reflected by records filed with the Arkansas Secretary of State.

21 32. In responding to paragraph 32 of the Counterclaim, Stephens Media admits that
22 the Nevada Secretary of State records indicate that Steve Gibson is the manager of the identified
23 entity. Stephens Media lacks sufficient information and belief to formulate a response to the
24 remaining information contained in this paragraph. Accordingly, Stephens Media denies these
25 allegations based on its lack of information and belief.
26
27
28



1 33. In responding to paragraph 33 of the Counterclaim, Stephens Media denies it
2 published any “manifesto” as alleged. To the extent the quoted portions of this paragraph
3 accurately reflect content published by the *Las Vegas Review-Journal*, Stephens Media admits
4 such content. To the extent this paragraph calls for a response to additional information, Stephens
5 Media denies any such allegations.
6

7 34. In responding to paragraph 34 of the Counterclaim, Stephens Media lacks
8 sufficient information and belief to formulate a response to the information contained in this
9 paragraph given the amount of potentially protectable content generated by its various news
10 media publications. Accordingly, Stephens Media denies these allegations based on its lack of
11 information and belief.
12

13 35. In responding to paragraph 35 of the Counterclaim, Stephens Media admits the
14 allegations contained in this paragraph, but lacks sufficient information and belief as to the prior
15 conduct of any entity or entities that it has acquired over time.
16

17 36. In responding to paragraph 36 of the Counterclaim, Stephens Media maintains that
18 the allegations contained therein are exclusively directed to Righthaven and, as such, it lacks
19 sufficient information and belief to formulate a response to this paragraph. Accordingly,
20 Stephens Media denies the allegations contained in this paragraph based on its lack of
21 information and belief.
22

23 37. In responding to paragraph 37 of the Counterclaim, Stephens Media maintains that
24 the allegations contained therein are exclusively directed to Righthaven and, as such, it lacks
25 sufficient information and belief to formulate a response to this paragraph. Accordingly,
26 Stephens Media denies the allegations contained in this paragraph based on its lack of
27 information and belief.
28



1 38. In responding to paragraph 38 of the Counterclaim, Stephens Media denies the
2 allegations set forth therein.

3 39. In responding to paragraph 39 of the Counterclaim, Stephens Media denies the
4 allegations set forth therein.

5 40. In responding to paragraph 40 of the Counterclaim, Stephens Media admits that it
6 currently holds a non-exclusive license to use the News Article. Stephens Media denies the
7 remaining allegations contained in this paragraph.

8 41. In responding to paragraph 41 of the Counterclaim, Stephens Media maintains this
9 paragraph improperly calls for a legal conclusion as to the meaning and application of an agency
10 relationship and on that basis denies the allegations contained therein. Stephens Media admits,
11 however, that its relationship with Righthaven is set forth in certain contractual agreements and
12 related amendments. Stephens Media denies the remaining allegations contained in this
13 paragraph.
14 paragraph.

15 42. In responding to paragraph 42 of the Counterclaim, Stephens Media denies the
16 allegations set forth therein.

17 43. In responding to paragraph 43 of the Counterclaim, Stephens Media maintains this
18 paragraph improperly calls for a legal conclusion as to the meaning and application of a common
19 interest agreement and on that basis denies the allegations contained therein. To the extent this
20 paragraph calls for application of the attorney-client privilege to parties with common interest in
21 litigation, Stephens Media admits that such protection applies to this action.

22 44. Stephens Media admits that exhibits from the Democratic Underground website
23 attached to the Complaint in this action identify David Allen as the owner of Democratic
24 Underground. Stephens Media lacks sufficient information to admit or deny the remaining
25 allegations contained in paragraph 44 of the Counterclaim and, therefore, denies the same.
26 allegations contained in paragraph 44 of the Counterclaim and, therefore, denies the same.



1 45. In responding to paragraph 45 of the Counterclaim, Stephens Media admits that
2 Democratic Underground maintains a website. Stephens Media denies the remaining allegations
3 contained in this paragraph based on a lack of information and belief.

4 46. In responding to paragraph 46 of the Counterclaim, Stephens Media lacks
5 sufficient information and belief to formulate a response to this paragraph. Accordingly,
6 Stephens Media denies the allegations contained in this paragraph based on its lack of
7 information and belief.

8 47. In responding to paragraph 47 of the Counterclaim, Stephens Media lacks
9 sufficient information and belief to formulate a response to this paragraph. Accordingly,
10 Stephens Media denies the allegations contained in this paragraph based on its lack of
11 information and belief.

12 48. In responding to paragraph 48 of the Counterclaim, Stephens Media lacks
13 sufficient information and belief to formulate a response to this paragraph. Accordingly,
14 Stephens Media denies the allegations contained in this paragraph based on its lack of
15 information and belief.

16 49. In responding to paragraph 49 of the Counterclaim, Stephens Media lacks
17 sufficient information and belief to formulate a response to this paragraph. Accordingly,
18 Stephens Media denies the allegations contained in this paragraph based on its lack of
19 information and belief.

20 50. In responding to paragraph 50 of the Counterclaim, Stephens Media lacks
21 sufficient information and belief to formulate a response to this paragraph. Accordingly,
22 Stephens Media denies the allegations contained in this paragraph based on its lack of
23 information and belief.



1 51. In responding to paragraph 51 of the Counterclaim, Stephens Media lacks
2 sufficient information and belief to formulate a response to this paragraph. Accordingly,
3 Stephens Media denies the allegations contained in this paragraph based on its lack of
4 information and belief.

5
6 52. In responding to paragraph 52 of the Counterclaim, Stephens Media lacks
7 sufficient information and belief to formulate a response to this paragraph. Accordingly,
8 Stephens Media denies the allegations contained in this paragraph based on its lack of
9 information and belief.

