

EXHIBIT H

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February 10, 2011

JENNIFER J. JOHNSON

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VIA EMAIL

J. Colby Williams
jcw@campbellandwilliams.com

Re: *Righthaven v. Democratic Underground*;
USDC, District of Nevada Case No.: 2:10 CIV 01356-RLH-GWF

Dear Mr. Williams:

This letter is to summarize our meet and confer discussion from our call earlier today.

1. Protective Order

- a. You agreed to the following modification of your proposed language for the protective order: "In the event of a motion, the documents or information whose designation is objected to shall continue to be treated as so designated until the motion is decided." We have since sent a finalized version of the protective order to you and Shawn Mangano to be filed.

2. Deposition Dates

- a. You confirmed that Stephens Media ("SM") is able to produce Sherman Frederick pursuant to the notice of deposition given his current position.
- b. You agreed to accept subpoenas on behalf of Sherman Frederick and Mark Hinueber in the event SM is dismissed from this action but Righthaven ("RH") is not dismissed
- c. We asked if you had a block of 3 days in March available for the 3 depositions for which Democratic Underground ("DU") has served notices.
- d. You stated that Sherman Frederick is out of town right now, but SM will get back to us with dates it is available for depositions, hopefully this week.

3. Discovery Requests

a. RFPs

- i. SM will produce non-confidential documents when it produces confidential documents, to the extent there are any. SM thinks most documents will likely be designated with a confidentiality designation.
- ii. SM anticipates getting documents to us **7-10 days** after the protective order is entered. Some licensing agreements (e.g. with Lexis) may take longer as they are located in Arkansas, so SM will make a rolling production.
- iii. Responses where SM has identified documents “already produced”:
 1. RFPs 1, 2, 3, 8-11, 69
 2. SM does not believe any other responsive documents exist, except for the underlying agreement that forms the relationship between SM and RH, which SM will produce once the protective order is entered.
- iv. Responses where SM objected on Relevance
 1. RFPs 5, 18, 19, 20, 29-33, 37-38, 40, 65-68 – SM stands on its relevance objections with respect to these requests.
 2. RFP 25 – SM will continue producing additional documents if DU agrees to narrow the request.
 3. RFP 40 – SM will produce documents responsive to this request.
 4. RFPs 65-68 – SM will check on these to see if documents exist.
- v. Not limited in time/scope.
 1. DU agreed to limit time beginning Jan. 1, 2010 through the present for those requests to which SM objects as to no time limitation.
 2. RFPs 41-55 – SM will review requests and let us know if it agrees to new time limit.

- vi. RFP 15, 18: We ask for documents relating to licensing by SM or RH. SM objects as overly broad. DU asked if SM was objecting to producing RH documents, even if they are in SM's possession.
 - 1. SM agreed to produce all responsive documents to the extent they are in SM's possession custody and control.
 - vii. RFP 22: We expressed that we thought 'See the Excerpt' was unclear. You clarified that your response is to see the Excerpt (as defined) and that you have no further documents responsive to this request.
 - viii. RFP 6, 41-55: objection regarding joint defense privilege.
 - 1. We expressed our position that the joint defense privilege wouldn't kick in until DU filed the counterclaim and that objections to communications between SM and RH are not sufficient to block all discovery. You stated that SM is holding its ground regarding these objections.
 - ix. RFP 64: We notified you that it appears part of SM's response was cut off. You indicated that the response should have been the same as 65. You also stated that SM will look into RFP 64, as it will RFP 65.
 - x. RFP 65, 67, 68: SM objected to these requests to the extent they seek confidential financial information. We stated that we do not think that these requests call for such information. You agreed to withdraw your objection on the basis of confidential information for these requests.
- b. Privilege objection:
- i. We noted that the privilege log was due on 2/8 pursuant to the Joint Discovery Plan and Scheduling Order [Dkt 54]. You stated that you will put a log together for all responsive privileged documents and hope to have this to us with the production of documents.
- c. Rogs
- i. Rogs 4-6, 12: We asked if SM intends to supplement its responses once the protective order is in place. You stated that SM will not be supplementing its responses.

- ii. Rogs 4-6: We pointed out that SM publishes ad revenue information on its website, and that to the extent such information is publicly available, it could not be objected to as calling for confidential information. You agreed.
- iii. DU withdrew Rog 13.

d. RFAs

- i. Objection – calling for legal conclusion: We noted that Rule 36(a)(1)(A) expressly permits RFAs relating to the application of law to fact, and our position is that the requests to which you objected on the basis of calling for legal conclusion are actually application of law to fact.
 - 1. RFAs 14-18: SM stands on its current responses.
- ii. We pointed out that several of your requests admit information “to the extent” xyz. We asked if there was some point in these requests that SM doesn’t admit that warrant a qualified response.
 - 1. RFAs 25, 26, 38: SM stands on its responses.
- iii. RFA 22: We pointed out that SM denies this request to the extent the article is in the archive and admits to the extent one can find it in Google. We asked if you admitted that the article was accessible for free by typing the URL into an internet browser. You stated that there may be ways to access the article for free aside from Google, but SM is standing on its current response.
- iv. RFA 55: We clarified that the request does not asking whether SM owns any interest in RH, but whether Hinueber acknowledged (i.e. stated) that SM owned a small stake (see Law.com news article). You asked if he was actually quoted in the article. We stated that his statements were paraphrased. SM is standing on its current response.

We look forward to hearing from you later this week regarding dates you are available for depositions.

J. Colby Williams
February 10, 2011
Page 5

Regards,

FENWICK & WEST LLP

A handwritten signature in blue ink that reads "Jennifer J. Johnson". The signature is written in a cursive, flowing style.

Jennifer J. Johnson