

# EXHIBIT B

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21 DEMOCRATIC UNDERGROUND, LLC, and  
22 Defendant DAVID ALLEN

23 **UNITED STATES DISTRICT COURT**  
24 **FOR THE DISTRICT OF NEVADA**

25 RIGHTHAVEN LLC, a Nevada limited liability company,  
26 Plaintiff,

27 v.

28 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. 10-cv-01356-RLH (RJJ)

**DEFENDANT AND  
COUNTERCLAIMANT  
DEMOCRATIC  
UNDERGROUND LLC'S  
FIRST SET OF REQUESTS  
FOR PRODUCTION OF  
DOCUMENTS TO  
PLAINTIFF AND  
COUNTERDEFENDANT  
RIGHTHAVEN LLC**

1 PROPOUNDING PARTIES: Defendant and Counterclaimant DEMOCRATIC  
UNDERGROUND, LLC

2 RESPONDING PARTY: Plaintiff Righthaven LLC

3 SET NUMBER: One (Nos. 1-62)

4  
5 Pursuant to Rule 34 of the Federal Rules of Civil Procedure, Defendant and  
6 Counterclaimant DEMOCRATIC UNDERGROUND, LLC (“Democratic Underground”)  
7 requests that Plaintiff and Counterdefendant RIGHTHAVEN LLC (“Plaintiff” or “Righthaven”)  
8 respond hereto in writing and produce and permit inspection and copying of each of the following  
9 documents and tangible things. Democratic Underground requests that the documents and things  
10 be produced within thirty (30) days of service hereof to the offices of Fenwick & West LLP.

### 11 DEFINITIONS

12 The following definitions and instructions apply to each request:

- 13 1. “DU” or “Democratic Underground” means Defendant and Counterclaimant  
14 Democratic Underground, LLC, and any present or former officers, directors, employees, agents,  
15 representatives, attorneys, or ALL other PERSONS acting, or purporting to act, on its behalf.
- 16 2. “Defendants” means, collectively, Democratic Underground and Defendant David  
17 Allen.
- 18 3. “Righthaven” means Plaintiff and Counterdefendant Righthaven LLC, its parents,  
19 subsidiaries, divisions, and affiliates, including, any present or former officers, directors, trustees,  
20 employees, agents, representatives, attorneys, or ALL other PERSONS acting, or purporting to  
21 act, on its behalf.
- 22 4. “Stephens Media” means Counterdefendant Stephens Media LLC, its parents,  
23 subsidiaries, divisions, affiliates, and predecessors, including, any present or former officers,  
24 directors, trustees, employees, agents, representatives, attorneys, or all other PERSONS acting, or  
25 purporting to act, on its behalf, and specifically including the *Las Vegas Review-Journal*, and the  
26 Arkansas investment banker Warren Stephens’ family.
- 27 5. “Steven Gibson” means the Las Vegas attorney Steven A. Gibson and Steven A.  
28 Gibson, Chartered (a Nevada professional corporation).

1           6.       “YOU” or “YOUR” refers to Righthaven and any agent, representative, attorney,  
2 or other PERSON, business, advisor, or legal entity acting, or purporting to act, on their behalf.

3           7.       “PERSON(S)” includes, without limitation, individuals, corporations,  
4 partnerships, limited partnerships, unincorporated associations, and ALL other governmental and  
5 nongovernmental entities.

6           8.       “COMMUNICATION(S)” means any transmission or exchange of information,  
7 data, opinions, or thoughts, whether orally, in writing or otherwise, including but not limited to  
8 reports, mailings, conversations, meetings, letters, notes and telegraphic, facsimile, recordings,  
9 telex or computer-assisted electronic messages. References to COMMUNICATIONS with  
10 business entities shall be deemed to include present and former officers, directors, employees,  
11 agents, attorneys, and/or other representatives or PERSONS acting on behalf of such entities.

