

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF SOUTH CAROLINA
3 CHARLESTON DIVISION

4
5 RIGHTHAVEN LLC, a Nevada limited-
6 liability company,

7 Plaintiff,

8 v.

9 DANA EISER, an individual,

10 Defendant.
11

Case No.: 2:10-cv-3075-RMG

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13 **COMPLAINT AND DEMAND
14 FOR JURY TRIAL**

15 Righthaven LLC (“Righthaven”) complains as follows against Dana Eiser (“Ms. Eiser”) on information and belief:

16 **NATURE OF ACTION**

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

18
19 **PARTIES**

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

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

24 4. Ms. Eiser is, and has been at all times relevant to this lawsuit, a resident of
25 Summerville, South Carolina.

26 5. Ms. Eiser is, and has been at all times relevant to this lawsuit, the owner of the
27 Internet domain found at <lowcountry912.wordpress.com> (the “Domain”).
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1 6. Ms. Eiser maintains, and has maintained at all times relevant to this lawsuit,
2 administrative control the Domain.

3 7. Ms. Eiser maintains, and has maintained at all time relevant to this lawsuit,
4 editorial control of the Domain.

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6 **JURISDICTION**

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

9 9. Righthaven is the owner of the copyright in the literary work entitled: “A letter to
10 the Tea Partiers” (the “Work”), attached hereto as Exhibit 1.

11 10. Ms. Eiser willfully copied, on an unauthorized basis, the Work.

12 11. On or about September 23, 2010, Ms. Eiser displayed, and continues to display,
13 an unauthorized reproduction of the Work (the “Infringement”), attached hereto as Exhibit 2, as
14 part of the content accessible through the Domain (said content accessible through the Domain
15 and the Domain itself, collectively known herein as the “Website”).

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17 **VENUE**

18 12. The United States District Court for the District of South Carolina Charleston
19 Division is an appropriate venue, pursuant to 28 U.S.C. § 1391(b)(1), because Ms. Eiser resides
20 in South Carolina.

21 13. The United States District Court for the District of South Carolina Charleston
22 Division is an appropriate venue, pursuant to 28 U.S.C. § 1391(b)(2), because a substantial part
23 of the events giving rise to the claim for relief are situated in South Carolina.

24 14. The United States District Court for the South Carolina Charleston Division is an
25 appropriate venue, pursuant to 28 U.S.C. § 1400 (a), because Ms. Eiser is subject to personal
26 jurisdiction in South Carolina and because Ms. Eiser resides in Summerville, South Carolina.

FACTS

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

16. Righthaven is the owner of the copyright in and to the Work.

17. The Work was originally published on or about September 23, 2010.

18. On November 19, 2010, the United States Copyright Office (the “USCO”) received Righthaven’s official submittal for the registration to the Work, including the application, the deposit copy, and the registration fee (the “Complete Application”), Service Request No. 1-522022774, and attached hereto as Exhibit 3 is the official USCO application submittal for the Work depicting the occurrence of the Complete Application.

19. On or about September 23, 2010, Ms. Eiser displayed, and continues to display, the Infringement on the Website.

20. Ms. Eiser did not seek permission, in any manner, to reproduce, display, or otherwise exploit the Work.

21. Ms. Eiser was not granted permission, in any manner, to reproduce, display, or otherwise exploit the Work.

CLAIM FOR RELIEF: COPYRIGHT INFRINGEMENT

22. Righthaven repeats and realleges the allegations set forth in Paragraphs 1 through 21 above.

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

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

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

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

1 27. Ms. Eiser reproduced the Work in derogation of Righthaven's exclusive rights
2 under 17 U.S.C. § 106(1).

3 28. Ms. Eiser created an unauthorized derivative of the Work in derogation of
4 Righthaven's exclusive rights under 17 U.S.C. § 106(2).

5 29. Ms. Eiser distributed, and continues to distribute, an unauthorized reproduction of
6 the Work on the Website, in derogation of Righthaven's exclusive rights under 17 U.S.C. §
7 106(3).

8 30. Ms. Eiser publicly displayed, and continues to publicly display, an unauthorized
9 reproduction of the Work on the Website, in derogation of Righthaven's exclusive rights under
10 17 U.S.C. § 106(5).

11 31. Ms. Eiser has willfully engaged in the copyright infringement of the Work.

12 32. Ms. Eiser's acts as alleged herein, and the ongoing direct results of those acts,
13 have caused and will continue to cause irreparable harm to Righthaven in an amount Righthaven
14 cannot ascertain, leaving Righthaven with no adequate remedy at law.

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

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20 **PRAYER FOR RELIEF**

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

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

1 2. Direct Ms. Eiser to preserve, retain, and deliver to Righthaven in hard copies or
2 electronic copies:

3 a. All evidence and documentation relating in any way to Ms. Eiser's use of
4 the Work, in any form, including, without limitation, all such evidence and
5 documentation relating to the Website;

6 b. All evidence and documentation relating to the names and addresses
7 (whether electronic mail addresses or otherwise) of any person with whom Ms. Eiser has
8 communicated regarding Ms. Eiser's use of the Work; and

9 c. All financial evidence and documentation relating to Ms. Eiser's use of the
10 Work;

11 3. Direct GoDaddy.com, Inc., and any successor domain name registrar for the
12 Domain, to lock the Domain and transfer control of the Domain to Righthaven;

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.
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DEMAND FOR JURY TRIAL

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

Respectfully submitted,

CHARLESTON, SC
December 2, 2010

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