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18 UNITED STATES DISTRICT COURT
19 FOR THE DISTRICT OF NEVADA

20 RIGHTHAVEN LLC, a Nevada limited liability
21 company,

22 Plaintiff,

23 v.

24 PAHRUMP LIFE, an entity of unknown origin
25 and nature; MAREN SCACCIA , an individual;
26 and MICHAEL SCACCIA, an individual,

27 Defendants.

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

**AMICI CURIAE DEMOCRATIC
UNDERGROUND LLC'S NOTICE OF
RECENT DECISION**

NOTICE OF RECENT DECISION

1
2 *Amicus* Democratic Underground hereby provides notice to the Court of an opinion issued
3 earlier this week, on September 27, 2011, by the United States District Court for the District of
4 Colorado in *Righthaven LLC, v Wolf, et al.*, Case No. 1:11-cv-00830 (D. Colo). *Amicus* submits
5 this decision for the Court’s consideration, as a supplement to *Amici’s* August 30, 2011
6 submission (Dkt. No. 69), filed in response to the Court’s request for briefing on whether this
7 matter should be dismissed with or without prejudice. Dkt. No. 67.

8 In the decision, attached hereto as an exhibit, Senior District Judge John L. Kane found
9 that Righthaven lacked standing to sue for copyright infringement, granted summary judgment,
10 and awarded attorneys fees. Based on the court’s conclusion that jurisdictional issues raised in the
11 defendant’s Motion to Dismiss were intertwined with the merits of the copyright claim, the court
12 converted a motion under Rule 12(b)(1) into one for summary judgment and granted such
13 summary judgment for defendant. The conclusion of Judge Kane’s opinion stated as follows:

14 It is apparent from the terms of the Assignment and the Copyright Assignment
15 Agreement that Righthaven lacks standing to institute an action for copyright
16 infringement. Because the jurisdictional issues raised in the Motion to Dismiss
17 are intertwined with the merits of the case, I convert Mr. Wolf’s Rule 12(b)(1)
18 motion to a Rule 56 motion and GRANT him SUMMARY JUDGMENT.
19 Furthermore, in light of the need to discourage the abuse of the statutory
20 remedies for copyright infringement, I exercise my discretion under Section
21 505 of the Copyright Act and ORDER that Righthaven shall reimburse Mr.
22 Wolf’s full costs in defending this action, including reasonable attorney fees.

21 Dated: September 30, 2011

Respectfully

FENWICK & WEST LLP

24 By: s/ Laurence F. Pulgram
Laurence F. Pulgram

25 Attorneys for *Amicus Curiae*
26 Democratic Underground, LLC