12          9.       “RELATING TO” or “RELATES TO” means anything that, in whole or in part,  
13 constitutes, comprises, contains, describes, evidences, embodies, reflects, refers to, relates to,  
14 identifies, states, pertains directly or indirectly to, concerns, discusses, alludes to, responds to,  
15 mentions, comments upon, analyzes, explains, summarizes, or is in any other way relevant to the  
16 particular subject matter identified.

17          10.      “DOCUMENTS” or “DOCUMENT” shall have the broadest meaning permitted  
18 by law, including, but not limited to, ALL electronic, written or printed matter, information,  
19 communication, or data of any kind, including without limitation e-mail, correspondence,  
20 memoranda, notes, opinions, journals, descriptions, recounts, minutes, agenda, contracts,  
21 agreements, reports, summaries, inter-office and intra-office COMMUNICATIONS, notations of  
22 any sort of conversations, diaries, appointment books or calendars, teletypes, telefax,  
23 confirmations, computer data (including information or programs stored in a computer, whether  
24 or not ever printed out or displayed) and all graphic or manual records or representations of any  
25 kind, including without limitation, digital images, photographs, microfiche, microfilm, videotape,  
26 records and motion pictures, and electronic mechanical, or electric records or representations of  
27 any kind including, without limitation, information on servers, hard drives, diskettes, CD-ROMs,  
28 DVDs, tapes, cassettes, discs, log files, databases, backups, magnetic cards and recordings, and

1 shall also include but not be limited to anything and everything that would fall within the  
2 definition of “document” or “writing” as suggested within the Federal Rules of Evidence.

3 11. “COMPLAINT” means the complaint filed by Righthaven against DU and David  
4 Allen on or about August 10, 2010 in the United States District Court for the District of Nevada,  
5 Case No. 2:10-cv-01356 (Dkt. 1).

6 12. “COUNTERCLAIM” means the Answer and Counterclaim filed by DU on  
7 September 27, 2010 in this action (Dkt. 13).

8 13. “LVRJ” means the *Las Vegas Review-Journal* newspaper, its owners, parents,  
9 subsidiaries, divisions, and affiliates, including, any present or former officers, directors, trustees,  
10 employees, agents, representatives, attorneys, or ALL other PERSONS acting, or purporting to  
11 act, on its behalf.

12 14. “LVRJ WEBSITE” means all of the content located at [www.lvrj.com](http://www.lvrj.com), including  
13 but not limited to news articles, advertisements, links, editorial statements, and statement of  
14 policy.

15 15. “DU WEBSITE” means all of the content located at  
16 [www.democraticunderground.com](http://www.democraticunderground.com).

17 16. “NEWS ARTICLE” means the article underlying this action entitled “Tea Party  
18 power fuels Angle” published on the LVRJ WEBSITE, shown in Exhibit 2 to the COMPLAINT.

19 17. “WEB PAGE” means a document connected to the World Wide Web, consisting  
20 of an HTML file and any related files for scripts and graphics.

21 18. “PAGE VIEW” means a request to load a single HTML file (' page') of an Internet  
22 site.

23 19. “EXCERPT” means the portion of the NEWS ARTICLE posted on the DU  
24 WEBSITE, shown in Exhibit 3 to the COMPLAINT.

25 20. The “JULY 19, 2010 ASSIGNMENT” means the purported copyright assignment  
26 between Stephens Media and Righthaven for the NEWS ARTICLE, attached as Exhibit 1 to the  
27 Declaration of J. Colby Williams in Support of Stephens Media’s Motion to Dismiss or Strike  
28 filed in this action (Dkt. 38).



1           3.       Selection of documents from the files and other sources and the numbering of such  
2 documents shall be performed in such a manner as to ensure that the source of each document  
3 may be determined, if necessary.

4           4.       File folders with tabs or labels or directories of files identifying documents must  
5 be produced intact with such documents.

6           5.       Documents attached to each other shall not be separated.