10 53. In responding to paragraph 53 of the Counterclaim, Stephens Media lacks
11 sufficient information and belief to formulate a response to this paragraph. Accordingly,
12 Stephens Media denies the allegations contained in this paragraph based on its lack of
13 information and belief.

14
15 54. In responding to paragraph 54 of the Counterclaim, Stephens Media lacks
16 sufficient information and belief to formulate a response to this paragraph. Accordingly,
17 Stephens Media denies the allegations contained in this paragraph based on its lack of
18 information and belief.

19
20 55. In responding to paragraph 55 of the Counterclaim, Stephens Media admits the
21 allegations contained therein.

22 56. In responding to paragraph 56 of the Counterclaim, Stephens Media admits the
23 website contains a notification that it is the copyright owner of the content appearing on the
24 website home page. Stephens Media denies the remaining allegations contained in this
25 paragraph.



1 57. In responding to paragraph 57 of the Counterclaim, Stephens Media denies the
2 allegations contained therein to the extent such information is not also set forth in its privacy
3 statement link located on the website home page.

4 58. In responding to paragraph 58 of the Counterclaim, Stephens Media admits the
5 allegations contained therein to the extent they accurately represent the link and associated
6 paraphrased content. Stephens Media denies any remaining or contradictory allegations
7 contained in this paragraph.

8 59. In responding to paragraph 59 of the Counterclaim, Stephens Media lacks
9 sufficient information and belief to admit or deny what Democratic Underground believes or the
10 accuracy of the subject statement given the lack of context. Accordingly, Stephens Media denies
11 the allegations contained in this paragraph based on its lack of information and belief.

12 60. In responding to paragraph 60 of the Counterclaim, Stephens Media lacks
13 sufficient information and belief to admit or deny what Democratic Underground believes or the
14 accuracy of the subject statement given the lack of context. Accordingly, Stephens Media denies
15 the allegations contained in this paragraph based on its lack of information and belief.

16 61. In responding to paragraph 61 of the Counterclaim, Stephens Media admits that
17 generally it does not engage in the asserted practice. Stephens Media denies any remaining or
18 contradictory allegations contained in this paragraph.

19 62. In responding to paragraph 62 of the Counterclaim, Stephens Media admits that it
20 has likely removed materials submitted by users or third parties based on inappropriate content.
21 Stephens Media denies any remaining or contradictory allegations contained in this paragraph.

22 63. In responding to paragraph 63 of the Counterclaim, Stephens Media admits the
23 allegations contained therein to the extent they accurately represent the link and associated
24



1 paraphrased content. Stephens Media denies any remaining or contradictory allegations
2 contained in this paragraph.

3 64. In responding to paragraph 64 of the Counterclaim, Stephens Media admits the
4 allegations contained therein to the extent they accurately represent the link and associated
5 paraphrased content. Stephens Media denies any remaining or contradictory allegations
6 contained in this paragraph.
7

8 65. In responding to paragraph 65 of the Counterclaim, Stephens Media denies the
9 paraphrased content contained therein.

10 66. In responding to paragraph 66 of the Counterclaim, Stephens Media admits the
11 allegations contained therein to the extent they accurately represent the associated paraphrased
12 content. Stephens Media denies any remaining or contradictory allegations contained in this
13 paragraph.
14

15 67. In responding to paragraph 67 of the Counterclaim, Stephens Media admits the
16 allegations contained therein to the extent they accurately represent the associated paraphrased
17 content. Stephens Media denies any remaining or contradictory allegations contained in this
18 paragraph.
19

20 68. In responding to paragraph 68 of the Counterclaim, Stephens Media admits the
21 allegations contained therein to the extent they accurately represent the associated paraphrased
22 content. Stephens Media denies any remaining or contradictory allegations contained in this
23 paragraph.
24

25 69. In responding to paragraph 69 of the Counterclaim, Stephens Media admits that
26 reader comments and posts may appear in connection with a displayed online article. Stephens
27 Media denies any remaining or contradictory allegations contained in this paragraph.
28



1 70. In responding to paragraph 70 of the Counterclaim, Stephens Media denies the
2 allegations set forth therein.

3 71. In responding to paragraph 71 of the Counterclaim, Stephens Media denies the
4 allegations set forth therein.

5 72. In responding to paragraph 72 of the Counterclaim, Stephens Media lacks
6 sufficient information and belief to formulate a response to this paragraph given the lack of
7 context. Accordingly, Stephens Media denies the allegations contained in this paragraph based
8 on its lack of information and belief.

9 73. In responding to paragraph 73 of the Counterclaim, Stephens Media lacks
10 sufficient information and belief to formulate a response to this paragraph given the lack of
11 context. Accordingly, Stephens Media denies the allegations contained in this paragraph based
12 on its lack of information and belief.

13 74. In responding to paragraph 74 of the Counterclaim, Stephens Media denies that it
14 has made such assertions and, in fact, could not maintain such a claim because it currently holds a
15 non-exclusive license to the News Article. Stephens Media admits that Righthaven filed a
16 Complaint against Defendants for copyright infringement connected with the News Article.

17 75. In responding to paragraph 75 of the Counterclaim, Stephens Media lacks
18 information and belief because the allegations set forth herein are completely absent of context
19 and unintelligible. Accordingly, the allegations are denied on these grounds.

20 76. In responding to paragraph 76 of the Counterclaim, Stephens Media lacks
21 information and belief because the allegations set forth herein are completely absent of context
22 and unintelligible. Accordingly, the allegations are denied on these grounds.

23 77. In responding to paragraph 77 of the Counterclaim, Stephens Media maintains
24 that the allegations contained therein are exclusively directed to Righthaven and, as such, it lacks
25



1 sufficient information and belief to formulate a response to this paragraph. Accordingly,
2 Stephens Media denies the allegations contained in this paragraph based on its lack of
3 information and belief.

