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8 *Wayne Hoehn*

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

11 RIGHTHAVEN, LLC, a Nevada limited liability  
12 company,

13 Plaintiff,

14 vs.

15 WAYNE HOEHN, an individual

16 Defendant.

Case No. 2:11-cv-00050

**DEFENDANT’S ANSWER TO  
COMPLAINT**

**ANSWER**

17 Defendant Wayne Hoehn (hereinafter “Hoehn,” or the “Defendant”), in his individual  
18 capacity, answers the Complaint filed by Righthaven LLC (hereinafter “Righthaven,” or the  
19 “Plaintiff,”) as follows:

- 20 1. Admitted.
- 21 2. Calls for neither admission nor denial.
- 22 3. Calls for neither admission nor denial.
- 23 4. Admitted.
- 24 5. Admitted.
- 25 6. Admitted.
- 26 7. Admitted.
- 27 8. Admitted.

- 1 9. Defendant is without knowledge as to how Righthaven came in possession of such
- 2 rights; therefore denied.
- 3 10. Admitted.
- 4 11. Denied.
- 5 12. Denied that the copy posted on the website was “unauthorized.”
- 6 13. Denied as to the work’s republication identified as “the Infringement.”
- 7 14. Admitted.
- 8 15. Denied.
- 9 16. Without specific knowledge; therefore denied.
- 10 17. Denied.
- 11 18. Denied.
- 12 19. Denied.
- 13 20. Denied.
- 14 21. Admitted.
- 15 22. Without specific knowledge; therefore denied.
- 16 23. Admitted.
- 17 24. Admitted based on supplied evidence.
- 18 25. Denied as to the republished work’s description as “the Infringement.”
- 19 26. Admitted, as such permission was unnecessary.
- 20 27. Denied, as finding “permission, in any manner,” is a question of law.
- 21 28. Calls for neither admission nor denial.
- 22 29. Without knowledge; therefore denied.
- 23 30. Without knowledge; therefore denied.
- 24 31. Without knowledge; therefore denied.
- 25 32. Without knowledge; therefore denied.

28

1 33. Denied.

2 34. Denied.

3 35. Denied.

4 36. Denied.

5 37. Denied.

6 38. Denied.

7 39. Denied.

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9 AFFIRMATIVE DEFENSES

10 1. Fair Use – Under 17 U.S.C. § 107, Defendant’s use of the article constitutes a non-  
11 infringing fair use of the copyrighted work. Contrary to Righthaven’s claims, Hoehn’s use of  
12 the work in a discussion forum was for educational purposes, namely to stimulate commentary  
13 and criticism, and had no actual or potential effect on the work’s potential market. A true and  
14 correct copy of this discussion, as seen on January 26, 2011, is attached as Exhibit A. The  
15 copyrighted work was an informational piece intended to stimulate discussion, and Hoehn’s  
16 use of it furthered this goal.

17 2. Lack of Personal Jurisdiction – Defendant is a resident of Kentucky, yet being haled into  
18 the District of Nevada for statements he made concerning the states of California and Illinois  
19 on a website forum hosted in Texas. There is no relationship between Defendant and the  
20 District of Nevada, and Defendant disputes the propriety of facing suit before this Court.  
21 Defendant therefore reserves the right to dispute this Court’s personal jurisdiction over him  
22 pursuant to Fed. R. Civ. P. 12(b)(2).  
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1 Dated: February 4, 2011

2 Respectfully Submitted,  
3 RANDAZZA LEGAL GROUP

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J. Malcolm DeVoy

7 Attorney for Defendant,  
8 *Wayne Hoehn*  
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**CERTIFICATE OF SERVICE**

Pursuant to Federal Rule of Civil Procedure 5(b), I hereby certify that I am a representative of Randazza Legal Group and that on this 4th day of February, 2011, I caused documents entitled:

- DEFENDANT’S ANSWER TO COMPLAINT

to be served as follows:

by depositing same for mailing in the United States Mail, in a sealed envelope addressed to Steven A. Gibson, Esq., Righthaven, LLC, 9960 West Cheyenne Avenue, Suite 210, Las Vegas, Nevada, 89129-7701, upon which first class postage was fully prepaid; and/or

Pursuant to Fed. R. Civ. P. 5(b)(2)(D), to be sent via facsimile as indicated; and/or

to be hand-delivered;

by the Court’s CM/ECF system.

/s/ J. Malcolm DeVoy

J. Malcolm DeVoy