

UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH CAROLINA  
CHARLESTON DIVISION

Righthaven LLC,

Plaintiff,

v.

Dana Eiser,

Defendant.

C/A No. 2:10-CV-3075-RMG-JDA

**MOTION REGARDING  
CONSOLIDATION**

The Defendant Dana Eiser hereby moves pursuant to Rule 42(a)(2), Fed.R.Civ.P., for an order permitting Defendant to consolidate this action with an action to be filed involving common questions of law or fact.

The Defendant has now filed her Second Amended Answer and Counterclaims. Within that pleading, allegations are made against various Righthaven associates in addition to Righthaven. The Defendant's position is that Righthaven is liable for those acts on several shared-liability theories, including respondeat superior, co-conspirator liability, joint venture liability, veil piercing, and other theories of vicarious liability.

The Defendant and the Lowcountry 9/12 Group intend to file an action in this Court against those individuals and entities based on the same facts and theories of recovery asserted by Defendant in her Second Amended Answer and Counterclaims against Plaintiff.

The Defendant requests an Order consolidating such action with this case. The reason for seeking leave of the Court prior to the filing of the other action is that, under the amended scheduling order, today appears to be the deadline for seeking joinder of other parties. The Defendant in no way wishes to violate the scheduling order, and since

consolidation of two actions is in the nature of joinder, the Defendant respectfully advises the Court before the other action has been filed.

The Defendant expects to file the action tomorrow, June 24, 2011. The action will involve Dana Eiser and the Lowcountry 9/12 Group as Plaintiffs. The Defendants will be the nonparty individuals and entities listed in the Parties, Venue, and Jurisdiction section of the just-filed Second Amended Answer and Counterclaim. The claims for relief will be practically identical to those asserted by Eiser against Righthaven in this action. Consultation with opposing counsel could not be timely held.

Respectfully submitted,

s/J. Todd Kincannon  
J. TODD KINCANNON, ID #10057  
THE KINCANNON FIRM  
1329 Richland Street  
Columbia, South Carolina 29201  
Office: 877.992.6878  
Fax: 888.704.2010  
Email: Todd@TheKincannonFirm.com

s/Bill Connor  
BILL CONNOR, ID #9783  
HORGER AND CONNOR LLC  
160 Centre Street  
Orangeburg, South Carolina 29115  
Office: 803.531.1700  
Fax: 803.531.0160  
Email: bconnor@horgerlaw.com

s/Thad T. Viers  
THAD T. VIERS, ID #10509  
COASTAL LAW LLC  
1104 Oak Street  
Myrtle Beach, South Carolina 29578  
Office: 843.488.5000  
Fax: 843.488.3701  
Email: tviers@coastal-law.com

June 23, 2011

Attorneys for Defendant