4
5 78. In responding to paragraph 78 of the Counterclaim, Stephens Media denies the
6 allegations set forth therein, but maintains that it cannot seek redress for copyright infringement
7 based on the fact that it currently holds a non-exclusive license to the News Article.

8
9 79. In responding to paragraph 79 of the Counterclaim, Stephens Media denies the
10 allegations set forth therein, but maintains that it cannot seek redress for copyright infringement
11 based on the fact that it currently holds a non-exclusive license to the News Article.

12
13 80. In responding to paragraph 80 of the Counterclaim, Stephens Media lacks
14 information and belief as to the allegations set forth therein and is unable to admit or deny the
15 same, but maintains that it cannot seek redress for copyright infringement based on the fact that it
16 currently holds a non-exclusive license to the News Article.

17
18 81. In responding to paragraph 81 of the Counterclaim, Stephens Media maintains that
19 the allegations contained therein are exclusively directed to Righthaven and, as such, it lacks
20 sufficient information and belief to formulate a response to this paragraph. Accordingly,
21 Stephens Media denies the allegations contained in this paragraph based on its lack of
22 information and belief.

23
24 82. In responding to paragraph 82 of the Counterclaim, Stephens Media maintains that
25 the allegations contained therein are exclusively directed to Righthaven and, as such, it lacks
26 sufficient information and belief to formulate a response to this paragraph. Accordingly,
27 Stephens Media denies the allegations contained in this paragraph based on its lack of
28 information and belief.



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1 83. In responding to paragraph 83 of the Counterclaim, Stephens Media admits that
2 such a feature has been available for use on its website.

3 84. In responding to paragraph 84 of the Counterclaim, Stephens Media admits the
4 allegations contained therein to the extent they accurately represent the associated paraphrased
5 content and information, which is best obtained by the text or functionality associated with the
6 referenced website attribute. Stephens Media denies any remaining or contradictory allegations
7 contained in this paragraph.
8

9 85. In responding to paragraph 85 of the Counterclaim, Stephens Media admits that
10 LVRJ website users are able to share and save articles through some, but not all, of the third
11 parties identified in this paragraph. Stephens Media denies any remaining or contradictory
12 allegations contained in this paragraph.
13

14 86. In responding to paragraph 86 of the Counterclaim, Stephens Media maintains that
15 the allegations contained therein are exclusively directed to Righthaven and, as such, it lacks
16 sufficient information and belief to formulate a response to this paragraph. Accordingly,
17 Stephens Media denies the allegations contained in this paragraph based on its lack of
18 information and belief.
19

20 87. In responding to paragraph 87 of the Counterclaim, Stephens Media admits that
21 the LVRJ website contains a tool styled "Email This," which by no means implies that such
22 functionality is unfettered. Stephens Media denies any remaining or contradictory allegations
23 contained in this paragraph.
24

25 88. In responding to paragraph 88 of the Counterclaim, Stephens Media admits that
26 the LVRJ website contains a tool styled "Save This," which by no means implies that such
27 functionality is unfettered. Stephens Media denies any remaining or contradictory allegations
28 contained in this paragraph.



1 89. In responding to paragraph 88 of the Counterclaim, Stephens Media admits that
2 the LVRJ website contains a tool styled "Print This," which by no means implies that such
3 functionality is unfettered. Stephens Media denies any remaining or contradictory allegations
4 contained in this paragraph.
5

6 90. In responding to paragraph 90 of the Counterclaim, Stephens Media admits the
7 allegations of this paragraph to the extent they accurately summarize the process triggered when
8 the stated functionality is employed by a website visitor. To the extent this paragraph, in whole
9 or in part, fails to accurately represent the described functionality, Stephens Media denies the
10 allegations contained therein.
11

12 91. In responding to paragraph 91 of the Counterclaim, Stephens Media admits that
13 the LVRJ website contains a feature that enables users to obtain "RSS feeds," which by no
14 means implies that such functionality is unfettered. Stephens Media denies any remaining or
15 contradictory allegations contained in this paragraph.
16

17 92. In responding to paragraph 92 of the Counterclaim, Stephens Media states the
18 contents of the referenced exhibit depict whatever is accurately depicted therein, which may or
19 may not accurately reflect any associated functionality implied by the asserted allegations. This
20 response is necessarily qualified given the static form of the referenced exhibit, which seeks to
21 establish website-related functionality. Stephens Media denies any remaining or contradictory
22 allegations contained in this paragraph.
23

24 93. In responding to paragraph 93 of the Counterclaim, Stephens Media admits that
25 the LVRJ website has a robots.txt file located at www.lvrj.com/robots.txt. Stephens Media
26 denies the remainder of the allegations contained in paragraph 93 of the Counterclaim as
27 Exhibit D referenced therein no longer accurately depicts the robots.txt file.
28



1 94. In responding to paragraph 94 of the Counterclaim, Stephens Media lacks
2 sufficient information and belief to formulate a response to this paragraph. Accordingly,
3 Stephens Media denies the allegations contained in this paragraph based on its lack of
4 information and belief.
5

6 95. In responding to paragraph 95 of the Counterclaim, Stephens Media admits the
7 allegations contained therein.

8 96. In responding to paragraph 96 of the Counterclaim, Stephens Media admits the
9 allegations contained therein as of September 27, 2010.

10 97. In responding to paragraph 97 of the Counterclaim, Stephens Media admits the
11 allegations contained therein.
12

13 98. In responding to paragraph 98 of the Counterclaim, Stephens Media admits the
14 allegations contained therein.

