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

11 RIGHTHAVEN LLC, a Nevada limited-
12 liability company,

13
14 Plaintiff,

15 v.

16 THOMAS A. DIBIASE, an individual,

17 Defendant.
18

Case No.: 2:10-cv-01343

**COMPLAINT AND DEMAND
FOR JURY TRIAL**

19
20 Righthaven LLC (“Righthaven”) complains as follows against Thomas A. DiBiase (“Mr.
21 DiBiase”), on information and belief:

22
23 **NATURE OF ACTION**

- 24 1. This is an action for copyright infringement pursuant to 17 U.S.C. § 501.
25

26 **PARTIES**

- 27 2. Righthaven is, and has been at all times relevant to this lawsuit, a Nevada limited-
28 liability company with its principal place of business in Nevada.

1 3. Righthaven is, and has been at all times relevant to this lawsuit, in good standing
2 with the Nevada Secretary of State.

3 4. Mr. DiBiase is, and has been at all times relevant to this lawsuit, identified as the
4 as the owner of the Internet domain found at <nobodycases.com> (the “Domain”), by the content
5 accessible through the Domain (said content accessible through the Domain and the Domain
6 itself known herein as the “Website”), as evidenced by the “Home” page of the Website,
7 attached hereto as Exhibit 1.

8
9 **JURISDICTION**

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

12 6. Righthaven is the owner of the copyright in the literary work entitled: “Man who
13 killed wife sought ultimate sentence” (the “Work”), attached hereto as Exhibit 2.

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

16 8. Mr. DiBiase willfully copied, on an unauthorized basis, the Work from a source
17 emanating from Nevada.

18 9. On or about June 11, 2010, Mr. DiBiase displayed, and continue to display, an
19 unauthorized reproduction of the Work (the “Infringement”), attached hereto as Exhibit 3, on the
20 Website.

21 10. At all times relevant to this lawsuit, the Infringement has depicted and depicts the
22 original source publication as the *Las Vegas Review-Journal*.

23 11. The subject matter, at least in part, of the Work and the Infringement, is a man
24 that received the death sentence for murdering his wife in a Las Vegas hotel room.

25 12. At all times relevant to this lawsuit, Mr. DiBiase knew that the Work was
26 originally published in the *Las Vegas Review-Journal*.

27 13. At all times relevant to this lawsuit, Mr. DiBiase knew that the Infringement was
28 and is of specific interest to Nevada residents.

1 14. The Mr. DiBiase's display of the Infringement was and is purposefully directed at
2 Nevada residents.

3
4 **VENUE**

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

8 16. The United States District Court for the District of Nevada is an appropriate
9 venue, pursuant to 28 U.S.C. § 1400(a), because Mr. DiBiase is subject to personal jurisdiction
10 in Nevada.

11
12 **FACTS**

13 17. The Work constitutes copyrightable subject matter, pursuant to 17 U.S.C. §
14 102(a)(1).

15 18. Righthaven is the owner of the copyright in and to the Work.

16 19. The Work was originally published on June 11, 2010.

17 20. On July 27, 2010, the United States Copyright Office (the "USCO") granted
18 Righthaven the registration to the Work, copyright registration number TX0007182385 (the
19 "Registration") and attached hereto as Exhibit 4 is evidence of the Registration from the official
20 USCO database record depicting the occurrence of the Registration.

21 21. On or about June 11, 2010, Mr. DiBiase displayed, and continues to display, the
22 Infringement on the Website.

23 22. Mr. DiBiase did not seek permission, in any manner, to reproduce, display, or
24 otherwise exploit the Work.

25 23. Mr. DiBiase was not granted permission, in any manner, to reproduce, display, or
26 otherwise exploit the Work.

CLAIM FOR RELIEF: COPYRIGHT INFRINGEMENT

24. Righthaven repeats and realleges the allegations set forth in Paragraphs 1 through 23 above.

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

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

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

28. Righthaven holds the exclusive right to publicly display the Work, pursuant to 17 U.S.C. § 106(5).

29. Mr. DiBiase reproduced the Work in derogation of Righthaven's exclusive rights under 17 U.S.C. § 106(1).

30. Mr. DiBiase created an unauthorized derivative of the Work in derogation of Righthaven's exclusive rights under 17 U.S.C. § 106(2).

31. Mr. DiBiase distributed, and continues to distribute, an unauthorized reproduction of the Work on the Website, in derogation of Righthaven's exclusive rights under 17 U.S.C. § 106(3).

32. Mr. DiBiase publicly displayed, and continues to publicly display, an unauthorized reproduction of the Work on the Website, in derogation of Righthaven's exclusive rights under 17 U.S.C. § 106(5).

33. Mr. DiBiase has willfully engaged in the copyright infringement of the Work.

34. Mr. DiBiase's acts as alleged herein, and the ongoing direct results of those acts, have caused and will continue to cause irreparable harm to Righthaven in an amount Righthaven cannot ascertain, leaving Righthaven with no adequate remedy at law.

35. Unless Mr. DiBiase is preliminarily and permanently enjoined from further infringement of the Work, Righthaven will be irreparably harmed, and Righthaven is thus

1 entitled to preliminary and permanent injunctive relief against further infringement by the
2 Defendants of the Work, pursuant to 17 U.S.C. § 502.

3
4 **PRAAYER FOR RELIEF**

5 Righthaven requests that this Court grant Righthaven's claim for relief herein as follows:

6 1. Preliminarily and permanently enjoin and restrain Mr. DiBiase, and Mr. DiBiase's
7 officers, agents, servants, employees, attorneys, parents, subsidiaries, related companies,
8 partners, and all persons acting for, by, with, through, or under Mr. DiBiase, from directly or
9 indirectly infringing the Work by reproducing the Work, preparing derivative works based on the
10 Work, distributing the Work to the public, and/or displaying the Work, or ordering, directing,
11 participating in, or assisting in any such activity;

12 2. Direct Mr. DiBiase to preserve, retain, and deliver to Righthaven in hard copies or
13 electronic copies:

14 a. All evidence and documentation relating in any way to Mr. DiBiase's use
15 of the Work, in any form, including, without limitation, all such evidence and
16 documentation relating to the Website;

17 b. All evidence and documentation relating to the names and addresses
18 (whether electronic mail addresses or otherwise) of any person with whom the
19 Defendants have communicated regarding Mr. DiBiase's use of the Work; and

20 c. All financial evidence and documentation relating to the Mr. DiBiase's
21 use of the Work;

22 3. Direct the current registrar, Heritage Web Design, LLC, and any successor
23 domain name registrar for the Domain to lock the Domain and transfer control of the Domain to
24 Righthaven;

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

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

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

3 7. Grant Righthaven such other relief as this Court deems appropriate.
4

5 **DEMAND FOR JURY TRIAL**

6 Righthaven requests a trial by jury pursuant to Fed. R. Civ. P. 38.

7 Dated this ninth day of August, 2010.
8

 RIGHTHAVEN LLC
9

 By: /s/ J. Charles Coons
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