

UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH CAROLINA  
CHARLESTON DIVISION

RIGHTHAVEN LLC, a Nevada limited-liability company,	)	Case No. 2:10-CV-3075-RMG-JDA
	)	
Plaintiff and Counter-Defendant,	)	<b>AMENDED COMPLAINT AND DEMAND FOR JURY TRIAL</b>
v.	)	
	)	
DANA EISER, an individual,	)	
	)	
Defendant and Counter-Plaintiff.	)	
	)	

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Righthaven LLC (“Righthaven”) hereby amends its prior Complaint and Demand for Jury Trial (Docket Entry No. 1) and now complains as follows against Dana Eiser (“Ms. Eiser”) on information and belief:

**NATURE OF ACTION**

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

**PARTIES**

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

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

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

5. Ms. Eiser is, and has been at all times relevant to this lawsuit, the owner of the Internet domain found at <lowcountry912.wordpress.com> (the “Domain”).

6. Ms. Eiser maintains, and has maintained at all times relevant to this lawsuit, administrative control the Domain.

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

### **JURISDICTION**

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

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

10. Righthaven obtained ownership of the copyright in and to the Work through a valid and enforceable assignment from the original owner of the rights in and to the Work (the “Assignment”). The Assignment granted Righthaven full ownership in and to the copyright to the Work, as well as specifically assigning any and all rights to seek redress for past, present and future infringements, both accrued and unaccrued, in and to the Work.

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

12. On or about September 23, 2010, Ms. Eiser displayed, and as of the filing of the Complaint in this action had continued to display, an unauthorized reproduction of the Work (the “Infringement”), attached hereto as Exhibit 2, as part of the content accessible through the Domain (said content accessible through the Domain and the Domain itself, collectively known herein as the “Website”).

**VENUE**

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

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

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

**FACTS**

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

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

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

19. 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.

20. On or about September 23, 2010, Ms. Eiser displayed, and as of the filing of the Complaint in this action had continued to display, the Infringement on the Website.

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

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

**CLAIM FOR RELIEF: COPYRIGHT INFRINGEMENT**

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

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

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

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

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

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

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

30. Ms. Eiser distributed, and at least as of the date of the filing of the original Complaint continued to distribute, an unauthorized reproduction of the Work on the Website, in derogation of Righthaven's exclusive rights under 17 U.S.C. §106(3).

31. Ms. Eiser publicly displayed, and at least as of the filing of the Complaint continued to publicly display, an unauthorized reproduction of the Work on the Website, in derogation of Righthaven's exclusive rights under 17 U.S.C. §106(5).

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

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

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

**PRAYER FOR RELIEF**

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

1. Preliminarily and permanently enjoin and restrain Ms. Eiser, and Ms. Eiser's officers, agents, servants, employees, attorneys, parents, partners, and all persons acting for, by, with, through, or under Ms. Eiser, from directly or indirectly infringing the Work by reproducing the Work, preparing derivative works based on the Work, distributing the Work to the public, and/or displaying the Work, or ordering, directing, participating in, or assisting in any such activity;
2. Direct Ms. Eiser to preserve, retain, and deliver to Righthaven in hard copies or electronic copies:

- a. All evidence and documentation relating in any way to Ms. Eiser's use of the Work, in any form, including, without limitation, all such evidence and documentation relating to the Website;
  - b. All evidence and documentation relating to the names and addresses (whether electronic mail addresses or otherwise) of any person with whom Ms. Eiser has communicated regarding Ms. Eiser's use of the Work; and
  - c. All financial evidence and documentation relating to Ms. Eiser's use of the Work;
3. Direct Ms. Eiser to surrender all copies (print, electronic or otherwise) of the Work, as well as all such plates, molds, matrices, masters, tapes, computer hardware, computer software, electronic media, domains (including the Domain) and/or other articles by which copies of the Work may be reproduced or otherwise infringed to the fullest extent that such surrender is permitted by 17 U.S.C. § 503(b) or other applicable law;
  4. Award Righthaven statutory damages for the willful infringement of the Work, pursuant to 17 U.S.C. §504(c);
  5. Award Righthaven costs, disbursements, and attorneys' fees incurred by Righthaven in bringing this action, pursuant to 17 U.S.C. § 505;
  6. Award Righthaven pre- and post-judgment interest in accordance with applicable law; and
  7. Grant Righthaven such other relief as this Court deems appropriate.

**DEMAND FOR JURY TRIAL**

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

CHARLESTON, SC  
April 7, 2011

Respectfully submitted,

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Righthaven LLC

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
CHARLESTON DIVISION

RIGHTHAVEN LLC,	)	
	)	Case No. 2:10-CV-3075-RMG-JDA
Plaintiff and Counter-Defendant,	)	
	)	
v.	)	<b>CERTIFICATE OF SERVICE</b>
	)	
DANA EISER,	)	
	)	
Defendant and Counter-Plaintiff.	)	

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I hereby certify that on April 7, 2011, I electronically filed the foregoing *Amended Complaint and Demand for Jury Trial* with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

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s/Edward T. Fenno