15 99. In responding to paragraph 99 of the Counterclaim, Stephens Media admits the
16 first and third sentences contained therein. Stephens Media lacks sufficient information and
17 belief to formulate a response to the remaining allegations in this paragraph and, therefore, denies
18 the same.
19

20 100. In responding to paragraph 100 of the Counterclaim, Stephens Media lacks
21 sufficient information and belief to respond to the allegations contained therein, and on this basis
22 denies them, given the phrases "usual practice" and "include new news articles in the News
23 Sitemap." To the extent these allegations accurately represent the functionality and practices of
24 Stephens Media, which it is unable to presently ascertain, it may seek leave to amend this
25 response to admit the assertions contained therein.
26

27 101. In responding to paragraph 101 of the Counterclaim, Stephens Media lacks
28 sufficient information and belief respond to the allegations contained therein, and on this basis



1 denies them, given the phrases “URL of the LVRJ containing the full News Article” and “was
2 included in the News Sitemap.” To the extent these allegations accurately represent the
3 functionality and practices of Stephens Media, which it is unable to presently ascertain, it may
4 seek leave to amend this response to admit the assertions contained therein.
5

6 102. In responding to paragraph 102 of the Counterclaim, Stephens Media maintains
7 the allegations contained therein consist exclusively of a purported statement of the law to which
8 no response is required. To the extent a response is deemed necessary, Stephens Media states that
9 the referenced code sections speaks for themselves.

10 103. In responding to paragraph 103 of the Counterclaim, Stephens Media maintains
11 the allegations contained therein require a legal conclusion and, on that basis, a response is not
12 required. To the extent a response is required, Stephens Media denies the allegations contained
13 therein to the extent they inaccurately state or imply legal obligations and/or applicable standards
14 under statutory or decisional law.
15

16 104. In responding to paragraph 104 of the Counterclaim, Stephens Media maintains
17 that the allegations contained therein are exclusively directed to Righthaven and, as such, it lacks
18 sufficient information and belief to formulate a response to this paragraph. Accordingly,
19 Stephens Media denies the allegations contained in this paragraph based on its lack of
20 information and belief.
21

22 105. In responding to paragraph 105 of the Counterclaim, Stephens Media maintains
23 that the allegations contained therein are exclusively directed to Righthaven and, as such, it lacks
24 sufficient information and belief to formulate a response to this paragraph. Accordingly,
25 Stephens Media denies the allegations contained in this paragraph based on its lack of
26 information and belief.
27
28



1 106. Stephens Media admits that Exhibit 3 to the Complaint appears to be a copy of
2 the post to the Democratic Underground website at issue in this action. Stephens Media lacks
3 sufficient information to admit or deny the remaining allegations contained in paragraph 106
4 of the Counterclaim and, therefore, denies the same.
5

6 107. In responding to paragraph 107 of the Counterclaim, Stephens Media admits the
7 News Article covers a portion of or all of the subject matter described in the allegations to the
8 extent they accurately paraphrase or otherwise capture its content. Stephens Media denies any
9 contradictory or inaccurate allegations contained in this paragraph.
10

11 108. In responding to paragraph 108 of the Counterclaim, Stephens Media denies the
12 allegations contained therein.
13

14 109. Stephens Media admits that the News Article makes passing reference to the
15 issues of taxes and healthcare policy. Stephens Media lacks sufficient information to admit or
16 deny the remaining allegations contained in paragraph 109 of the Counterclaim and,
17 therefore, denies the same.
18

19 110. In responding to paragraph 110 of the Counterclaim, Stephens Media admits the
20 allegations contained therein to the extent they accurately represent the defined length of the
21 News Article. Stephens Media denies any contradictory or inaccurate allegations contained in
22 this paragraph.
23

24 111. In responding to paragraph 111 of the Counterclaim, Stephens Media admits the
25 allegations contained therein to the extent they accurately reflect the information asserted.
26 Stephens Media denies any contradictory or inaccurate allegations contained in this paragraph.
27 Stephens Media further denies who the user was that posted the News Article or whether said
28 individual is affiliated in any manner with Democratic Underground.



1 112. In responding to paragraph 112 of the Counterclaim, Stephens Media admits the
2 allegations contained therein to the extent they accurately reflect the information asserted.
3 Stephens Media denies any contradictory or inaccurate allegations contained in this paragraph.
4

5 113. In responding to paragraph 113 of the Counterclaim, Stephens Media submits that
6 the term “substitute” is vague and ambiguous as used in this paragraph and/or calls for a legal
7 conclusion. Without waiving the foregoing response, Stephens Media denies the allegations
8 contained in this paragraph because the excerpt contains the synopsis and most important part of
9 the News Article.

10 114. In responding to paragraph 114 of the Counterclaim, Stephens Media maintains
11 that the allegations contained therein are exclusively directed to Righthaven and, as such, it lacks
12 sufficient information and belief to formulate a response to this paragraph. Accordingly,
13 Stephens Media denies the allegations contained in this paragraph based on its lack of
14 information and belief.
15

16 115. In responding to paragraph 115 of the Counterclaim, Stephens Media admits the
17 allegations contained therein to the extent they accurately reflect the information asserted.
18 Stephens Media denies any contradictory or inaccurate allegations contained in this paragraph.
19

20 116. Stephens Media admits that 3 sentences out of 28 sentences constitute more
21 than ten percent of the total sentences in the alleged example. Stephens Media further admits
22 that the excerpt at issue in this case was slightly less than ten percent of the News Article if
23 the calculation set forth in paragraph 116 of the Counterclaim is based on the number of
24 sentences copied (which is not made clear). The percentage of the New Article copied by the
25 excerpt does, however, exceed ten percent when using different methodology (e.g., 4
26 paragraphs copied out of the News Article’s 34 paragraphs constitutes nearly twelve percent).
27
28



1 117. In responding to paragraph 117 of the Counterclaim, Stephens Media lacks
2 sufficient information and belief to respond to the allegations contained therein, and on this basis
3 denies them.

4 118. In responding to paragraph 118 of the Counterclaim, Stephens Media lacks
5 sufficient information and belief to respond to the allegations contained therein, and on this basis
6 denies them.

7 119. In responding to paragraph 119 of the Counterclaim, Stephens Media lacks
8 sufficient information and belief to respond to the allegations contained therein, and on this basis
9 denies them.

