## Qase 2:10-cv-01356-RLH -GWF Document 151-2 Filed 08/05/11 Page 1 of 3 1 **CAMPBELL & WILLIAMS** DONALD J. CAMPBELL, ESQ. (1216) 2 J. COLBY WILLIAMS, ESQ. (5549) 700 South Seventh Street 3 Las Vegas, Nevada 89101 4 Telephone: (702) 382-5222 Facsimile: (702) 382-0540 5 Email: djc@campbellandwilliams.com icw@campbellandwilliams.com 6 Attorneys for Counterdefendant 7 Stephens Media, LLC 8 UNITED STATES DISTRICT COURT 9 DISTRICT OF NEVADA 10 Case No.: 2:10-cv-01356-RLH-GWF RIGHTHAVEN LLC, a Nevada limited-11 liability company, 12 Plaintiff. 13 DECLARATION OF MARK HINUEBER v. IN SUPPORT OF COUNTER-14 **DEFENDANT STEPHENS MEDIA** DEMOCRATIC UNDERGROUND, LLC, a LLC'S (i) NOTICE OF WITHDRAWAL District of Columbia limited-liability 15 OF ITS MOTION FOR company; and DAVID ALLEN, an RECONSIDERATION OF THE individual. 16 COURT'S JUNE 14, 2011 ORDER [DKT 126], AND (ii) LIMITED REPLY TO 17 DEMOCRATIC UNDERGROUND, Defendants. LLC'S COMBINED OPPOSITION DKT 18 140] 19 20 DEMOCRATIC UNDERGROUND, LLC, a District of Columbia limited-liability 21 company, 22 Counterclaimant, 23 24 RIGHTHAVEN LLC, a Nevada limited-25 liability company; and STEPHENS MEDIA LLC, a Nevada limited-liability company, 26



700 SOUTH SEVENTH STREET LAS VEGAS, NEVADA 89101 PHONE: 702/382-5222 FAX: 702/382-0540 Counterdefendants.

CAMPBELL & WILLIAMS ATTORNEYS AT LAW 700 SOUTH SEVENTH STREET LAS VEGAS, NEVADA 89101 PHONE: 702/382-5222 FAX: 702/382-0540 I, MARK A. HINUEBER, declare under penalty of perjury as follows:

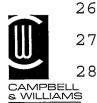
- 1. I am a resident in the State of Nevada. I am the Vice President and General Counsel of Stephens Media LLC which publishes a variety of daily and weekly newspapers across the country, including the Las Vegas *Review-Journal*.
- 2. I have personal knowledge of the facts stated herein, unless stated upon information and belief, and to those facts I believe them to be true. I am competent to testify to the matters stated herein.
- 3. I offer this Declaration in Support of Stephen Media, LLC's (i) Notice of Withdrawal of its Motion for Reconsideration of the Court's June 14, 2011 Order [Dkt. 126], and (ii) Limited Reply to Democratic Underground LLC's Combined Opposition [Dkt. 140].
- 4. Stephens Media is a party to several agreements with non-parties to the instant action that involve the potential use of Las Vegas *Review-Journal* articles. The other parties to these contracts include ProQuest Information and Learning Company, Burrelle's Information Services, LLC, and Lexis Nexis (the "Non-Party Contracts").
- 5. The characterization by Democratic Underground, LLC ("DU") of the alleged conflicts between the Non-Party Contracts and the Amended and Restated SAA is off-base. First of all, only a small subset of *Review-Journal* articles has been assigned to Righthaven, thereby leaving the vast majority of *Review-Journal* content subject only to the Non-Party Contracts and unaffected by the Amended and Restated SAA.
- 6. Next, content appearing in the *Review-Journal* is uploaded to or otherwise made available to Stephens Media's other contracting parties at or about the same time the material appears in the printed newspaper. Because Stephens Media is the owner of the copyright in an article at the time it is published and, by definition, any assignment of that article to Righthaven will not occur until some undetermined time in the future (e.g., when infringing activity has been

detected), Stephens Media has every right to authorize the limited use of the article at the time of publication.

- 7. With respect to those limited articles that are subsequently assigned to Righthaven, and thereafter licensed back to Stephens Media on a non-exclusive basis, Stephens Media has previously disclosed to Righthaven the existence of its Non-Party Contracts.
- 8. All of the Non-Party Contracts pre-date the filing of this litigation, and none of them are the subject of the dispute at issue herein.
- 9. Stephens Media treats the Non-Party Contracts as confidential commercial information, and certain of those agreements expressly recognize that the parties thereto will be sharing trade secrets and that said information is to be treated as confidential (*see*, *e.g.*, Dkt 140-4 at ¶ 18 (Burrelle's); 140-6 at ¶ 8 (Lexis Nexis)).
- 10. The Non-Party Contracts contain sensitive pricing information that is not generally known to members of the public which would, if disclosed, cause the parties thereto competitive disadvantage.
- 11. The Non-Party Contracts are drafted predominantly, if not entirely, by the other parties to the agreements, not Stephens Media. Accordingly, those non-parties have a proprietary interest in the form of the respective contracts and the terms contained therein which should not be publicly disclosed without first giving the non-parties notice and an opportunity to address the Court on this issue.
- 12. I declare under the penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 5th day of August, 2011 in Las Vegas, Nevada.

<u>/s/ Mark A. Hinueber</u> MARK A. HINUEBER



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