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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,
 16 Plaintiff,

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

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.

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

**DECLARATION OF J. COLBY
 WILLIAMS IN SUPPORT OF
 COUNTER-DEFENDANT STEPHENS
 MEDIA LLC'S (i) NOTICE OF
 WITHDRAWAL OF ITS MOTION FOR
 RECONSIDERATION OF THE
 COURT'S JUNE 14, 2011 ORDER [DKT
 126], AND (ii) LIMITED REPLY TO
 DEMOCRATIC UNDERGROUND,
 LLC'S COMBINED OPPOSITION [DKT
 140]**

I, J. Colby Williams, declare under penalty of perjury as follows:



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 & WILLIAMS**
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1 1. I am a resident of Clark County, Nevada. I am over the age of eighteen and am
2 competent to make this Declaration. This Declaration is based upon my personal knowledge
3 unless otherwise so stated, and if called upon to testify, I would testify as set forth herein.

4 2. I am a licensed attorney in the State of Nevada, Bar Number 5549 and am a partner
5 in the law firm CAMPBELL & WILLIAMS. I am one of the attorneys representing Counter-
6 Defendant Stephens Media, LLC in Case No. 2:10-cv-01356-RLH-GWF.

7 3. I make this Declaration in support of Stephens Media, LLC's (i) Notice of
8 Withdrawal of its Motion for Reconsideration of the Court's June 14, 2011 Order [Dkt. 126], and
9 (ii) Limited Reply to Democratic Underground LLC's Combined Opposition [Dkt. 140].

10 4. The Stipulated Protective Order ("SPO") [Dkt. 65] entered in this action sets forth
11 a procedure for challenging confidentiality designations asserted for discovery materials. The
12 procedures include an objection to the designated material, an obligation of the parties to
13 negotiate in good faith to resolve the dispute, and (if the dispute cannot be resolved) a motion by
14 the challenging party seeking a determination of the status of the material. *See* Dkt. 65 at ¶ 19.

15 5. Democratic Underground, LLC ("DU") filed several sealed exhibits (*i.e.*, 1, 2, 3,
16 and 5) as part of its combined opposition. The sealed exhibits are commercial agreements
17 between Stephens Media and several non-parties to this action as well as an excerpt from the
18 Righthaven Operating Agreement. *See* Dkt. 140.

19 6. DU submitted a Motion to File Documents Under Seal [Dkt. 139] in conjunction
20 with the combined opposition wherein it sought conditional approval to submit the exhibits under
21 seal "until such time as Stephens Media provides a basis for this Court to maintain them under
22 seal." Dkt. 140 at 2:2-3. The request was conditional because DU "does not maintain that
23 Exhibits 1, 2, 3, and 5 are appropriately designated under either the terms of the Stipulated
24



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1 Protective Order or applicable law, and does not contend that the documents should ultimately be
2 maintained under seal[.]” *Id.* at 1:19-23.

3 7. DU’s counsel never notified me as counsel for the designating party that they
4 objected to the confidentiality designations of the subject documents and sought to challenge the
5 same. Nor did DU’s counsel ever seek to negotiate in good faith regarding their apparent, albeit
6 never-voiced, objection to the confidentiality designations. My first notice that DU was
7 questioning the propriety of the confidentiality designations was when it filed Dkt. 139. That
8 “motion” contains no substantive argument regarding DU’s objections but, rather, simply asks the
9 Court to keep the documents sealed only until such time as Stephens Media provides a
10 justification for maintaining the sealed status.
11

12 8. Simply put, the manner in which this issue was brought to the Court’s attention did
13 not comply with the procedures outlined in the SPO. Notwithstanding the foregoing and in
14 response to the Court’s Order [Dkt. 142], Stephens Media has provided justification to maintain
15 the sealed status of the subject documents in the papers filed concurrently herewith.
16

17 9. I declare under penalty of perjury of the laws of the United States and the State of
18 Nevada that the foregoing is true and correct.
19

20 Executed this 5th day of August, 2011 in Las Vegas, Nevada.
21

22 */s/ J. Colby Williams*
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