7           6.       If any information requested is claimed to be privileged, immune from discovery  
8 or otherwise not discoverable, please provide all information falling within the scope of the  
9 request for production which is discoverable, and for each item of information contained in a  
10 document to which a claim of privilege is made, identify such document with sufficient  
11 particularity for purposes of a motion to compel, such identification to include at least the  
12 following:

13                   (a)     the basis on which the privilege is claimed;

14                   (b)     the names and positions of the author of the document and all other persons  
15 participating in the preparation of the document;

16                   (c)     the name and position of each individual or other person to whom the  
17 document, or a copy thereof, was sent or otherwise disclosed;

18                   (d)     the date of the document;

19                   (e)     a description of any accompanying material transmitted with or attached to  
20 such document;

21                   (f)     the number of pages in such document;

22                   (g)     the particular document request to which such document is responsive; and

23                   (h)     whether any business or non-legal matter is contained or discussed in such  
24 document.

25           7.       If Righthaven's response to a particular request for production is a statement that it  
26 lacks the ability to comply with that request, it must specify whether the inability to comply is  
27 because the particular item or category of information never existed, has been destroyed, has been  
28 lost, misplaced, or stolen, or has never been, or is no longer, in Righthaven's possession, custody,

1 or control, in which case the name and address of any person or entity known or believed by you  
2 to have possession, custody, or control of that information or category of information must be  
3 identified.

4 8. Unless otherwise specified, the time period for information requested includes  
5 from January 1, 2009 through the present.

6 **REQUESTS FOR PRODUCTION**

7 **DOCUMENT REQUEST NO. 1:**

8 ALL DOCUMENTS supporting any allegations made in the COMPLAINT.

9 **DOCUMENT REQUEST NO. 2:**

10 ALL DOCUMENTS supporting any allegations that may be made in any answer to the  
11 COUNTERCLAIM.

12 **DOCUMENT REQUEST NO. 3:**

13 ALL DOCUMENTS concerning any potential or actual assignment of rights in the NEWS  
14 ARTICLE to Righthaven.

15 **DOCUMENT REQUEST NO. 4:**

16 ALL DOCUMENTS reflecting any COMMUNICATIONS between Righthaven and any  
17 other PERSON or entity RELATING TO assignment or reversion of rights in the NEWS  
18 ARTICLE.

19 **DOCUMENT REQUEST NO. 5:**

20 ALL DOCUMENTS concerning any COMMUNICATIONS between Righthaven and  
21 Stephens Media RELATING TO assignment or reversion of rights in any other work.

22 **DOCUMENT REQUEST NO. 6:**

23 ALL DOCUMENTS concerning any COMMUNICATION between Righthaven and  
24 Stephens Media regarding conduct of, or claims against, Defendants.

25 **DOCUMENT REQUEST NO. 7:**

26 ALL DOCUMENTS concerning any joint defense, common interest, or other agreements  
27 for cooperation in litigation or preservation of privileges between Righthaven and Stephens  
28 Media.



1 **DOCUMENT REQUEST NO. 8:**

2 ALL DOCUMENTS that refer or RELATE TO any “monetary commitments” referenced  
3 in the JULY 19, 2010 ASSIGNMENT.

4 **DOCUMENT REQUEST NO. 9:**

5 ALL DOCUMENTS that refer or RELATE TO any “commitments to provide services  
6 and/or already provided” referenced in the JULY 19, 2010 ASSIGNMENT.

7 **DOCUMENT REQUEST NO. 10:**

8 ALL DOCUMENTS that refer or RELATE TO any “right of reversion” referenced in the  
9 JULY 19, 2010 ASSIGNMENT.

10 **DOCUMENT REQUEST NO. 11:**

11 ALL DOCUMENTS that refer or RELATE TO any “good and valuable consideration”  
12 referenced in the JULY 19, 2010 ASSIGNMENT.

