

1 SHAWN A. MANGANO, ESQ.
Nevada Bar No. 6730
2 shawn@manganolaw.com
SHAWN A. MANGANO, LTD.
3 9960 West Cheyenne Avenue, Suite 170
Las Vegas, Nevada 89129-7701
4 Tel: (702) 304-0432
Fax: (702) 922-3851

5 *Attorney for Plaintiff Righthaven LLC*

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

10 RIGHTHAVEN LLC, a Nevada limited-
liability company,

11
12 **Plaintiff,**

13 v.

14 JANE SMITH, an individual; and
15 SUBLIMINALSELFHYPNOSIS.COM, an
entity of unknown origin and nature,

16 **Defendants.**
17

Case No.: 2:11-cv-00716

**COMPLAINT AND DEMAND
FOR JURY TRIAL**

18 Righthaven LLC (“Righthaven”) complains as follows against Jane Smith (“Ms. Smith”),
19 and Subliminalselfhypnosis.com (“Subliminalselfhypnosis”; collectively with Ms. Smith known
20 herein as the “Defendants”) on information and belief, and at all times relevant to this lawsuit,
21 unless otherwise specifically indicated herein to the contrary:
22

23 **NATURE OF ACTION**

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

PARTIES

1
2 2. Righthaven is a Nevada limited-liability company with its principal place of
3 business in Nevada.

4 3. Righthaven is in good standing with the Nevada Secretary of State.

5 4. Subliminalselfhynosis is an entity of unknown origin and nature.

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

10 6. Ms. Smith is also known as Jane Maati Smith and Jane Ma’ati Smith.

11 7. Ms. Smith is identified by the current registrar, Name Secure LLC (“Name
12 Secure”), as the registrant of the Internet domain found at <subliminalselfhynosis.com> (the
13 “Domain”).

14 8. Ms. Smith is identified by Name Secure as the administrative contact of the
15 Domain (the content accessible through the Domain and the Domain itself known herein as the
16 “Website”).

17 9. Subliminalselfhynosis is the self-proclaimed owner of the copyright(s) in the
18 work(s) displayed on the Website, as evidenced by a copyright notice displayed on the Website:
19 “© Copyright 2011 subliminalselfhynosis.com.”

20
21 **JURISDICTION**

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

24 11. Righthaven is the owner of the copyright in the literary work entitled, “Veteran
25 shares messages of resilience” (the “Work”), attached hereto as Exhibit 1.

26 12. On or about April 16, 2011, Defendants displayed, and continue to display, an
27 unauthorized reproduction of the Work (the “Infringement”), attached hereto as Exhibit 2, on the
28 Website.

1 13. The Work has depicted and depicts the original source publication as the Las
2 Vegas *Review-Journal*.

3 14. The Defendants willfully copied, on an unauthorized basis, the Work from a
4 source emanating from Nevada.

5 15. The Infringement has depicted and depicts the original source publication as the
6 Las Vegas *Review-Journal*.

7 16. The Defendants knew that the Work was originally published in the Las Vegas
8 *Review-Journal*.

9 17. The Defendants knew that the Infringement was and is of specific interest to
10 Nevada residents.

11 18. The Infringement, as publically displayed on the Website, was and is accessible in
12 Nevada.

13 19. The Infringement occurred and continues to occur in Nevada.

14 20. The Defendants' display of the Infringement was and is purposefully directed at
15 Nevada residents.

16
17 **VENUE**

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

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

24
25 **FACTS**

26 23. The Work constitutes copyrightable subject matter, pursuant to 17 U.S.C. §
27 102(a)(1).

28 24. Righthaven is the owner of the copyrights in and to the Work.

1 25. The Work was originally published on April 16, 2011.

2 26. On or about April 29, 2011, the United States Copyright Office (the “USCO”)
3 received Righthaven’s official submittal for the registration of the Work, including the
4 application, the deposit copy, and the registration fee (the “Complete Application”), Service
5 Request No. 1-602631208, and attached hereto as Exhibit 3 is the official USCO application
6 submittal for the Work depicting the occurrence of the Complete Application.

7 27. On or about April 16, 2011, Defendants displayed, and continue to display, the
8 Infringement on the Website.

9 28. The defendants did not seek permission, in any manner, to reproduce, display or
10 otherwise exploit the Work.

11 29. The Defendants were not granted permission, in any manner, to reproduce,
12 display, or otherwise exploit the Work.

13
14 **CLAIM FOR RELIEF: COPYRIGHT INFRINGEMENT OF THE WORK**

15 30. Righthaven repeats and realleges the allegations set forth in Paragraphs 1 through
16 29 above.

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

19 32. Righthaven holds the exclusive right to prepare derivative Work based upon the
20 Work, pursuant to 17 U.S.C. § 106(2).

21 33. Righthaven holds the exclusive right to distribute copies of the Work, pursuant to
22 17 U.S.C. § 106(3).

23 34. Righthaven holds the exclusive right to publicly display the Work, pursuant to 17
24 U.S.C. § 106(5).

25 35. The Defendants reproduced the Work in derogation of Righthaven’s exclusive
26 rights under 17 U.S.C. § 106(1).

27 36. The Defendants created an unauthorized derivative of the Work in derogation of
28 Righthaven’s exclusive rights under 17 U.S.C. § 106(2).

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

4 38. The Defendants publicly displayed, and continue to display, an unauthorized
5 reproduction of the Work on the Website, in derogation of Righthaven's exclusive rights under
6 17 U.S.C. § 106(5).

7 39. Ms. Smith has willfully engaged in the copyright infringement of the Work.

8 40. Subliminalselfhypnosis has willfully engaged in the copyright infringement of the
9 Work.

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

13 42. Unless the Defendants are preliminarily and permanently enjoined from further
14 infringement of the Work, Righthaven will be irreparably harmed, and Righthaven is thus
15 entitled to preliminary and permanent injunctive relief against further infringement by the
16 Defendants of the Work, pursuant to 17 U.S.C. § 502.

17
18 **PRAYER FOR RELIEF**

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

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

26 2. Direct the Defendants to preserve, retain, and deliver to Righthaven in hard copies
27 or electronic copies:
28

1 a. All evidence and documentation relating in any way to the Defendants’
2 use of the Work, in any form, including, without limitation, all such evidence and
3 documentation relating to the Website;

4 b. All evidence and documentation relating to the names and addresses
5 (whether electronic mail addresses or otherwise) of any person with whom the
6 Defendants have communicated regarding the Defendants’ use of the Work; and

7 c. All financial evidence and documentation relating to the Defendants’ use
8 of the Work;

9 3. Order the surrender to Righthaven of all hardware, software, electronic media and
10 domains, including the Domain used to store, disseminate and display the unauthorized versions
11 of any and all copyrighted Work as provided for under 17 U.S.C. § 505(b) and/or as authorized
12 by Federal Rule of Civil Procedure 64;

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

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

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

19 7. Grant Righthaven such other relief as this Court deems appropriate.
20
21
22
23
24
25
26
27
28

DEMAND FOR JURY TRIAL

Righthaven requests a trial by jury pursuant to Rule 38 of the Federal Rules of Civil Procedure.

Dated this 5th day of May, 2011.

SHAWN A. MANGANO, LTD.

By: /s/ Shawn A. Mangano

SHAWN A. MANGANO, ESQ.

Nevada Bar No. 6730

shawn@manganolaw.com

9960 West Cheyenne Avenue, Suite 170

Las Vegas, Nevada 89129-7701

Tel: (702) 304-0432

Fax: (702) 922-3851

Attorney for Plaintiff Righthaven LLC