10 120. In responding to paragraph 120 of the Counterclaim, Stephens Media lacks
11 sufficient information and belief to respond to the allegations contained therein, and on this basis
12 denies them.

13 121. In responding to paragraph 121 of the Counterclaim, Stephens Media lacks
14 sufficient information and belief to respond to the allegations contained therein, and on this basis
15 denies them.

16 122. In responding to paragraph 122 of the Counterclaim, Stephens Media lacks
17 sufficient information and belief to respond to the allegations contained therein, and on this basis
18 denies them.

19 123. In responding to paragraph 123 of the Counterclaim, Stephens Media lacks
20 sufficient information and belief to respond to the allegations contained therein, and on this basis
21 denies them.

22 124. In responding to paragraph 124 of the Counterclaim, Stephens Media lacks
23 sufficient information and belief to respond to the allegations contained therein, and on this basis
24 denies them.

25 124. In responding to paragraph 124 of the Counterclaim, Stephens Media lacks
26 sufficient information and belief to respond to the allegations contained therein, and on this basis
27 denies them.
28



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1 25. In responding to paragraph 125 of the Counterclaim, Stephens Media maintains
2 the allegations contained therein require a legal conclusion and, on that basis, a response is not
3 required. To the extent a response is required, Stephens Media denies the allegations contained
4 therein.

5
6 26. In responding to paragraph 126 of the Counterclaim, Stephens Media denies the
7 allegations contained therein.

8 27. In responding to paragraph 127 of the Counterclaim, Stephens Media maintains
9 that the allegations contained therein are exclusively directed to Righthaven and, as such, it lacks
10 sufficient information and belief to formulate a response to this paragraph. Accordingly,
11 Stephens Media denies the allegations contained in this paragraph based on its lack of
12 information and belief.

13
14 28. In responding to paragraph 128 of the Counterclaim, Stephens Media maintains
15 that the allegations contained therein are exclusively directed to Righthaven and, as such, it lacks
16 sufficient information and belief to formulate a response to this paragraph. Accordingly,
17 Stephens Media denies the allegations contained in this paragraph based on its lack of
18 information and belief.

19
20 29. In responding to paragraph 129 of the Counterclaim, Stephens Media lacks
21 sufficient information and belief respond to the allegations contained therein, and on this basis
22 denies them.

23 30. In responding to paragraph 130 of the Counterclaim, Stephens Media admits that
24 Exhibit 3 to the Complaint appears to reflect the unauthorized copy of the News Article as it
25 appeared on the Democratic Underground website, including an identification of LVRJ as the
26 “source” of the News Article and a link thereto. Stephens Media lacks information and belief,
27 and on that basis denies, the functionality of any links or other associated website content
28



1 depicted on the hard copy exhibit of the unauthorized replication of the News Article. Stephens
2 Media denies any remaining or contradictory allegations contained in this paragraph.

3 131. In responding to paragraph 131 of the Counterclaim, Stephens Media admits the
4 allegations contained therein to the extent they accurately reflect the information asserted as of
5 September 27, 2010. Stephens Media denies any contradictory or inaccurate allegations
6 contained in this paragraph.

7
8 132. In responding to paragraph 132 of the Counterclaim, Stephens Media admits the
9 allegations contained therein to the extent they accurately reflect the information asserted as of
10 September 27, 2010. To the extent such information was in fact displayed in association with the
11 News Article following Stephens Media's assignment of the work to Righthaven, such
12 information was posted in error by a person or persons unaware of said assignment of ownership
13 to Righthaven. Stephens Media denies any contradictory or inaccurate allegations contained in
14 this paragraph.

15
16 133. In responding to paragraph 133 of the Counterclaim, Stephens Media denies the
17 allegations set forth therein. Any such posting, if true, was done in error by a person or persons
18 unaware of the assignment of ownership to Righthaven and, as such, was not done with any intent
19 to mislead the public or other website visitors.

20
21 134. In responding to paragraph 134 of the Counterclaim, Stephens Media admits the
22 allegations set forth therein. Stephens Media further clarifies that it holds a non-exclusive license
23 to use the News Article as of the filing of this reply.

24 135. In responding to paragraph 135 of the Counterclaim, Stephens Media admits the
25 allegations set forth therein. Stephens Media further clarifies that it holds a non-exclusive license
26 to use the News Article as of the filing of this reply.



1 136. In responding to paragraph 136 of the Counterclaim, Stephens Media admits the
2 allegations set forth therein. Stephens Media further clarifies that it holds a non-exclusive license
3 to use the News Article as of the filing of this reply. Righthaven has not objected to Stephens
4 Media's non-exclusive use of the News Article, which is fully consistent with its licensed rights.
5

6 137. In responding to paragraph 137 of the Counterclaim, Stephens Media admits the
7 allegations set forth therein. Stephens Media further clarifies that it holds a non-exclusive license
8 to use the News Article as of the filing of this reply. Righthaven is believed to be aware of this
9 permitted use by Stephens Media.