13 **DOCUMENT REQUEST NO. 12:**

14 ALL DOCUMENTS RELATING TO Righthaven’s use or potential future uses of the  
15 NEWS ARTICLE.

16 **DOCUMENT REQUEST NO. 13:**

17 ALL DOCUMENTS reflecting the names and addresses (whether electronic mail  
18 addresses or otherwise) of any PERSON communicating about Defendants’ use of the NEWS  
19 ARTICLE, including any individuals at Righthaven, at Stephens Media, or any other PERSON  
20 with whom Righthaven has communicated.

21 **DOCUMENT REQUEST NO. 14:**

22 ALL DOCUMENTS that refer or RELATE TO any licensing or attempted licensing of the  
23 NEWS ARTICLE by Righthaven or Stephens Media.

24 **DOCUMENT REQUEST NO. 15:**

25 ALL DOCUMENTS that refer or RELATE TO any plans to license the NEWS  
26 ARTICLE.

27 **DOCUMENT REQUEST NO. 16:**

28 ALL DOCUMENTS that refer or RELATE TO any licensing or attempted licensing of

1 copyrighted works originating with the LVRJ by Righthaven.

2 **DOCUMENT REQUEST NO. 17:**

3 ALL DOCUMENTS that reflect any settlements by Righthaven of claims for copyright  
4 infringement.

5 **DOCUMENT REQUEST NO. 18:**

6 ALL COMMUNICATIONS with any PERSON by Righthaven RELATING TO terms for  
7 settlements for claims of copyright infringement in any article published by the LVRJ.

8 **DOCUMENT REQUEST NO. 19:**

9 ALL DOCUMENTS that refer or RELATE TO any plans to license any copyrighted  
10 works by Righthaven.

11 **DOCUMENT REQUEST NO. 20:**

12 YOUR articles of organization.

13 **DOCUMENT REQUEST NO. 21:**

14 ALL DOCUMENTS RELATING TO any harm to Righthaven as a result of any use of the  
15 NEWS ARTICLE by Defendants.

16 **DOCUMENT REQUEST NO. 22:**

17 ALL DOCUMENTS evidencing or RELATING TO any harm to Righthaven as a result of  
18 any allegedly unauthorized use of any LVRJ article.

19 **DOCUMENT REQUEST NO. 23:**

20 ALL DOCUMENTS evidencing or RELATING TO any harm to Stephens Media as a  
21 result of any use of the NEWS ARTICLE by Defendants.

22 **DOCUMENT REQUEST NO. 24:**

23 ALL DOCUMENTS evidencing or RELATING TO any harm to Stephens Media that  
24 could result if uses such as those by Democratic Underground of the NEWS ARTICLE became  
25 widespread.

26 **DOCUMENT REQUEST NO. 25:**

27 Any analyses, studies, reports, or COMMUNICATIONS regarding the actual or potential  
28 impact on the newspaper industry, of copying of newspaper articles, or portions thereof, on

1 Internet websites.

2 **DOCUMENT REQUEST NO. 26:**

3 ALL logs of any kind or other data reflecting or RELATING TO the NEWS ARTICLE's  
4 display on the LVRJ WEBSITE, including without limitation, those reflecting views of the  
5 NEWS ARTICLE, dates, IP address sufficient to identify geography of viewer, source of the  
6 viewer, actions by the viewer, sharing or printing by the viewer, advertising displayed with the  
7 NEWS ARTICLE, revenue from such advertising.

8 **DOCUMENT REQUEST NO. 27:**

9 ALL DOCUMENTS evidencing or RELATING TO Stephens Media's revenue received  
10 in whole or in part as a result of display of the NEWS ARTICLE, including without limitation the  
11 number of incidents generating revenue (whether paid per click or per display or otherwise), price  
12 per incident, date and payor.

13 **DOCUMENT REQUEST NO. 28:**

14 ALL DOCUMENTS evidencing or RELATING TO Stephens Media's revenue from the  
15 LVRJ WEBSITE from 2008 to the present, including without limitation documentation of  
16 amounts received daily, sources of those amounts, type of revenue (*e.g.*, PPC, CPM, etc.),  
17 average pricing, and average number of events generating revenues.

