

UNITED STATES OF AMERICA
DISTRICT OF NEVADA

Righthaven LLC v. Michael Leon; Civil Action No 2:10-CV-01672-GMM-LRN; (Case No.: 2:10-cv-01672)

MOTION TO DISMISS

Comes now Michael Leon, *pro se*, and moves this Honorable Court to dismiss this action against him and states as grounds therefore as follows:

)
Plaintiff)
)Righthaven
V.)
)
MICHAEL LEON, et al.)
)
Defendants)

The Complaint, which was served upon defendant, Michael Leon, on 03/06/2011, is predicated upon plaintiff's claim of ownership of the copyright in the Work, and a diligent commitment to honestly represent facts to this Court.

Plaintiff claims:

- 11. Righthaven is the owner of the copyright in the Work.
- 23. Righthaven is the owner of the copyright in and to the Work.
- 31. Righthaven holds the exclusive right to reproduce the Work, pursuant to 17 U.S.C. 106(1).
- 32. Righthaven holds the exclusive right to prepare derivatives works based upon the Work, pursuant to 17 U.S.C. 106(2).
- 33. Righthaven holds the exclusive right to distribute copies of the Work, pursuant to 17 U.S.C. 106(3).
- 34. Righthaven holds the exclusive right to publically display the Work, pursuant to 17 U.S.C. 106(5).

In *Righthaven LLC v. Democratic Underground LLC* , [Case No. 2:20-cv01356], evidence has been made public suggesting that Righthaven may have willfully deceived this Court.

Furthermore, evidence regarding Righthaven's relationship with Stephens Media LLC calls into question Righthaven's standing to bring this action.

Quoting from Case No. 2:10-cv-1356:

"An examination of the document and its implications for Righthaven's business model make the reason plain – it reveals the unlawful nature of Righthaven's actions before this court and renders all of its lawsuits null and void. For this reason, the Court has an independent justification for dismissing this case.

This Court has the inherent power to dismiss an action when a party has 'willfully deceived' the Court and 'engaged in conduct utterly inconsistent with the orderly administration of justice.' *Wyle v. R.J. Reynolds Indus., Inc.*, 709 F.2d 585, 589 (9th Cir. 1983); *Phoceene Sous-Marine, S.A. v. U.S. Phosmarine, Inc.*, 682 F.2d 802, 806 (9th Cir. 1982). Such conduct is inimical to the proper and equitable use of not only this Court's resources, but the justice system as a whole. There is little doubt, though, that this is exactly what Righthaven has done in this case: *Righthaven LLC v. Michael Leon*; Civil Action No 2:10-CV-01672-GMM-LRN; (Case No.: 2:10-cv-01672)

In the Agreement, Stephens Media retains an 'exclusive license' to exploit the copyrights

I contend Righthaven does not have the legal right to pursue its copyright infringement claim in this case. As seen from Exhibit A, it has acquired no rights from Stephens Media, and certainly not enough to claim its copyrights were infringed upon. As such, it has not suffered an injury cognizable by law, and its case is not properly before this Court. Therefore, consistent with Federal Rule of Civil Procedure 12(h)(3), this Court should dismiss Righthaven's case against the Defendant, Michael Leon

WHEREFORE, Michael Leon, *pro se*, prays that he be dismissed as a defendant in the above-styled case.

Points and Authorities
Fed. R. Civ. Pro. 12(h)(3),

Respectfully submitted,

Michael Leon
Pro Se
5767 Monticello Way
Fitchburg, WI 53719
Phone: 608 270 9995

CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT I have e-mailed a copy of:

Motion to Dismiss to as well as
REQUEST FOR JUDICIAL NOTICE, MOTION TO RETAIN COUNSEL FOR LIMITED
TIME OF HEARING: Atty J. Malcolm DeVoy, licensed to practice in
Nevada.[Wednesday, 4/20/2011, at 10:00 AM in LV Courtroom 7D before Judge Gloria
M. Navarro.]

And PDF of case involving Democratic Underground v. Righthaven

To Atty Steven Ganim and Atty Mangano of Righthaven

Atty J. Malcolm DeVoy phoned me this morning at approximately 9:30 A.M. informing
me of conversation with Atty Steven Ganim of Righthaven who Atty DeVoy said
expressed concern about the tone of settlement process, in light of Atty Ganim receiving
e-mailed above correspondence.

Michael Leon

Pro Se

[Requested role of Atty J. Malcolm DeVoy for limited role for hearing of April 20 only]

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