10 138. In responding to paragraph 138 of the Counterclaim, Stephens Media lacks
11 information and belief, and on that basis denies the allegations set forth therein, to the extent a
12 response calls for a legal conclusion as to the rights, responsibilities and obligations under the
13 currently existing contract, as amended, between the parties. Stephens Media denies any
14 remaining or contradictory allegations contained in this paragraph.
15

16 139. In responding to paragraph 139 of the Counterclaim, Stephens Media states that it
17 holds a non-exclusive license to use the News Article as of the filing of this reply. Righthaven
18 has not objected to Stephens Media's non-exclusive use of the News Article, which is fully
19 consistent with its licensed rights. Stephens Media denies any remaining or contradictory
20 allegations contained in this paragraph.
21

22 140. In responding to paragraph 140 of the Counterclaim, Stephens Media states that it
23 holds a non-exclusive license to use the News Article as of the filing of this reply. Righthaven
24 has not objected to Stephens Media's non-exclusive use of the News Article, which is fully
25 consistent with its licensed rights. Stephens Media denies any remaining or contradictory
26 allegations contained in this paragraph.
27
28



1 141. In responding to paragraph 141 of the Counterclaim, Stephens Media maintains
2 that the allegations contained therein are exclusively directed to Righthaven and, as such, it lacks
3 sufficient information and belief to formulate a response to this paragraph. Accordingly,
4 Stephens Media denies the allegations contained in this paragraph based on its lack of
5 information and belief.
6

7 142. In responding to paragraph 142 of the Counterclaim, Stephens Media maintains
8 that the allegations contained therein are exclusively directed to Righthaven and, as such, it lacks
9 sufficient information and belief to formulate a response to this paragraph. Accordingly,
10 Stephens Media denies the allegations contained in this paragraph based on its lack of
11 information and belief.
12

13 143. In responding to paragraph 143 of the Counterclaim, Stephens Media maintains
14 that the allegations contained therein are exclusively directed to Righthaven and, as such, it lacks
15 sufficient information and belief to formulate a response to this paragraph. Accordingly,
16 Stephens Media denies the allegations contained in this paragraph based on its lack of
17 information and belief.
18

19 144. In responding to paragraph 144 of the Counterclaim, Stephens Media maintains
20 that the allegations contained therein are exclusively directed to Righthaven and, as such, it lacks
21 sufficient information and belief to formulate a response to this paragraph. Accordingly,
22 Stephens Media denies the allegations contained in this paragraph based on its lack of
23 information and belief.
24

25 145. In responding to paragraph 145 of the Counterclaim, Stephens Media denies the
26 allegations contained therein given that Righthaven has granted it a non-exclusive license to use
27 the News Article.
28



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1 146. In responding to paragraph 146 of the Counterclaim, Stephens Media denies the
2 allegations contained therein given that Righthaven has granted it a non-exclusive license to use
3 the News Article.
4

5 147. In responding to paragraph 147 of the Counterclaim, Stephens Media maintains
6 that the allegations contained therein are exclusively directed to Righthaven and, as such, it lacks
7 sufficient information and belief to formulate a response to this paragraph. Accordingly,
8 Stephens Media denies the allegations contained in this paragraph based on its lack of
9 information and belief.

10 148. In responding to paragraph 148 of the Counterclaim, Stephens Media maintains
11 that the allegations contained therein are exclusively directed to Righthaven and, as such, it lacks
12 sufficient information and belief to formulate a response to this paragraph. Accordingly,
13 Stephens Media denies the allegations contained in this paragraph based on its lack of
14 information and belief.
15

16 149. In responding to paragraph 149 of the Counterclaim, Stephens Media lacks
17 sufficient information and belief respond to the allegations contained therein as they are vague,
18 ambiguous and unintelligible, and on this basis denies them.
19

20 150. In responding to paragraph 150 of the Counterclaim, Stephens Media maintains
21 that the allegations contained therein are exclusively directed to Righthaven and, as such, it lacks
22 sufficient information and belief to formulate a response to this paragraph. Accordingly,
23 Stephens Media denies the allegations contained in this paragraph based on its lack of
24 information and belief.

25 151. In responding to paragraph 151 of the Counterclaim, Stephens Media denies the
26 allegations set forth therein.
27
28



1 152. In responding to paragraph 152 of the Counterclaim, Stephens Media maintains
2 that the allegations contained therein are exclusively directed to Righthaven and, as such, it lacks
3 sufficient information and belief to formulate a response to this paragraph. Accordingly,
4 Stephens Media denies the allegations contained in this paragraph based on its lack of
5 information and belief.
6

7 153. In responding to paragraph 153 of the Counterclaim, Stephens Media lacks
8 sufficient information and belief respond to the allegations contained therein, and on this basis
9 denies them.

10 154. In responding to paragraph 154 of the Counterclaim, Stephens Media denies the
11 allegations set forth therein.
12

13 155. In responding to paragraph 155 of the Counterclaim, Stephens Media admits the
14 allegations set forth herein in that it can track to some degree the information referenced.
15 Stephens Media denies any remaining or contradictory allegations contained in this paragraph.

16 156. In responding to paragraph 156 of the Counterclaim, Stephens Media denies the
17 allegations contained therein.

18 157. In responding to paragraph 157 of the Counterclaim, Stephens Media denies the
19 allegations contained therein.
20

21 158. In responding to paragraph 158 of the Counterclaim, Stephens Media admits that
22 advertising was posted on the website page containing the News Article. Stephens Media denies
23 the remaining allegations contained in this paragraph.

24 159. In responding to paragraph 159 of the Counterclaim, Stephens Media admits that
25 advertising was posted on the website page containing the News Article from which revenue is or
26 may potentially be derived. Stephens Media denies the remaining allegations contained in this
27 paragraph.
28



1 160. In responding to paragraph 160 of the Counterclaim, Stephens Media lacks
2 sufficient information and belief to respond to the allegations contained therein, and on this basis
3 denies them.

4 161. In responding to paragraph 161 of the Counterclaim, Stephens Media admits it did
5 not take such action because it was no longer the owner of the News Article. Stephens Media
6 lacks sufficient information and belief to respond to the remaining allegations contained therein,
7 and on this basis denies them.

8 162. In responding to paragraph 162 of the Counterclaim, Stephens Media admits it did
9 not take such action because it was no longer the owner of the News Article. Stephens Media
10 lacks sufficient information and belief to respond to the remaining allegations contained therein,
11 and on this basis denies them.

12 163. In responding to paragraph 163 of the Counterclaim, Stephens Media admits it did
13 not take such action because it was no longer the owner of the News Article. Stephens Media
14 lacks sufficient information and belief to respond to the remaining allegations contained therein,
15 and on this basis denies them.