18 **DOCUMENT REQUEST NO. 29:**

19 ALL business plans for the LVRJ WEBSITE.

20 **DOCUMENT REQUEST NO. 30:**

21 ALL marketing plans for the LVRJ WEBSITE.

22 **DOCUMENT REQUEST NO. 31:**

23 ALL COMMUNICATIONS that refer or RELATE TO the Defendants in this lawsuit  
24 (excluding any assertedly privileged COMMUNICATIONS, which shall be logged pursuant to  
25 the SCHEDULING ORDER).

26 **DOCUMENT REQUEST NO. 32:**

27 ALL COMMUNICATIONS that refer or RELATE TO the NEWS ARTICLE (excluding  
28 any assertedly privileged COMMUNICATIONS, which shall be logged pursuant to the

1 SCHEDULING ORDER).

2 **DOCUMENT REQUEST NO. 33:**

3 ALL COMMUNICATIONS that refer or RELATE TO Stephens Media (excluding any  
4 assertedly privileged COMMUNICATIONS, which shall be logged pursuant to the  
5 SCHEDULING ORDER).

6 **DOCUMENT REQUEST NO. 34:**

7 ALL COMMUNICATIONS that refer or RELATE TO Net Sortie Systems LLC  
8 (excluding any assertedly privileged COMMUNICATIONS, which shall be logged pursuant to  
9 the SCHEDULING ORDER).

10 **DOCUMENT REQUEST NO. 35:**

11 ALL COMMUNICATIONS that refer or RELATE TO SI Content Monitor LLC  
12 (excluding any assertedly privileged COMMUNICATIONS, which shall be logged pursuant to  
13 the SCHEDULING ORDER).

14 **DOCUMENT REQUEST NO. 36:**

15 ALL COMMUNICATIONS that refer or RELATE TO WEHCO Media (excluding any  
16 assertedly privileged COMMUNICATIONS, which shall be logged pursuant to the  
17 SCHEDULING ORDER).

18 **DOCUMENT REQUEST NO. 37:**

19 ALL COMMUNICATIONS that refer or RELATE TO Media News Group (excluding  
20 any assertedly privileged COMMUNICATIONS, which shall be logged pursuant to the  
21 SCHEDULING ORDER).

22 **DOCUMENT REQUEST NO. 38:**

23 ALL COMMUNICATIONS between YOU and Sherman Frederick.

24 **DOCUMENT REQUEST NO. 39:**

25 ALL COMMUNICATIONS between YOU and Michael Ferguson.

26 **DOCUMENT REQUEST NO. 40:**

27 ALL COMMUNICATIONS between YOU and Bob Brown.  
28

1 **DOCUMENT REQUEST NO. 41:**

2 ALL COMMUNICATIONS between YOU and Mark Hinueber.

3 **DOCUMENT REQUEST NO. 42:**

4 ALL COMMUNICATIONS between YOU and Jackson Farrow.

5 **DOCUMENT REQUEST NO. 43:**

6 ALL COMMUNICATIONS between YOU and Kathy Bryant.

7 **DOCUMENT REQUEST NO. 44:**

8 ALL COMMUNICATIONS between YOU and Warren Stephens.

9 **DOCUMENT REQUEST NO. 45:**

10 ALL contracts, agreements, investment DOCUMENTS, or other terms between YOU and  
11 Stephens Media.

12 **DOCUMENT REQUEST NO. 46:**

13 ALL DOCUMENTS that refer or RELATE TO the agreement referenced by Mark  
14 Hinueber on KUAR FM 89.1 on or around Sep. 29, 2010 when he said “Righthaven’s made the  
15 decision that based on their agreement with us, they’re not going to send [cease and desist]  
16 notices.”

17 **DOCUMENT REQUEST NO. 47:**

18 ALL DOCUMENTS that refer or RELATE TO Righthaven’s or Stephens Media’s  
19 policies and practices in sending cease and desist or takedown notices RELATING TO alleged  
20 copyright infringement.

