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6 *Attorney for Plaintiff Righthaven LLC*

7
8 **UNITED STATES DISTRICT COURT**
9 **DISTRICT OF NEVADA**
10

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

14 Plaintiff,

15 v.

16 JERRY RYBURG, an individual, and RYAN
17 BURRAGE, an individual,

18 Defendants.
19

Case No.: 2:10-cv-01283-GMN-GWF

**PLAINTIFF RIGHTHAVEN LLC’S
INTERIM STATUS REPORT PURSUANT
TO LR 26-3**

20 Plaintiff Righthaven LLC (“Righthaven”) hereby submits this Interim Status Report
21 pursuant to LR 26-3 and the Court’s September 6, 2011 Minute Order (Doc. # 14). For the
22 reasons set forth herein, Righthaven maintains this action should be temporarily stayed while the
23 Court adjudicates a renewed motion to dismiss for lack of subject matter jurisdiction filed by the
24 defendants in *Righthaven LLC v. Virginia Citizens Defense League, Inc.*, Case No. 2:10-cv-
25 01683-GMN-PAL (“*Virginia Citizens*”).

26 On July 30, 2010, Righthaven commenced this action against Defendants Jerry Ryburg
27 (“Ryburg”) and Ryan Burrage (“Burrage”) for copyright infringement. (Doc. # 1.) Burrage
28 answered Righthaven’s Complaint on August 18, 2010. (Doc. # 7.) Service could not be

1 effectuated as to Ryburg. As a result, the Court dismissed Righthaven's claims against Ryburg
2 without prejudice pursuant to Federal Rule of Civil Procedure 4(m). (Doc. # 14.)

3 As stated above, this Court has a renewed motion to dismiss for lack of subject matter
4 jurisdiction pursuant to Federal Rule of Civil Procedure 12(b)(1) ("Rule 12(b)(1)") presently
5 pending before it in *Virginia Citizens*. The Court previously determined in *Virginia Citizens* that
6 Righthaven's allegations sufficiently establish standing to bring a copyright infringement claim
7 under the pleading requirements of Federal Rule of Civil Procedure 8(a). *Virginia Citizens*
8 *Defense League, Inc.*, Case No. 2:10-cv-01683-GMN-PAL (D. Nev. June 23, 2011) (Doc. # 26 at
9 13:3-4,13:14-17). Nevertheless, the defendants in *Virginia Citizens* renewed request for
10 dismissal for lack of subject matter jurisdiction pursuant to Rule 12(b)(1) request for dismissal
11 for lack of subject matter jurisdiction is awaiting adjudication by the Court.

12 Should the Court deny the defendants' renewed Rule 12(b)(1) motion in *Virginia*
13 *Citizens*, it would affirm Righthaven's standing to maintain this action. Such a determination
14 would further enable Righthaven to seek appropriate relief through the filing of a potentially
15 dispositive motion pursuant to Federal Rule of Civil Procedure 56. Under these circumstances, it
16 is unlikely trial in this matter would be necessary. Nevertheless, the forthcoming decision in
17 *Virginia Citizens* may materially impact the procedural posture of this case, thereby making a
18 temporary stay of the proceedings justified. Righthaven has attempted to confer with Burrage,
19 who is appearing *pro se* in this matter. Righthaven will continue to do so and, upon conferring
20 with Burrage, will submit a joint interim status report pursuant to LR 26-3 as soon as practical.

21 Dated this 21st day of September, 2011.

22 SHAWN A. MANGANO, LTD.

23
24 By: /s/ Shawn A. Mangano
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Attorney for Plaintiff Righthaven LLC

CERTIFICATE OF SERVICE

Pursuant to Federal Rule of Civil Procedure 5(b) and as provided for under the applicable Local Rules of Civil Practice, I certify that on this 21st day of September, 2011, I caused a true and correct copy of foregoing document to be served pursuant to the Court's ECF system. It is concurrently sending a copy of this filing via U.S. Mail to Defendant Burrage's last known address on file in this action.

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