16 164. In responding to paragraph 164 of the Counterclaim, Stephens Media maintains
17 that the allegations contained therein are exclusively directed to Righthaven and, as such, it lacks
18 sufficient information and belief to formulate a response to this paragraph. Accordingly,
19 Stephens Media denies the allegations contained in this paragraph based on its lack of
20 information and belief.

21 165. In responding to paragraph 165 of the Counterclaim, Stephens Media denies that
22 the *Las Vegas Review-Journal* took any efforts to prepare for litigation concerning the News
23 Article because it no longer held ownership after it was assigned to Righthaven. To the extent
24



1 some other obligation or right is construed to exist based on the allegations contained in this
2 paragraph, Stephens Media expressly denies them.

3 166. In responding to paragraph 166 of the Counterclaim, Stephens Media denies that it
4 took any efforts to prepare for litigation concerning the News Article because it no longer held
5 ownership after it was assigned to Righthaven. To the extent some other obligation or right is
6 construed to exist based on the allegations contained in this paragraph, Stephens Media expressly
7 denies them.

8 167. In responding to paragraph 167 of the Counterclaim, Stephens Media lacks
9 sufficient information and belief to respond to the allegations contained therein, and on this basis
10 denies them.

11 168. In responding to paragraph 168 of the Counterclaim, Stephens Media lacks
12 sufficient information and belief to respond to the allegations contained therein, and on this basis
13 denies them.

14 169. In responding to paragraph 169 of the Counterclaim, Stephens Media lacks
15 sufficient information and belief to respond to the allegations contained therein, and on this basis
16 denies them.

17 170. In responding to paragraph 170 of the Counterclaim, Stephens Media lacks
18 sufficient information and belief to respond to the allegations contained therein, and on this basis
19 denies them.

20 171. In responding to paragraph 171 of the Counterclaim, Stephens Media lacks
21 sufficient information and belief to respond to the allegations contained therein, and on this basis
22 denies them.



1 172. In responding to paragraph 172 of the Counterclaim, Stephens Media lacks
2 sufficient information and belief to respond to the allegations contained therein, and on this basis
3 denies them.

4 173. In responding to paragraph 173 of the Counterclaim, Stephens Media lacks
5 sufficient information and belief to respond to the allegations contained therein, and on this basis
6 denies them.

7 174. In responding to paragraph 174 of the Counterclaim, Stephens Media lacks
8 sufficient information and belief to respond to the allegations contained therein, and on this basis
9 denies them.

10 175. In responding to paragraph 175 of the Counterclaim, Stephens Media lacks
11 sufficient information and belief to respond to the allegations contained therein, and on this basis
12 denies them.

13 176. In responding to paragraph 176 of the Counterclaim, Stephens Media maintains
14 that the allegations contained therein are exclusively directed to Righthaven and, as such, it lacks
15 sufficient information and belief to formulate a response to this paragraph. Accordingly,
16 Stephens Media denies the allegations contained in this paragraph based on its lack of
17 information and belief. In this regard, Stephens Media holds a non-exclusive license to the News
18 Article and could not maintain a copyright infringement suit against Democratic Underground.

19 177. In responding to paragraph 177 of the Counterclaim, Stephens Media maintains
20 that the allegations contained therein are primarily directed to Righthaven and, as such, it lacks
21 sufficient information and belief to formulate a response to this paragraph. Accordingly,
22 Stephens Media denies the allegations contained in this paragraph based on its lack of
23 information and belief. In this regard, Stephens Media holds a non-exclusive license to the News
24 Article and could not maintain a copyright infringement suit against Democratic Underground.



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1 178. In responding to paragraph 178 of the Counterclaim, Stephens Media lacks
2 sufficient information and belief to respond to the allegations contained therein, which clearly ask
3 for a legal conclusion, and on this basis denies them.

4 179. In responding to paragraph 179 of the Counterclaim, Stephens Media lacks
5 sufficient information and belief to respond to the allegations contained therein, which clearly ask
6 for a legal conclusion, and on this basis denies them.

7 180. In responding to paragraph 180 of the Counterclaim, Stephens Media lacks
8 sufficient information and belief to respond to the allegations contained therein, and on this basis
9 denies them.

10 181. In responding to paragraph 181 of the Counterclaim, Stephens Media lacks
11 sufficient information and belief to respond to the allegations contained therein, and on this basis
12 denies them.

13 182. In responding to paragraph 182 of the Counterclaim, Stephens Media lacks
14 sufficient information and belief to respond to the allegations contained therein, and on this basis
15 denies them.

16 183. In responding to paragraph 183 of the Counterclaim, Stephens Media lacks
17 sufficient information and belief to respond to the allegations contained therein, which clearly ask
18 for a legal conclusion, and on this basis denies them.

19 184. In responding to paragraph 184 of the Counterclaim, Stephens Media responds that
20 no allegations are contained therein that require a formal response. To the extent a formal
21 response is required, Stephens Media incorporates each and every foregoing response in
22 answering this paragraph.

23 185. In responding to paragraph 185 of the Counterclaim, Stephens Media maintains
24 that the allegations contained therein are exclusively directed to Righthaven and, as such, it lacks
25
26
27
28



1 sufficient information and belief to formulate a response to this paragraph. Accordingly,
2 Stephens Media denies the allegations contained in this paragraph based on its lack of
3 information and belief. Moreover, Stephens Media holds a non-exclusive license to the News
4 Article and could not maintain a copyright infringement suit against Democratic Underground.
5

6 186. In responding to paragraph 186 of the Counterclaim, Stephens Media maintains
7 that the allegations contained therein are exclusively directed to Righthaven and, as such, it lacks
8 sufficient information and belief to formulate a response to this paragraph. Accordingly,
9 Stephens Media denies the allegations contained in this paragraph based on its lack of
10 information and belief. Moreover, Stephens Media holds a non-exclusive license to the News
11 Article and could not maintain a copyright infringement suit against Democratic Underground.
12

13 187. In responding to paragraph 187 of the Counterclaim, Stephens Media maintains
14 that the allegations contained therein are exclusively directed to Righthaven and, as such, it lacks
15 sufficient information and belief to formulate a response to this paragraph. Accordingly,
16 Stephens Media denies the allegations contained in this paragraph based on its lack of
17 information and belief. Moreover, Stephens Media holds a non-exclusive license to the News
18 Article and could not maintain a copyright infringement suit against Democratic Underground.
19

20 188. In responding to paragraph 188 of the Counterclaim, Stephens Media lacks
21 sufficient information and belief as to the allegations contained therein and, on that basis, denies
22 them.

