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

10 RIGHTHAVEN LLC, a Nevada limited-liability  
 company,

11 Plaintiff,

12 v.

13 DEMOCRATIC UNDERGROUND, LLC, a District  
 of Columbia limited-liability company; and DAVID  
 14 ALLEN, an individual,

15 Defendants.

16 DEMOCRATIC UNDERGROUND, LLC, a District  
 of Columbia limited-liability company,  
 17 Counterclaimant,

18 v.

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

21 Counterdefendants.

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

**RIGHTHAVEN LLC’S COMPLAINT  
 AND DEMAND FOR JURY TRIAL**

22  
 23 Righthaven LLC (“Righthaven”) complains as follows against Democratic Underground,  
 24 LLC (“Democratic Underground”) and David Allen (“Mr. Allen”; collectively with Democratic  
 25 Underground known herein as the “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 with  
5 the Nevada Secretary of State.

6 4. Democratic Underground is, and has been at all times relevant to this lawsuit, a  
7 District of Columbia limited-liability company.

8 5. Democratic Underground is, and has been at all times relevant to this lawsuit,  
9 identified by the current registrar, Dotster, Inc. (“Dotster”), as the registrant for the Internet domain  
10 found at <democraticunderground.com> (the “Domain”).

11 6. Democratic Underground is, and has been at all times relevant to this lawsuit,  
12 identified by Dotster as an administrative contact and technical contact for the Domain.

13 7. Mr. Allen, is and has been at all times relevant to this lawsuit, identified by Dotster as  
14 an administrative contact and technical contact for the Domain.

15 8. Mr. Allen, is and has been at all times relevant to this lawsuit, identified as the owner  
16 of Democratic Underground by the contact accessible through the Domain (the content accessible  
17 through the Domain and the Domain itself, collectively known herein as the “Website”), as  
18 evidenced by the “Contact Us” page of the Website, attached hereto as Exhibit 1.

19  
20 **JURISDICTION**

21 9. This Court has original subject matter jurisdiction over this copyright infringement  
22 action pursuant to 28 U.S.C. § 1331 and 28 U.S.C. § 1338(a).

23 10. Righthaven is the owner of the copyright in the literary work entitled: “Tea Party  
24 power fuels Angle (the “Work”), attached hereto as Exhibit 2.

25 11. At all times relevant to this lawsuit, the Work has depicted and depicts the original  
26 source publication as the *Las Vegas Review-Journal*.

27 12. The Defendants willfully copied, on an unauthorized basis, a substantial and  
28 significant portion of the Work from a source emanating from Nevada.

1           13.     On or about May 13, 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           14.     At all times relevant to this lawsuit, the Infringement has depicted and depicts the  
5 original source publication as the *Las Vegas Review-Journal*.

6           15.     The subject matter, at least in part, of the Work and the Infringement, is the support  
7 given to Sharon Angle by the Tea Party and its effect on the race for the republican nomination to  
8 oppose Harry Reid for one of Nevada United States Senate seats.

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

11           17.     At all times relevant to this lawsuit, the Defendants knew that the infringement was  
12 and is of specific interest to Nevada residents.

13           18.     The Defendants’ display of the Infringement was and is purposefully directed at  
14 Nevada residents.

15           19.     The Defendants knew, or reasonably should have known, that websites, such as the  
16 Website, are and were at all times relevant to this lawsuit, the habitual subject of postings by others  
17 of copyright-infringing content.

18           20.     At all times relevant to this lawsuit, the Defendants did not institute any proactive  
19 policy of precluding or attempting to preclude the posting by others of copyright-infringing content  
20 on the Website.

21           21.     At all times relevant to this lawsuit, the Defendants did not institute any proactive  
22 policy of monitoring or attempting to monitor the posting by others of copyright-infringing content  
23 on the Website.

24           22.     At all times relevant to this lawsuit, the Defendants did not institute any proactive  
25 policy of deleting or attempting to delete the posting by others of copyright-infringing content on the  
26 Website.

27           23.     At all times relevant to this lawsuit, the Defendants’ failure to institute any proactive  
28 policies intended to address the posting by others of copyright-infringing content on the Website

1 constituted and constitutes the Defendants' willful blindness to copyright infringements occurring on  
2 the Website.

