

1 STEVEN A. GIBSON, ESQ.
Nevada Bar No. 6656
sgibson@righthaven.com

2 J. CHARLES COONS, ESQ.
Nevada Bar No. 10553
ccoons@righthaven.com

3 JOSEPH C. CHU, ESQ.
4 Nevada Bar No. 11082
jchu@righthaven.com
5 Righthaven LLC
9960 West Cheyenne Avenue, Suite 210
6 Las Vegas, Nevada 89129-7701
(702) 527-5900
7 Attorneys for Plaintiff

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

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

13
14 Plaintiff,

15 v.

16 BRIEN SMITH, an individual; and
17 FULLTHROTTLETV.NET, an entity of
unknown origin and nature,

18 Defendants.
19

Case No.: 2:10-cv-1031

**COMPLAINT AND DEMAND
FOR JURY TRIAL**

20
21 Righthaven LLC (“Righthaven”) complains as follows against Brien Smith (“Mr. Smith”)
22 and Fullthrottletv.net (“Full Throttle”; collectively with Mr. Smith known herein as the
23 “Defendants”), on information and belief:
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25 **NATURE OF ACTION**

26 1. This is an action for copyright infringement pursuant to 17 U.S.C. § 501.
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28

1 11. The Defendants willfully copied, on an unauthorized basis, a substantial and
2 significant portion of the Work from a source emanating from Nevada.

3 12. On or about March 9, 2010, the Defendants displayed, and continue to display, an
4 unauthorized reproduction of the Work (the “Infringement”), attached hereto as Exhibit 2, on the
5 Website.

6 13. At all times relevant to this lawsuit, the Infringement has depicted and depicts the
7 original source publication as the Las Vegas Review-Journal.

8 14. At all times relevant to this lawsuit, the Defendants knew that the Work was
9 originally published in the Las Vegas Review-Journal.

10 15. At all times relevant to this lawsuit, the Defendants knew that the Infringement
11 was and is of specific interest to Las Vegas, Nevada residents.

12 16. The Defendants purposefully direct and effectuate the unauthorized reproduction
13 of a Righthaven-owned copyrighted work on the Website.

14 17. Mr. Smith purposefully directs activities at Nevada residents, which activities
15 have resulted in the copyright infringement alleged herein.

16 18. Full Throttle purposefully directs activities at Nevada residents, which activities
17 have resulted in the copyright infringement alleged herein.

18 19. The Defendants’ contacts with Nevada are continuous and systematic because the
19 Defendants published and publish, on the Website, contact information for nine Nevada-based
20 mixed martial arts schools, and such contacts have been in existence at least in excess of six
21 months.

22 20. The Defendants’ contacts with Nevada are continuous and systematic because the
23 Defendants published and publish, on the Website, information about Las Vegas, Nevada-based
24 mixed martial arts events, and such contacts have been in existence at least in excess of six
25 months.

26 21. The Defendants’ contacts with Nevada are continuous and systematic because the
27 Defendants posted and post, on the Website, links to external web pages displaying videos of Las
28

1 Vegas, Nevada-based mixed martial arts fights, and such contacts have been in existence at least
2 in excess of six months.

3 22. The Defendants' contacts with Nevada are continuous and systematic because the
4 Defendants published and publish, on the Website, an "Event Calendar" advertising upcoming
5 Las Vegas, Nevada-based mixed martial arts events, and such contacts have been in existence at
6 least in excess of six months.

7
8 **VENUE**

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

12
13 **FACTS**

14 24. The Work constitutes copyrightable subject matter, pursuant to 17 U.S.C. §
15 102(a)(1).

16 25. Righthaven is the owner of the copyright in and to the Work.

17 26. The Work was originally published on March 9, 2010.

18 27. On June 7, 2010, the United States Copyright Office (the "USCO") granted
19 Righthaven the registration to the Work, copyright registration number TX0007157071 (the
20 "Registration") and attached hereto as Exhibit 3 is evidence of the Registration in the form of a
21 printout of the official USCO database record depicting the occurrence of the Registration.

22 28. No later than March 9, 2010, the Defendants displayed, and continue to display,
23 the Infringement on the Website.

24 29. The Defendants did not seek permission, in any manner, to reproduce, display, or
25 otherwise exploit the Work.

26 30. The Defendants were not granted permission, in any manner, to reproduce,
27 display, or otherwise exploit the Work.

CLAIM FOR RELIEF: COPYRIGHT INFRINGEMENT

1
2 31. Righthaven repeats and realleges the allegations set forth in Paragraphs 1 through
3 30 above.

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

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

8 34. Righthaven holds the exclusive right to distribute copies of the Work, pursuant to
9 17 U.S.C. § 106(3).

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

12 36. The Defendants reproduced the Work in derogation of Righthaven's exclusive
13 rights under 17 U.S.C. § 106(1).

14 37. The Defendants created an unauthorized derivative of the Work in derogation of
15 Righthaven's exclusive rights under 17 U.S.C. § 106(2).

16 38. The Defendants distributed, and continue to distribute, an unauthorized
17 reproduction of the Work on the Website, in derogation of Righthaven's exclusive rights under
18 17 U.S.C. § 106(3).

19 39. The Defendants publicly displayed, and continue to publicly display, an
20 unauthorized reproduction of the Work on the Website, in derogation of Righthaven's exclusive
21 rights under 17 U.S.C. § 106(5).

22 40. Brien Smith has willfully engaged in the copyright infringement of the Work.

23 41. Full Throttle has willfully engaged in the copyright infringement of the Work.

24 42. The Defendants' acts as alleged herein, and the ongoing direct results of those
25 acts, have caused and will continue to cause irreparable harm to Righthaven in an amount
26 Righthaven cannot ascertain, leaving Righthaven with no adequate remedy at law.

27 43. Unless the Defendants are preliminarily and permanently enjoined from further
28 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 the Defendants, and the
7 Defendants' officers, agents, servants, employees, attorneys, parents, subsidiaries, related
8 companies, partners, and all persons acting for, by, with, through, or under the Defendants, from
9 directly or indirectly infringing the Work by reproducing the Work, preparing derivative works
10 based on the Work, distributing the Work to the public, and/or displaying the Work, or ordering,
11 directing, participating in, or assisting in any such activity;

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

14 a. All evidence and documentation relating in any way to the Defendants'
15 use 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 the Defendants' use of the Work; and

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

22 3. Direct GoDaddy and any successor domain name registrar for the Domain to lock
23 the Domain and transfer control of the Domain to Righthaven;

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

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

