

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

Civil Action No.: 2011-CV-00538-JLK

RIGHTHAVEN LLC, a Nevada limited-liability company,

Plaintiff,

v.

Q COMMUNICATIONS, INC., a California corporation;

DON TUTHILL, an individual;

Defendants.

ANSWER

Defendants, by and through their undersigned counsel, for their Answer state as follows:

NATURE OF THE ACTION

1. Defendants admit that Plaintiff brings this action pursuant to 17 U.S.C. §501.

PARTIES

2. Defendants are without knowledge or information concerning the allegations of paragraph 2 and therefore deny them.

3. Defendants are without knowledge or information concerning the allegations of paragraph 3 and therefore deny them.

4. Defendants admit the allegations of paragraph 4.

5. Defendants admit the allegations of paragraph 5.

6. Defendants admit the allegations of paragraph 6.

JURISDICTION

7. Defendants do not dispute subject matter jurisdiction.

8. Defendants are without knowledge or information concerning the allegations of paragraph 8 and therefore deny them.

9. Defendants deny the allegations of paragraph 9.

10. Defendants deny the allegations of paragraph 10.

11. Defendants admit that the purported work depicts a pat down by a TSA Agent at the Denver Airport but deny all remaining allegations and inferences of paragraph 11.

12. Defendants deny the allegations of paragraph 12.

13. Defendants deny the allegations of paragraph 13.

14. Defendants admit that the purported work was originally published in *The Denver Post*.

15. Defendants admit the purported work originally emanated from Colorado.

16. Defendants admit the purported work originally emanated from Colorado.

17. Defendants deny the allegations of paragraph 17.

18. Defendants deny the allegations of paragraph 18.

19. Defendants deny the allegations of paragraph 19.

20. Defendants deny the allegations of paragraph 20.

VENUE

21. Defendants do not dispute venue in Colorado.

22. Defendants do not dispute venue in Colorado.

23. Defendants do not dispute venue in Colorado.

FACTS

24. Paragraph 24 is a conclusion of law and not a statement of fact and therefore no response thereto is tendered.

25. Defendants are without knowledge or information concerning the allegations of paragraph 25 and therefore deny them.

26. Defendants admit that the purported work first appeared on or about November 18, 2010.

27. In response to paragraph 27, Defendants state that the referenced document speaks for itself.

28. Defendants deny the allegations of paragraph 28

29. Defendants deny the allegations of paragraph 29.

30. Defendants deny the allegations of paragraph 30.

CLAIM FOR RELIEF: COPYRIGHT INFRINGEMENT

31. Defendants incorporate herein by reference their responses to paragraphs 1 through 30.

32. Defendants are without knowledge or information concerning the allegations of paragraph 32 and therefore deny them.

33. Defendants are without knowledge or information concerning the allegations of paragraph 33 and therefore deny them.

34. Defendants are without knowledge or information concerning the allegations of paragraph 34 and therefore deny them.

35. Defendants are without knowledge or information concerning the allegations of paragraph 35 and therefore deny them.

36. Defendants deny the allegations of paragraph 36.

37. Defendants deny the allegations of paragraph 37.

38. Defendants deny the allegations of paragraph 38.

39. Defendants deny the allegations of paragraph 39.

40. Defendants deny the allegations of paragraph 40.

41. Defendants deny the allegations of paragraphs 41.

42. Defendants deny the allegations of paragraph 42.

PRAYER FOR RELIEF

43. In response to Plaintiff's "Prayer for Relief", Defendants deny that Plaintiff is entitled to the relief requested or any other relief based on the facts alleged.

44. Defendants deny all allegations not specifically admitted.

AFFIRMATIVE DEFENSES

1. The complaint fails to state a claim for which relief may be granted.
2. Defendants' use of the purported work was protected by the fair use doctrine.
3. If Defendants are found to have engaged in infringement, such infringement was unintentional and unknowing.
4. Plaintiff and its counsel are liable for Defendants' attorney fees and costs pursuant to 28 U.S.C. § 1927.
5. On information and belief, Plaintiff is not the exclusive owner of the purported work and may not be the real party in interest.
6. Plaintiff is engaged in a champertous scheme and should not benefit there from.
7. Defendants reserve the right to assert additional affirmative defenses.

WHEREFORE, having answered the Complaint, Defendants request that judgment be entered in their favor and that they be awarded their costs and attorney fees and such other and further relief as the Court deems proper.

Respectfully submitted,

/s/Dwight L. Pringle
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UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLORADO
CERTIFICATE OF SERVICE

I hereby certify that on April 18th 2011, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following e-mail addresses:

sganim@righthaven.com

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 /s/Dwight L. Pringle

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