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Attorneys for Counterdefendant  
Stephens Media, LLC

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

RIGHTHAVEN LLC, a Nevada limited-  
liability company,

Plaintiff,

v.

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

Defendants.

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

Counterclaimant,

v.

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

Counterdefendants.

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

**COUNTER-DEFENDANT STEPHENS  
MEDIA LLC'S MOTION TO STRIKE  
DEFENDANTS' REQUEST TO UNSEAL  
EXHIBIT A TO PULGRAM  
DECLARATION AND RELATED  
FILINGS (#85) AND CLIFFORD C.  
WEBB'S SUPPORTING DECLARATION  
(#86) OR, IN THE ALTERNATIVE,  
RESPONSE THERETO**

1 Counter-Defendant Stephens Media LLC (“Stephens Media”) hereby submits the instant  
2 Motion to Strike Defendants Request to Unseal Exhibit A to Pulgram Declaration and Related  
3 Filings (#85) and Supporting Declaration of Clifford C. Webb (#86) or, in the alternative,  
4 Response Thereto. This Motion is based upon the pleadings and papers on file in this action,  
5 any oral argument this Court may allow, and any other matter of which this Court takes notice.  
6

7 **MEMORANDUM OF POINTS AND AUTHORITIES**

8 Defendants’ actions in connection with its request to unseal “Exhibit A” are  
9 underhanded to say the least. On March 4, 2011, Defendants filed the Conditional Motion to  
10 File Documents under Seal (#72) along with a Proposed Order granting the Motion (#72-1).  
11 The Proposed Order contained the following language:  
12

13 That within fourteen (14) days of the date of this Order, (i) the parties shall file a  
14 stipulation as to which portions of said Exhibit A and the Supplemental  
15 Memorandum shall remain under seal or, (ii) if no stipulation is reached by the  
16 parties, Counterdefendants Stephens Media, LLC and Righthaven, LLC shall file  
with the Court their justification for retaining Exhibit A under seal, with any  
Reply thereto by Defendants to be filed within seven days.

17 (#72-1).

18 On March 8, 2011, the Honorable District Court Judge Roger L. Hunt executed the  
19 proposed order (#75). Because Stephens Media and Righthaven, LLC did not enter into a  
20 stipulation or file any justification for retaining Exhibit A under seal, Defendants filed the  
21 pleadings which are the subject of the instant Motion to Strike. Therein, Defendants assert that  
22 Exhibit A and the related documents must be unsealed because Counter-Defendants did not  
23 comply with the Court’s Order (#75).  
24

25 To be absolutely clear, Defendants’ request is nothing more than a ruse which directly  
26 contradicts the terms of the Stipulated Protective Order (#65) as agreed to by the parties and  
27 approved by the Court. Indeed, the Court entered the Protective Order (#65) on February 14,  
28

2011; more than two weeks before Defendants submitted the Proposed Order (#72-1).  
Accordingly, the Protective Order governs the unsealing of Exhibit A and the related documents.

Defendants blatantly ignored the clear procedure for challenging a party's confidentiality designations as set forth in the Protective Order (#65). Under Paragraph 19, Defendants may challenge the designation by making the motion to the court seeking a determination of the status of the document (#65). Once the challenging party files its motion, only then does the designating party bear the burden of proving that the designated document requires protection (#65).

Obviously, that procedure was not followed in this case. In a brazen attempt to evade their obligations under the Protective Order (#65), Defendants bypassed the initial step of the challenge process by unilaterally inserting the disputed language in the Proposed Order (#72-1). As such, Defendants knowingly contravened a direct order of the Court and sought to place Counter-Defendants at a disadvantage in discovery. Such tactics should not be countenanced by His Honor. The Court should strike documents #85 and 86 and enforce the terms of the Protective Order which unequivocally governs disputes over the confidentiality of documents.

Dated this 30th day of March, 2011.

Respectfully submitted,

CAMPBELL & WILLIAMS

By /s/ J. Colby Williams

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that service of the foregoing was served on the 30th day of March, 2011 via the Court's CM/ECF electronic filing system addressed to all parties on the e-service list.

/s/ J. Colby Williams  
An employee of Campbell & Williams