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6
7 **UNITED STATES DISTRICT COURT**
8 **DISTRICT OF NEVADA**
9

10 RIGHTHAVEN LLC, a Nevada limited-
11 liability company,

12 Plaintiff,

13 v.

14 GARRY NEWMAN, an individual; and
15 FACEPUNCH STUDIOS LTD., a limited
16 company formed under the laws of Great
Britain,

17 Defendants.
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Case No.: 2:10-cv-01762-JCM-PAL

**PLAINTIFF RIGHTHAVEN LLC’S
MOTION FOR RECONSIDERATION OF
ORDER GRANTING DEFENDANT
GARRY NEWMAN’S MOTION TO
DISMISS**

***ON SHORTENED TIME PURSUANT TO
LR 6-1(a)***

19 Righthaven LLC (“Righthaven”) hereby moves on shortened time pursuant to LR 6-1(a)
20 for reconsideration of the July 22, 2011 Court’s Order (Doc. # 22) granting Defendant Garry
21 Newman’s (“Defendant”) Motion to Dismiss for Lack of Jurisdiction (Doc. # 19, the “Motion”).

22 **MEMORANDUM OF POINTS AND AUTHORITIES**

23 Righthaven asks the Court to reconsider its July 22nd Order, which granted Defendant’s
24 Motion to Dismiss for Lack of Jurisdiction. (Doc. # 22.) The July 22nd Order was entered by the
25 Court based on its belief that Righthaven had failed file a timely response pursuant to LR 7-2(b)
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1 to Defendant's Motion. (*Id.* at 1.) Righthaven's response to Defendant's Motion was due on July
2 15, 2011. (Doc. # 19.)

3 After a review of the pleadings on file in the case and after calculating the appropriate
4 time period for doing so, Righthaven elected to file a First Amended Complaint as a matter of
5 right pursuant to Federal Rule of Civil Procedure 15(a)(1). (Doc. # 21.) Righthaven's First
6 Amended Complaint was filed on July 15th, although it could have done so as a matter of right
7 some days later. (*Id.*) When filing the Amended Complaint, however, the Court's CM/ECF
8 system did not permit submission to be linked to any other document on file in the case except
9 for the original Complaint. (Doc. # 1.) Apparently the CM/ECF system did not provide a there
10 means to link the First Amended Complaint to Defendant's Motion, which would have advised
11 the Court of the manner in that Righthaven responded. Accordingly, Righthaven respectfully
12 requests the Court reconsider its July 22nd Order.

13 Reconsideration of a court order requires: (1) a valid reason for revisiting the prior order;
14 and (2) facts or law of a strongly convincing nature so as to warrant reversal of the prior
15 decision. *Frasure v. United States*, 256 F. Supp. 2d 1180, 1183 (D. Nev. 2003).

16 Here, the Court granted Defendant's Motion under the assumption that a timely response
17 had not been filed pursuant to LR 7-2(b). This was not the case. In fact, Righthaven file a
18 timely response to the Motion by submitting its First Amended Complaint on July 15, 2011
19 (Doc. # 21), which was the calendared response date for the Motion. Righthaven's First
20 Amended Complaint was filed as a matter of right pursuant to Federal Rule of Civil Procedure
21 15(a). As such, no action was required by the Court to approve this filing. Substantively, the
22 First Amended Complaint amplifies certain allegations relevant to Righthaven's ownership of
23 the copyrighted work at issue in this case. Moreover, the First Amended Complaint also
24 amplifies personal jurisdiction allegations asserted against Defendant. Accordingly, the First
25 Amended Complaint clearly addresses the subject matter of Defendant's Motion, thereby
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1 rendering it moot or otherwise requiring it to be amended and refilled in response to the newly
2 filed Complaint.

3 In conclusion, Righthaven asks for reconsideration based on the foregoing facts and
4 circumstances. A response to Defendant's Motion was filed timely in compliance with LR 7-
5 2(b) through the submission of the First Amended Complaint. As a result, Righthaven believes
6 reconsideration is warranted.

7 Dated this 22nd day of July, 2011.

8 SHAWN A. MANGANO, LTD.

9 By: /s/ Shawn A. Mangano, Esq.
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CERTIFICATE OF SERVICE

Pursuant to Federal Rule of Civil Procedure 5(b), I hereby certify that on this 22nd day of July, 2011, I caused **PLAINTIFF RIGHTHAVEN LLC'S MOTION FOR RECONSIDERATION OF ORDER GRANTING DEFENDANT GARRY NEWMAN'S MOTION TO DISMISS *ON SHORTENED TIME PURSUANT TO LR 6-1(a)*** to be served by the Court's CM/ECF system.

By: /s/ Shawn A. Mangano
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