

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Action No.: 1:11-cv-00211-JLK

RIGHTHAVEN LLC, a Nevada limited-liability company,

Plaintiff,

v.

BRIAN D. HILL, an individual,

Defendant.

**DECLARATION OF SHAWN A. MANGANO, ESQ. IN SUPPORT OF RIGHTHAVEN
LLC'S RESPONSE TO DEFENDANT BRIAN D. HILL'S MOTION FOR ATTORNEY
FEES PURSUANT TO APRIL 14, 2011 MINUTE ORDER WITH CERTIFICATE OF
SERVICE**

I, Shawn A. Mangano, Esq., being first duly sworn upon oath, do hereby depose and state:

1. I am licensed to practice law before this Court, as well as in the jurisdictions of Nevada, California and Illinois. I have personal knowledge of the facts stated herein, except as to those matters stated on information and belief, and if called upon to testify thereto, would be competent to do so.

2. I am lead counsel of record in this case for Plaintiff Righthaven LLC ("Righthaven") on behalf of my firm, Shawn A. Mangano, Ltd. This declaration is made in support of Plaintiff Righthaven LLC's Response to Defendant Brian D. Hill's Motion for Attorney Fees Pursuant to April 14, 2011 Minute Order With Certificate of Service.

3. As counsel for Righthaven, neither I nor anyone that I am know, was aware of the Defendant's medical condition prior to filing suit. Once I became aware of the Defendant's medical condition, I attempted, on behalf of Righthaven, to immediately resolve this case for the sum of \$1.00, along with the Defendant's agreement not to continue to disseminate untruthful

statements about the company, his promise to remove existing current Internet content posted about the company, and with a press release containing mutually acceptable language concerning the lawsuit's dismissal.

4. Righthaven did not oppose Defendant's first request for an extension of time to respond to the Complaint. In fact, Righthaven even offered to stipulate or file a non-opposition to a second request for an extension of time to respond to the Complaint given the progress of settlement discussions between the parties. Defendant's counsel refused, instead electing to file a 55-page brief in support of his Omnibus Motion to Dismiss.

5. Although Righthaven believed settlement was imminent, having even reduced an agreement to writing, Defendant's counsel continued to raise a variety of issues indicating an unwillingness to work toward a resolution. During one particular telephone call with Defendant's counsel, an attempted compromise over the choice of law provision recited in the proposed settlement agreement was met with an inability, or an unwillingness, to even relay whether or not the proposed compromise was something his client would consider. Righthaven elected to dismiss the action rather than spend additional time, effort and resources opposing Defendant's Omnibus Motion to Dismiss or continue to try to resolve the apparent endless stream of issues presented by opposing counsel that precluded an amicable resolution of this matter. These matters even included whether or not a competency hearing would be required prior to execution of any agreed upon settlement agreement.

6. Righthaven's desire to settle, and to eventually voluntarily dismiss, this matter was driven by the Defendant's medical condition. It was not done in response to a lack of merit for the copyright infringement claims at issue in this case.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 5th day of May, 2011.

/s/Shawn A. Mangano
Shawn A. Mangano, Esq.

CERTIFICATE OF SERVICE

Pursuant to Federal Rule of Civil Procedure 5(b), I hereby certify that on this 5th day of May, 2011, I caused a copy of the **DECLARATION OF SHAWN A. MANGANO, ESQ. IN SUPPORT OF PLAINTIFF RIGHTHAVEN LLC'S RESPONSE TO DEFENDANT BRIAN D. HILL'S MOTION FOR ATTORNEY FEES PURSUANT TO APRIL 14, 2011 MINUTE ORDER WITH CERTIFICATE OF SERVICE** to be to be served by the Court's CM/ECF system.

By: /s/ Shawn A. Mangano
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