

1 J. CHARLES COONS, ESQ.
 Nevada Bar No. 10553
ccoons@righthaven.com
 2 *Assistant General Counsel at Righthaven*
 JOSEPH C. CHU, ESQ.
 Nevada Bar No. 11082
jchu@righthaven.com
 4 *Staff Attorney at Righthaven*
 Righthaven LLC
 5 9960 West Cheyenne Avenue, Suite 210
 Las Vegas, Nevada 89129-7701
 6 (702) 527-5900
Attorneys for Plaintiff

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

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

12
 13 Plaintiff,

14 v.

15 RK, INC., a corporation of unknown origin; and
 16 RICHARD KWEI, an individual,

17 Defendants.
 18

Case No.: 2:10-cv-01904

**COMPLAINT AND DEMAND
 FOR JURY TRIAL**

19
 20 Righthaven LLC (“Righthaven”) complains as follows against RK, Inc. (“RK”), and
 21 Richard Kwei (“Mr. Kwei”; collectively with RK known herein as the “Defendants”), on
 22 information and belief:
 23

24 **NATURE OF ACTION**

25 1. This is an action for copyright infringement pursuant to 17 U.S.C. § 501.
 26
 27
 28

PARTIES

1
2 2. Righthaven is, and has been at all times relevant to this lawsuit, a Nevada limited-
3 liability company with its principal place of business in Nevada.

4 3. Righthaven is, and has been at all times relevant to this lawsuit, in good standing
5 with the Nevada Secretary of State.

6 4. RK is, and has been at all times relevant to this lawsuit, a corporation of unknown
7 origin.

8 5. Attempts to find evidence of formal organizational status in the respective
9 Secretary of State offices of Delaware, California, Illinois, Massachusetts, New York, Texas,
10 Tennessee, and Nevada demonstrate that, at least with respect to these states, RK is not a
11 formally organized business entity.

12 6. RK is, and has been at all times relevant to this lawsuit, identified by the current
13 registrar, GoDaddy.com, Inc., (“GoDaddy”), as the registrar for Internet domain found at
14 <987forum.com> (the “Domain”).

15 7. Mr. Kwei is, and has been at all times relevant to this lawsuit, identified by
16 GoDaddy as the administrative contact and technical contact for the Domain (the content
17 accessible through the Domain and the Domain itself known collectively herein as the
18 “Website”).

19
20 **JURISDICTION**

21 8. This Court has original subject matter jurisdiction over this copyright
22 infringement action pursuant to 28 U.S.C. § 1331 and 28 U.S.C. § 1338(a).

23 9. Righthaven is the owner of the copyright in the literary work entitled: “How can
24 Hispanics be Republican? GOP blocking immigration reform, senator tells Latinos” (the
25 “Work”), attached hereto as Exhibit 1.

26 10. At all times relevant to this lawsuit, the Work has depicted and depicts the
27 original source publication as the *Las Vegas Review-Journal*.

1 11. The Defendants willfully copied, on an unauthorized basis, the Work from a
2 source emanating from Nevada.

3 12. On or about August 12, 2010, the Defendants displayed, and continue to display,
4 an unauthorized reproduction of the Work (the “Infringement”), attached hereto as Exhibit 2, on
5 the Website.

6 13. At all times relevant to this lawsuit, the Infringement has depicted and depicts the
7 original source publication as the *Las Vegas Review-Journal*.

8 14. At all times relevant to this lawsuit, the Defendants knew that the Work was
9 originally published in the *Las Vegas Review-Journal*.

10 15. At all times relevant to this lawsuit, the Defendants knew that the Infringement
11 was and is of specific interest to Nevada residents.

12 16. At all times relevant to this lawsuit, the Infringement, as publically displayed on
13 the Website was and is accessible in Nevada.

14 17. At all times relevant to this lawsuit, the Infringement occurred and continues to
15 occur in Nevada.

16 18. The Defendants’ display of the Infringement was and is purposefully directed at
17 Nevada residents.

18 19. The Defendants knew, or reasonably should have known, that websites, such as
19 the Website, are and were at all times relevant to this lawsuit, the habitual subject of postings by
20 others of copyright-infringing content.

21 20. At all times relevant to this lawsuit, the Defendants did not institute any proactive
22 policy of precluding or attempting to preclude the posting by others of copyright-infringing
23 content on the Website.

24 21. At all times relevant to this lawsuit, the Defendants did not institute any proactive
25 policy of monitoring or attempting to monitor the posting by others of copyright-infringing
26 content on the Website.

1 22. At all times relevant to this lawsuit, the Defendants did not institute any proactive
2 policy of deleting or attempting to delete the posting by others of copyright-infringing content on
3 the Website.

4 23. At all times relevant to this lawsuit, the Defendants' failure to institute any
5 proactive policies intended to address the posting by others of copyright-infringing content on
6 the Website constituted and constitutes the Defendants' willful blindness to copyright
7 infringements occurring on the Website.

8
9 **VENUE**

10 24. The United States District Court for the District of Nevada is an appropriate
11 venue, pursuant to 28 U.S.C. § 1391(b)(2), because a substantial part of the events giving rise to
12 the claim for relief are situated in Nevada.

13 25. The United States District Court for the District of Nevada is an appropriate
14 venue, pursuant to 28 U.S.C. § 1400(a), because the Defendants are subject to personal
15 jurisdiction in Nevada.