23 189. In responding to paragraph 189 of the Counterclaim, Stephens Media maintains
24 that the allegations contained therein are exclusively directed to Righthaven and, as such, it lacks
25 sufficient information and belief to formulate a response to this paragraph. Accordingly,
26 Stephens Media denies the allegations contained in this paragraph based on its lack of
27



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1 information and belief. Moreover, Stephens Media holds a non-exclusive license to the News
2 Article and could not maintain a copyright infringement suit against Democratic Underground.

3 190. In responding to paragraph 190 of the Counterclaim, Stephens Media maintains
4 that the allegations contained therein are exclusively directed to Righthaven and, as such, it lacks
5 sufficient information and belief to formulate a response to this paragraph. Accordingly,
6 Stephens Media denies the allegations contained in this paragraph based on its lack of
7 information and belief. Moreover, Stephens Media holds a non-exclusive license to the News
8 Article and could not maintain a copyright infringement suit against Democratic Underground.
9

10 191. In responding to paragraph 191 of the Counterclaim, Stephens Media maintains
11 that the allegations contained therein are exclusively directed to Righthaven and, as such, it lacks
12 sufficient information and belief to formulate a response to this paragraph. Accordingly,
13 Stephens Media denies the allegations contained in this paragraph based on its lack of
14 information and belief. Moreover, Stephens Media holds a non-exclusive license to the News
15 Article and could not maintain a copyright infringement suit against Democratic Underground.
16

17 192. In responding to paragraph 192 of the Counterclaim, Stephens Media maintains
18 that the allegations contained therein are exclusively directed to Righthaven and, as such, it lacks
19 sufficient information and belief to formulate a response to this paragraph. Accordingly,
20 Stephens Media denies the allegations contained in this paragraph based on its lack of
21 information and belief. Moreover, Stephens Media holds a non-exclusive license to the News
22 Article and could not maintain a copyright infringement suit against Democratic Underground.
23

24 193. In responding to paragraph 193 of the Counterclaim, Stephens Media maintains
25 that the allegations contained therein are exclusively directed to Righthaven and, as such, it lacks
26 sufficient information and belief to formulate a response to this paragraph. Accordingly,
27 Stephens Media denies the allegations contained in this paragraph based on its lack of
28



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1 information and belief. Moreover, Stephens Media holds a non-exclusive license to the News
2 Article and could not maintain a copyright infringement suit against Democratic Underground.

3 194. In responding to paragraph 194 of the Counterclaim, Stephens Media maintains
4 that the allegations contained therein are exclusively directed to Righthaven and, as such, it lacks
5 sufficient information and belief to formulate a response to this paragraph. Accordingly,
6 Stephens Media denies the allegations contained in this paragraph based on its lack of
7 information and belief. Moreover, Stephens Media holds a non-exclusive license to the News
8 Article and could not maintain a copyright infringement suit against Democratic Underground.
9

10 195. In responding to paragraph 195 of the Counterclaim, Stephens Media maintains
11 that the allegations contained therein are exclusively directed to Righthaven and, as such, it lacks
12 sufficient information and belief to formulate a response to this paragraph. Accordingly,
13 Stephens Media denies the allegations contained in this paragraph based on its lack of
14 information and belief. Moreover, Stephens Media holds a non-exclusive license to the News
15 Article and could not maintain a copyright infringement suit against Democratic Underground.
16

17 196. In responding to paragraph 196 of the Counterclaim, Stephens Media denies the
18 allegations contained therein because it is a non-exclusive licensee of the Work and no
19 declaration of non-infringement should issue against it since it cannot file suit for copyright
20 infringement.
21

22 AFFIRMATIVE DEFENSES

23 Stephens Media asserts the following affirmative defenses against the Counterclaim:

- 24 1. The Counterclaim fails to state a claim for relief upon which can be granted.
- 25 2. The Counterclaim lacks subject matter jurisdiction given Stephens Media's status
26 as a non-exclusive licensee.
- 27 3. Stephens Media is not the real party in interest.
28



1 4. No case or controversy exists between Stephens Media and Democratic
2 Underground so as to support a request for declaratory relief.

3 5. Stephens Media reserves the right to assert such other affirmative defenses as
4 discovery in the action may reveal.

5 WHEREFORE, Stephens Media respectfully requests that the Court deny Democratic
6 Underground each and every aspect of the relief requested under the Counterclaim.
7

8 DATED this 28th day of June, 2011.

9 Respectfully submitted,

10 CAMPBELL & WILLIAMS

11 By /s/ J. Colby Williams

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13 J. COLBY WILLIAMS, ESQ. (#5549)

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18 Attorneys for Counterdefendant

19 Stephens Media LLC

20 **CERTIFICATE OF SERVICE**

21 The undersigned hereby certifies that service of the foregoing **Reply to Democratic**
22 **Underground, LLC's Counterclaim** was served on the 28th day of June, 2011 via the Court's
23 CM/ECF electronic filing system addressed to all parties on the e-service list.
24

25 /s/ J. Colby Williams

26 An employee of Campbell & Williams



27 CAMPBELL
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