21 **DOCUMENT REQUEST NO. 48:**

22 DOCUMENTS sufficient to fully reflect and describe the “technology to find  
23 infringements on the Internet” referenced by Steve Gibson in the September 8, 2010 conference  
24 call hosted by Bryan Cave at around six-minute into the call.

25 **DOCUMENT REQUEST NO. 49:**

26 ALL DOCUMENTS that refer or RELATE TO the use of any technology to find use of  
27 the NEWS ARTICLE by Democratic Underground.  
28

1 **DOCUMENT REQUEST NO. 50:**

2 ALL DOCUMENTS that refer or RELATE TO Righthaven's "fair use analysis"  
3 referenced by Steve Gibson in the September 8, 2010 conference call hosted by Bryan Cave at  
4 around the 46-minute mark.

5 **DOCUMENT REQUEST NO. 51:**

6 ALL DOCUMENTS that refer or RELATE TO any "fair use analysis" conducted by  
7 Righthaven with respect to the NEWS ARTICLE or its use (excluding any assertedly privileged  
8 COMMUNICATIONS, which shall be logged pursuant to the SCHEDULING ORDER).

9 **DOCUMENT REQUEST NO. 52:**

10 ALL DOCUMENTS that refer or RELATE TO the "automated search matrix" referenced  
11 by Steve Gibson in his phone call with Steve Friess that was documented on  
12 <http://thestrippodcast.blogspot.com/2010/08/righthaven-provides-wiggle-room-re.html>.

13 **DOCUMENT REQUEST NO. 53:**

14 ALL DOCUMENTS that refer or RELATE TO the use of any "automated search matrix"  
15 in connection with the NEWS ARTICLE.

16 **DOCUMENT REQUEST NO. 54:**

17 ALL DOCUMENTS that refer or RELATE TO the method to determine whether to sue,  
18 as referenced by Steve Gibson in his phone call with Steve Friess that was documented on  
19 <http://thestrippodcast.blogspot.com/2010/08/righthaven-provides-wiggle-room-re.html>.

20 **DOCUMENT REQUEST NO. 55:**

21 ALL DOCUMENTS that refer or RELATE TO the COMMUNICATIONS referenced in  
22 Steve Gibson's statement that there are "communications to my company saying, 'What can I do  
23 to change my behavior, so I'm not disrespecting someone else's copyrights?'" in the article  
24 posted at <http://www.law.com/jsp/cc/PubArticleCC.jsp?id=1202466627090>.

25 **DOCUMENT REQUEST NO. 56:**

26 ALL business plans of Righthaven.

27 **DOCUMENT REQUEST NO. 57:**

28 ALL marketing plans and marketing materials of Righthaven.

1 **DOCUMENT REQUEST NO. 58:**

2 ALL DOCUMENTS referring or RELATING TO the creation of Righthaven, including,  
3 without limitation, ALL COMMUNICATION among its founders and funders.

4 **DOCUMENT REQUEST NO. 59:**

5 ALL DOCUMENTS referring or RELATING TO the registration of any copyright in the  
6 NEWS ARTICLE, including, without limitation, internal COMMUNICATIONS and  
7 COMMUNICATIONS with the United States Copyright Office.

8 **DOCUMENT REQUEST NO. 60:**

9 ALL DOCUMENTS that refer or RELATE TO any attempt YOU made to mitigate  
10 damages in connection with the NEWS ARTICLE.

11 **DOCUMENT REQUEST NO. 61:**

12 ALL statements from YOUR bank or other financial institution.

13 **DOCUMENT REQUEST NO. 62:**

14 ALL DOCUMENTS that refer or RELATE TO any revenue or income received by YOU.

15  
16 Dated: December 17, 2010

FENWICK & WEST LLP

17  
18 By:  /s/ Clifford C. Webb  
19 CLIFFORD C. WEBB, ESQ

20 Attorneys for Defendant and Counterclaimant  
21 DEMOCRATIC UNDERGROUND, LLC, and  
22 Defendant DAVID ALLEN  
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