3  
4 **VENUE**

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

8 25. The United States District Court for the District of Nevada is an appropriate venue,  
9 pursuant to 28 U.S.C. § 1391 (c), because the Democratic Underground is subject to personal  
10 jurisdiction in Nevada.

11 26. The United States District Court for the District of Nevada is an appropriate venue,  
12 pursuant to 28 U.S.C. § 1400(a), because the Defendants are subject to personal jurisdiction in  
13 Nevada.

14  
15 **FACTS**

16 27. The Work constitutes copyrightable subject matter, pursuant to 17 U.S.C. § 102(a)(1).

17 28. The Work was originally published on May 13, 2010 by the *Las Vegas Review-*  
18 *Journal*.

19 29. On July 8, 2010, Stephens Media LLC ("Stephens Media), owner of the *Las Vegas*  
20 *Review-Journal*, assigned to Righthaven "all copyrights requisite to have Righthaven recognized as  
21 the copyright owner of the Work for purposes of Righthaven being able to claim ownership as well  
22 as the right to seek redress for past, present and future infringements of the copyright, both accrued  
23 and unaccrued, in and to the Work." (Dkt. 102, Ex. 1 (the "Assignment").)

24 30. Before the Assignment, Stephens Media and Righthaven had entered into a Strategic  
25 Alliance Agreement ("SAA"), which governed the relationship between the two parties. (Dkt. 102,  
26 Ex. 2.) On May 9, 2011, Stephens Media and Righthaven executed the Clarification and  
27 Amendment to Strategic License Agreement ("Amendment") in order to clarify the parties'  
28 intentions regarding copyright assignments to Righthaven, and to eliminate Stephens Media's right

1 of reversion and convert Stephens Media’s right to use an assigned copyright to a mere non-  
2 exclusive license. (Dkt. 102, Ex. 3.) Nevertheless, one court in this District found that the  
3 Amendment was insufficient to convey full copyright ownership to Righthaven. Therefore, on July  
4 7, 2011, Stephens Media and Righthaven executed the Amended and Restated Strategic Alliance  
5 Agreement (“Restated and Amended SAA”) in order to address the concerns articulated by that  
6 Court. (Exhibit 5.) Under the Restated and Amended SAA, Righthaven is the sole current owner of  
7 the copyright in and to the Work and has standing to sue Defendants for infringement of its  
8 copyright.

9 31. On July 9, 2010, the United States Copyright Office (the “USCO”) granted  
10 Righthaven the registration to the Work, copyright registration number TX0007171977 (the  
11 “Registration”) and attached hereto as Exhibit 4 is evidence of the Registration from the official  
12 USCO database record depicting the occurrence of the Registration.

13 32. On or about May 13, 2010, the Defendants displayed, and continue to display, the  
14 Infringement on the Website.

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

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

19  
20 **CLAIM FOR RELIEF: COPYRIGHT INFRINGEMENT**

21 35. Righthaven repeats and realleges the allegations set forth in Paragraphs 1 through 34  
22 above.

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

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

27 38. Righthaven holds the exclusive right to distribute copies of the Work, pursuant to  
28 17 U.S.C. § 106(3).



1 directly or indirectly infringing the Work by reproducing the Work, preparing derivative works  
2 based on the Work, distributing the Work to the public, and/or displaying the Work, or ordering,  
3 directing, participating in, or assisting in any such activity;

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

6                 a.         All evidence and documentation relating in any way to the Defendants' use of  
7 the Work, in any form, including, without limitation, all such evidence and documentation  
8 relating to the Website;

9                 b.         All evidence and documentation relating to the names and addresses (whether  
10 electronic mail addresses or otherwise) of any person with whom the Defendants have  
11 communicated regarding the Defendants' use of the Work; and

12                 c.         All financial evidence and documentation relating to the Defendants' use of  
13 the Work;

14         3.         Order the surrender to Righthaven of all hardware, software, electronic media and  
15 domains, including the Domain used to store, disseminate and display the unauthorized versions of  
16 any and all copyrighted works as provided for under 17 U.S.C. § 505(b) and/or as authorized by  
17 Federal Rule of Civil Procedure 64;

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

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

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

24         7.         Grant Righthaven such other relief as this Court deems appropriate.  
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26  
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28

1 **DEMAND FOR JURY TRIAL**

2 Righthaven requests a trial by jury pursuant to Rule 38 of the Federal Rules of Civil  
3 Procedure.

4  
5 Dated this 11th day of July, 2011.

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