

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

Civil Action No.: 1:11-cv-00830

RIGHTHAVEN, LLC,

Plaintiff,

v.

LELAND WOLF, an individual, and
IT MAKES SENSE BLOG, an entity of unknown
origin and nature

Defendants.

DEFENDANT’S MOTION FOR WRIT OF EXECUTION

Leland Wolf and the It Makes Sense Blog (collectively, “Wolf”), through his counsel, Contiguglia/Fazzone and Randazza Legal Group, hereby submit this Motion for Writ of Execution seeking this Court and its clerk to issue a writ of execution for Wolf’s judgment against Plaintiff Righthaven, LLC (“Righthaven”) (Doc. #66).

An Affidavit and Request for Issuance of Writ of Execution is attached to this Motion, as is a proposed Writ of Execution for completion by the Court’s Deputy Clerk. The interest rate specified in the attached affidavit, 8%, is based on the standard interest rate authorized under Colorado law, C.R.S. §5-12-101, *et. seq.*

Defendant’s enforcement of the Court’s judgment is proper at this time. Wolf has not only waited before enforcing his judgment, he has done so only after the Plaintiff’s appeal of this Court’s Order on Summary Judgment (Doc. # 49) was dismissed by the Tenth Circuit Court of Appeals for Righthaven’s failure to prosecute (Doc. # 73). No stay prohibiting Wolf’s execution

of his judgment is in place, as Righthaven has not posted the \$50,000 *supersedeas* bond required by this Court in its November 10, 2011 Order (Doc. # 66).¹

Consequently, the Court is entitled to authorize the U.S. Marshalls to execute Wolf's judgment through seizure of Righthaven's bank accounts, real and personal property, and intangible intellectual property rights for levy, lien, auction or other treatment appropriate for satisfaction of Wolf's judgment.

Respectfully submitted this 22nd day of March 2012.

CONTIGUGLIA / FAZZONE, P.C.

/s/ Andrew J. Contiguglia

By: _____

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COUNSEL FOR DEFENDANTS

¹ Nor would any future stay, if sought by Righthaven, have retroactive effect. *See* Fed. R. Civ. P. 60, 62; *Ribbens Int'l, S.A. de C.V. v. Transport Int'l Pool, Inc.*, 40 F. Supp. 2d 1141, 1144 (C.D. Cal. 1999) ("The stay becomes effective when the bond is approved; before the bond is approved there is no stay and the judgment creditor is free to execute upon the judgment"); *Laborers Nat'l Pension Fund v. ANB Invest. Mgmt. & Trust Co.*, 26 F. Supp. 2d 1048, 1051 (N.D. Ill. 1998); *Moses v. K-Mart Corp.*, 922 F. Supp. 600, 605 (S.D. Fla. 1996), *aff'd in part and rev'd in part*, 136 F.3d 140 (11th Cir. 1998) (unpublished table opinion); *Johns v. Rozet*, 826 F. Supp. 565, 568 (D.D.C. 1993); *In re Bucyrus Grain Co., Inc.*, 127 B.R. 52, 55 (D. Kan. 1991); *Secure Eng'g Servs., Ltd. v. Int'l Tech. Corp.*, 727 F. Supp. 261, 264-65 (E.D. Va. 1989); *Larry Santos Prods. v. Joss Org., Inc.*, 682 F. Supp. 905, 906 (E.D. Mich. 1988).

CERTIFICATE OF SERVICE

Pursuant to Federal Rule of Civil Procedure 5(b), I hereby certify that I am a representative of Contiguglia / Fazzone, P.C. and that on this 22nd day of March 2012, I caused the document(s) entitled:

DEFENDANT'S MOTION FOR WRIT OF EXECUTION

and all attachments to be served as follows:

- by depositing same for mailing in the United States Mail, in a sealed envelope addressed to Steven A. Gibson, Esq., Righthaven, LLC, 9960 West Cheyenne Avenue, Suite 210, Las Vegas, Nevada, 89129-7701, upon which first class postage was fully prepaid; and/or
- Pursuant to Fed. R. Civ. P. 5(b)(2)(D), to be sent via facsimile as indicated; and/or
- to be hand-delivered;
- by the Court's CM/ECF system.

/s/ Andrew J. Contiguglia

Andrew J. Contiguglia