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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 BILL HYATT, an individual,

15 Defendant.
16
17

Case No.: 2:10-cv-01736-KJD-RJJ

**RIGHTHAVEN LLC’S MOTION TO
STRIKE *AMICUS* MEDIA BLOGGERS
ASSOCIATION’S SUPPLEMENTAL
MEMORANDUM ADDRESSING
RECENTLY PRODUCED EVIDENCE
RELATING TO PENDING MOTION OR,
ALTERNATIVELY, APPLICATION FOR
EXTENSION OF TIME OR
CLARIFICATION OF RESPONSE DATE**

18 Righthaven LLC (“Righthaven”) hereby moves to strike the *Amicus* Media Bloggers
19 Association’s (“MBA”) Supplemental Memorandum Addressing Recently Produced Evidence
20 Relating to Pending Motion (the “Supplemental Brief”, Doc. # 30). Alternatively, Righthaven
21 requests an extension of time or, at a minimum, clarification of its response date to MBA’s
22 *Amicus Curiae* Brief (the “*Amicus* Brief”) in view of their unilateral filing of the Supplemental
23 Brief.

24 On April 14, 2011, the Court issued an Order granting MBA leave to file its *Amicus* Brief
25 in this action. (Doc. # 28.) The Court’s Order required Righthaven to file its response to MBA’s
26 *Amicus* Brief fourteen (14) days after its filing. (*Id.*) MBA thereafter filed its *Amicus* Brief at
27 8:55 p.m. on April 14, 2011. (Doc. # 29.) Righthaven appropriately calendared its response date
28 for the *Amicus* Brief.

1 Leave of Court was required to file the *Amicus* Brief. (Doc. # 28.) In so permitting MBA
2 to file its *Amicus* Brief, and in setting Righthaven's response to same, the Court did not authorize
3 the filing of any supplemental briefing in this action. (*Id.*) Moreover, LR 7-2 in no way
4 authorizes the filing of a supplemental brief as matter of course. Rather, consistent with MBA's
5 required application to file the *Amicus* Brief, it is likewise required to seek the Court's
6 permission to file any supplemental material in this matter. MBA failed to seek such
7 authorization in connection with its Supplemental Brief. It simply filed it as a matter of course,
8 which it is not permitted to do without obtaining an appropriate order. Accordingly, the Court
9 should strike the Supplemental Brief as a fugitive filing.

10 Righthaven is certainly not afraid to address the issues raised in MBA's fugitive
11 Supplemental Brief. In fact, it welcomes the opportunity to do so at the appropriate procedural
12 juncture. This acknowledgement aside, the Court has set a deadline for Righthaven's response to
13 MBA's *Amicus* Brief based upon its date of filing. (Doc. # 28.) Today, April 19th, MBA filed
14 the Supplemental Brief. (Doc. # 30.) Thus, Righthaven maintains that the Supplemental Brief is
15 a fugitive document that should be stricken from the record, or alternatively asks the Court to
16 clarify its response date to the *Amicus* Brief and to the Supplemental Brief given this recent
17 filing. If the Court permits the fugitive filing, Righthaven certainly wishes to address the
18 allegations presented in MBA's Supplemental Brief. Accordingly, Righthaven asks the Court to
19 enter appropriate relief in view of the foregoing.

20 Dated this 19th day of April, 2011.

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CERTIFICATE OF SERVICE

1 Pursuant to Federal Rule of Civil Procedure 5(b), I hereby certify that I on this 19th day of
2 April, 2011, I caused the foregoing document to be served by the Court's CM/ECF system.
3

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