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8 DEMOCRATIC UNDERGROUND, LLC

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

11 RIGHTHAVEN LLC, a Nevada limited liability
12 company,

13 Plaintiff,

14 v.

15 PAHRUMP LIFE, an entity of unknown origin
16 and nature; MAREN SCACCIA, an individual;
17 and MICHAEL SCACCIA, an individual,

18 Defendants.

Case No. 2:10-cv-01575-JCM (PAL)

**MOTION FOR LEAVE TO FILE AN
AMICUS BRIEF**

1 **MOTION TO FILE AMICUS CURIAE BRIEF**

2 Non-party Democratic Underground, LLC (“Democratic Underground”, or *Amicus*)
3 hereby moves for leave to file a brief as *amicus curiae* in this matter. The proposed brief will
4 address the response of Righthaven LLC (“Righthaven”) to this Court’s April 28, 2011 Order to
5 Show Cause (“OSC”) why this case should not be dismissed for Righthaven’s lack standing based
6 on the recently unsealed Strategic Alliance Agreement.

7 *Amicus*’s interest in this matter arises from its operation of a website at
8 www.democraticunderground.com devoted to disseminating and discussing political news and
9 progressive policies, and its status as a defendant in one of the cases brought by Righthaven in
10 this district, *Righthaven LLC v. Democratic Underground, LLC et al.*, Case No. 2:10-cv-01356-
11 RLH (GWF). Most pertinent for the purposes of the leave requested here, per the order of Chief
12 Judge Hunt in the *Democratic Underground* action, *Amicus* will, on May 20, 2011, be filing its
13 own response to a brief on the subject of Righthaven’s standing in that action—an issue that is all
14 but identical to the subject of Righthaven’s response to the OSC filed in this case that is due to be
15 filed by May 9, 2011.

16 As noted in the OSC in this action, “Righthaven’s ownership of its assigned copyrights
17 has been generally contested” under the terms of the Strategic Alliance Agreement that was
18 unsealed in the *Democratic Underground* case. To this end, Judge Hunt has ordered in the
19 *Democratic Underground* case that Righthaven file a brief addressing its standing given the
20 Strategic Alliance Agreement by May 9th, with a response thereto from Democratic Underground
21 due on May 20th. Dkt. Nos. 94 & 98 in 2:10-cv-01356-RLH (GWF). Given the similarity of the
22 issues in this case and the *Democratic Underground* case, *Amicus* respectfully submits that its
23 forthcoming May 20th response may be useful for this Court in ruling on the OSC. *See, e.g.*,
24 *Righthaven LLC v. Center For Intercultural Organizing et al*, No. 2:10-cv-01322-JCM-LRL, Dkt.
25 Nos. 19 (granting leave to file *amicus* brief); and 23 (granting leave for *amicus* to appear);
26 *Righthaven LLC v. Hyatt*, 2:10-cv-01736-KJD-RJJ, Dkt. No. 28 (granting leave to file *amicus*
27 brief); *see also Elektra Enter. Group v. Barker*, 551 F. Supp. 2d 234, 237 (S.D.N.Y. 2008)
28 (accepting brief of *amici curiae*); *U.S. v. Perelman*, Case No. 09-CR-00443-KJD-LRL, 2010 WL

1 3312627 (D. Nev. Aug. 19, 2010) (considering amicus brief from the ACLU); *PEST Committee v.*
2 *Miller*, 648 F. Supp. 2d 1202, 1214 (D. Nev. 2009) (denying motion to intervene, but treating the
3 submissions of proposed intervenors as *amici* briefs). This is particularly so in light of the fact
4 that, under this Court's OSC in this action, Righthaven will file a brief setting forth its position on
5 standing without rejoinder by any opposing party in this action.

6 Accordingly, *Amicus* respectfully requests leave to file, as *amicus curiae* in this action, a
7 copy of the brief *Amicus* will file as a party in the *Democratic Underground* case on May 20th as
8 it may bear on the OSC in this case as well. Alternatively, *Amicus* respectfully requests that this
9 Court modify its hearing and briefing schedule on the OSC to allow time for a formal response by
10 *Amicus* or by Defendant in this action to Righthaven's brief and to allow an appearance by
11 *Amicus* at the ultimate hearing.

12 Respectfully,

13 Dated: May 6, 2011

CHAD A. BOWERS, LTD

15 By: /s/ Chad A. Bowers

16 Chad A. Bowers

17 Attorneys for Amicus Curiae
18 DEMOCRATIC UNDERGROUND, LLC