16
17 **FACTS**

18 26. The Work constitutes copyrightable subject matter, pursuant to 17 U.S.C. §
19 102(a)(1).

20 27. Righthaven is the owner of the copyright in and to the Work.

21 28. The Work was originally published on August 11, 2010.

22 29. On September 9, 2010, the United State Copyright Office (the "USCO") received
23 Righthaven's official submittal for the registration of the Work including the application, the
24 deposit copy, and the registration fee (the "Complete Application"), Service Request No. 1-
25 484453802, attached hereto as Exhibit 3.

26 30. On or about August 12, 2010, the Defendants displayed, and continue to display,
27 the Infringement on the Website.

1 31. The Defendants did not seek permission, in any manner, to reproduce, display, or
2 otherwise exploit the Work.

3 32. The Defendants were not granted permission, in any manner, to reproduce,
4 display, or otherwise exploit the Work.

5
6 **CLAIM FOR RELIEF: COPYRIGHT INFRINGEMENT**

7 33. Righthaven repeats and realleges the allegations set forth in Paragraphs 1 through
8 32 above.

9 34. Righthaven holds the exclusive right to reproduce the Work, pursuant to 17
10 U.S.C. § 106(1).

11 35. Righthaven holds the exclusive right to prepare derivative works based upon the
12 Work, pursuant to 17 U.S.C. § 106(2).

13 36. Righthaven holds the exclusive right to distribute copies of the Work, pursuant to
14 17 U.S.C. § 106(3).

15 37. Righthaven holds the exclusive right to publicly display the Work, pursuant to 17
16 U.S.C. § 106(5).

17 38. The Defendants reproduced the Work in derogation of Righthaven's exclusive
18 rights under 17 U.S.C. § 106(1).

19 39. The Defendants created an unauthorized derivative of the Work in derogation of
20 Righthaven's exclusive rights under 17 U.S.C. § 106(2).

21 40. The Defendants distributed, and continue to distribute, an unauthorized
22 reproduction of the Work on the Website, in derogation of Righthaven's exclusive rights under
23 17 U.S.C. § 106(3).

24 41. The Defendants publicly displayed, and continue to publicly display, an
25 unauthorized reproduction of the Work on the Website, in derogation of Righthaven's exclusive
26 rights under 17 U.S.C. § 106(5).

27 42. RK has willfully engaged in the copyright infringement of the Work.

28 43. Mr. Kwei has willfully engaged in the copyright infringement of the Work.

1 44. The Defendants' acts as alleged herein, and the ongoing direct results of those
2 acts, have caused and will continue to cause irreparable harm to Righthaven in an amount
3 Righthaven cannot ascertain, leaving Righthaven with no adequate remedy at law.

4 45. Unless the Defendants are preliminarily and permanently enjoined from further
5 infringement of the Work, Righthaven will be irreparably harmed, and Righthaven is thus
6 entitled to preliminary and permanent injunctive relief against further infringement by the
7 Defendants of the Work, pursuant to 17 U.S.C. § 502.
8

9 **PRAYER FOR RELIEF**

10 Righthaven requests that this Court grant Righthaven's claim for relief herein as follows:

11 1. Preliminarily and permanently enjoin and restrain the Defendants, and the
12 Defendants' officers, agents, servants, employees, attorneys, parents, subsidiaries, related
13 companies, partners, and all persons acting for, by, with, through, or under the Defendants, from
14 directly or indirectly infringing the Work by reproducing the Work, preparing derivative works
15 based on the Work, distributing the Work to the public, and/or displaying the Work, or ordering,
16 directing, participating in, or assisting in any such activity;

17 2. Direct the Defendants to preserve, retain, and deliver to Righthaven in hard copies
18 or electronic copies:

19 a. All evidence and documentation relating in any way to the Defendants'
20 use of the Work, in any form, including, without limitation, all such evidence and
21 documentation relating to the Website;

22 b. All evidence and documentation relating to the names and addresses
23 (whether electronic mail addresses or otherwise) of any person with whom the
24 Defendants have communicated regarding the Defendants' use of the Work; and

25 c. All financial evidence and documentation relating to the Defendants' use
26 of the Work;

27 3. Direct GoDaddy, the current registrar, and any successor domain name registrar
28 for the Domain to lock the Domain and transfer control of the Domain to Righthaven;

1 4. Award Righthaven statutory damages for the willful infringement of the Work,
2 pursuant to 17 U.S.C. § 504(c);

3 5. Award Righthaven costs, disbursements, and attorneys' fees incurred by
4 Righthaven in bringing this action, pursuant to 17 U.S.C. § 505;

5 6. Award Righthaven pre- and post-judgment interest in accordance with applicable
6 law; and

7 7. Grant Righthaven such other relief as this Court deems appropriate.
8

9 **DEMAND FOR JURY TRIAL**

10 Righthaven requests a trial by jury pursuant to Fed. R. Civ. P. 38.

11 Dated this twenty-ninth day of October, 2010.

12 RIGHTHAVEN LLC

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14 By: /s/ Joseph C. Chu
15 J. CHARLES COONS, ESQ.
16 Nevada Bar No. 10553
17 JOSEPH C. CHU, ESQ.
18 Nevada Bar No. 11082
19 9960 West Cheyenne Avenue, Suite 210
20 Las Vegas, Nevada 89129-7701
21 Attorneys for Plaintiff
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25
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27
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