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9 Media Bloggers Association

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

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

14 Plaintiff,

15 vs.

16 PAHRUMP LIFE, MAREN SCACCIA, and
17 MICHAEL SCACCIA,

18 Defendant.

Case No. 2:10-cv-01575

**MOTION OF MEDIA BLOGGERS
ASSOCIATION FOR LEAVE TO
APPEAR AS *AMICUS CURIAE* AT
HEARING ON ORDER TO SHOW
CAUSE REGARDING SUBJECT
MATTER JURISDICTION**

19 **MOTION FOR LEAVE TO APPEAR AS *AMICUS CURIAE***

20 Non-party organization Media Bloggers Association (hereinafter, "*Amicus*") hereby
21 moves for leave to appear by and through its counsel, the undersigned, in the May 12, 2011
22 hearing scheduled in the above-captioned matter (Doc. # 20). *Amicus* has addressed the Article
23 III standing and subject matter jurisdiction issues at bar in the pending Order to Show Cause in
24 its *Amicus Curiae* Brief submitted in *Righthaven v. Hyatt*, Case No. 2:10-cv-01736, Doc. #29 at
25 5-10 (D. Nev., filed Apr. 14, 2011). A true and correct copy of the *amicus curiae* brief submitted
26 by *Amicus* in that case is attached as Exhibit A.

27 *Amicus* is a national organization founded by more than ten (10) prominent bloggers and
28 supported by many more, including John Amato (of Crooks and Liars), Glenn Reynolds (of
Pajamas Media/Instapundit), Jeralyn Merritt (of Talk Left) and many others. *Amicus* has no

1 fiscal or direct interest in this litigation, but is concerned about its outcome by virtue of its
2 organizational mission. The entire existence of *Amicus* is premised upon advancing grassroots
3 media and citizen journalism through “blogging” – the creation of one’s own media outlet
4 through a web log, or “blog” – and providing legal assistance to these bloggers. Since its
5 inception in 2004, Amicus has defended dozens of bloggers in legal actions, and in 2008 helped
6 developed the first-ever media liability insurance policy for bloggers.

7 District courts regularly consider *amicus* briefs, and allow *amici* to participate in hearings
8 when “the amicus has unique information or perspective that can help the court,” and if the
9 information offered is both timely and useful. *Sonoma Falls Developers, LLC v. Nev. Gold &*
10 *Casinos, Inc.*, 272 F. Supp. 2d 919, 925 (N.D. Cal. 2003); *Long*, 49 F. Supp. 2d at 1178, (quoting
11 *Waste Mgmt. of Pennsylvania v. City of York*, 162 F.R.D. 34 (M.D. Pa. 1995)). In a similar case
12 involving this Plaintiff, this Court has already permitted the hearing appearance of *amicus curiae*
13 without a direct stake in the litigation. *Righthaven LLC v. Ctr. For Intercultural Organizing*,
14 Case No. 2:10-cv-01322, Doc. # 23 (D. Nev., Filed Dec. 27, 2010). The information offered by
15 Amicus is submitted to this Court in advance of the hearing and referenced within this document,
16 and will be useful to this Court in light of *Amicus*’ familiarity with the subject matter at issue.

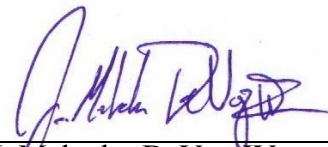
17 The primary purpose of allowing *amicus* contributions, both in written briefing and at
18 hearings, is that the *amicus curiae* offers “insights not available from the parties,” aiding the
19 Court in making its decision. *Citizens Against Casino Gambling v. Kempthorne*, 471 F. Supp. 2d
20 295, 311 (W.D.N.Y. 2007); *see also Ctr. for Intercultural Organizing*, Case No. 2:10-cv-01322,
21 Doc. # 23. In this case, Defendants Michael and Maren Scaccia are not represented by any
22 counsel (*see* Doc. # 12) and have proceeded *pro se* through Michael Scaccia (*see id.*) thus far,
23 prompting, in part, this Court to schedule the May 12 hearing (Doc. # 20). Therefore, the
24 presence of non-party *Amicus* to answer the Court’s questions on this novel, complex issue is
25 particularly appropriate.

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1 In light of *Amicus*' prior experience addressing this issue,¹ (*see* Exh. A) and its counsel's
2 activity litigating this very issue in other cases pending before this District,² *Amicus* requests that
3 the Court grant this Motion for leave to appear at the May 12, 2011 Order to Show Cause
4 hearing in this case.

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6 Dated May 6, 2011

Respectfully Submitted,
RANDAZZA LEGAL GROUP

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J. Malcolm DeVoy IV

12 *Attorney for Amicus Curiae,*
13 *Media Bloggers Association*
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27 ¹ *See Hyatt*, Case No. 2:10-cv-01736, Doc. #29.

28 ² *See Righthaven LLC v. Vote For The Worst LLC*, Case No. 2:10-cv-01045, Doc. # 33 (D. Nev., filed Apr. 17, 2011); *Righthaven LLC v. Hoehn*, Case No. 2:11-cv-00050, Doc. # 16 (D. Nev., filed Apr. 17, 2011).

1 **CERTIFICATE OF SERVICE**

2 Pursuant to Federal Rule of Civil Procedure 5(b), I hereby certify that I am a
3 representative of Randazza Legal Group and that on this May 6, 2011, I caused the document(s)
4 entitled:

5 **MOTION OF MEDIA BLOGGERS ASSOCIATION FOR LEAVE TO APPEAR AS**
6 ***AMICUS CURIAE* AT HEARING ON ORDER TO SHOW CAUSE REGARDING**
7 **SUBJECT MATTER JURISDICTION**

8 to be served as follows:

9 by depositing same for mailing in the United States Mail, in a sealed envelope
10 addressed to Steven A. Gibson, Esq., Righthaven, LLC, 9960 West Cheyenne
11 Avenue, Suite 210, Las Vegas, Nevada, 89129-7701, upon which first class
12 postage was fully prepaid; and/or

13 Pursuant to Fed. R. Civ. P. 5(b)(2)(D), to be sent via facsimile as indicated; and/or

14 to be hand-delivered;

15 by the Court's CM/ECF system.
16
17

18 /s/ J. Malcolm DeVoy

19 J. Malcolm DeVoy
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