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13 **UNITED STATES DISTRICT COURT**
14 **DISTRICT OF NEVADA**

15 RIGHTHAVEN, LLC, a Nevada limited liability
16 company,

17 Plaintiff,

18 vs.

19 BILL HYATT, an individual

20 Defendant.

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

**AMICUS MEDIA BLOGGERS
ASSOCIATION’S SUPPLEMENTAL
MEMORANDUM ADDRESSING
RECENTLY PRODUCED EVIDENCE
RELATING TO PENDING MOTION**

21 **AMICUS MEDIA BLOGGERS ASSOCIATION’S SUPPLEMENTAL MEMORANDUM**
22 **ADDRESSING RECENTLY PRODUCED EVIDENCE RELATING TO PENDING**
23 **MOTION**

24 Amicus Curiae Media Bloggers Association (hereinafter, “*Amicus*”) respectfully submits
25 this Supplemental Memorandum Addressing Recently Produced Evidence Relating to Pending
26 Motions in order to bring key evidence recently made part of the public record to the Court’s
27 attention. On April 15, 2011, Righthaven LLC’s Strategic Alliance Agreement with Stephens
28 Media LLC was unsealed in *Righthaven LLC v. Democratic Underground LLC*, Case No. 2:10-

1 cv-01356-RLG-GWF, Doc. # 79, pursuant to an order unsealing such evidence by the Court.
2 *Democratic Underground*, Case No. 2:10-cv-01356-RLG-GWF, Doc. # 93.

3 The Strategic Alliance Agreement (hereinafter, the “Agreement”) is attached hereto as
4 Exhibit A. The Declaration of Laurence F. Pulgram in Support of Defendants’ Supplemental
5 Memorandum Addressing Recently Produced Evidence Relating to Pending Motions establishes
6 Exhibit A to be a true and correct copy of Righthaven LLC’s Strategic Alliance Agreement with
7 Stephens Media LLC. *Democratic Underground*, Case No. 2:10-cv-01356-RLH-GWF, Doc. #
8 79-1 ¶¶ 6-8. The Agreement has also been submitted as evidence in *Righthaven LLC v. Vote for*
9 *the Worst LLC*, 2:10-cv-1045, Doc. # 33-2 (D. Nev., filed Apr. 17, 2011), and *Righthaven LLC v.*
10 *Hoehn*, 2:11-cv-00050, Doc. # 16-2 (D. Nev., filed Apr. 17, 2011).

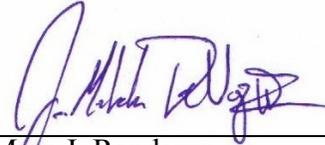
11 As the material in Exhibit A was only recently unsealed, *Amicus* did not have an
12 opportunity to include it in its initial briefing (Doc. # 29). Under such circumstances, courts –
13 including this District – allow the producing party to put the newly revealed evidence on the
14 record. *See U.S. v. Maris*, 2011 WL 468554, at *5 n.5 (D. Nev. Feb. 4, 2011) (granting leave to
15 file supplemental materials after motions were filed and a hearing held on a motion for summary
16 judgment); *Mitchel v. Holder*, 2010 WL 816761, at *1 n.1 (N.D. Cal. Mar. 9, 2010) (granting
17 leave to file supplemental memorandum concerning newly obtained evidence); *Lumsden v.*
18 *United States*, 2010 WL 2232946, at *1 (E.D. N.C. June 3, 2010) (granting a party leave to
19 submit additional newly discovered evidence).

20 This Agreement goes to the heart of Righthaven LLC’s relationship with Stephens Media
21 LLC in obtaining the copyrights underlying the hundreds of lawsuits it has brought before this
22 Court. This newly available evidence changes the lens through which the Court views *Amicus*’
23 opening brief in this case (Doc. # 29), but it is most relevant in conjunction with pages and lines
24 2:15-25, 3:1-4:4, and 5:11-10:14. Given Exhibit A’s considerable relevance and weight in this
25 matter, *Amicus* brings it to this Court’s attention with as little delay as possible in order to
26 provide information that the Court will find informative and helpful in its adjudication.
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1 Dated April 19, 2011

Respectfully Submitted,
RANDAZZA LEGAL GROUP

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6 Marc J. Randazza
J. Malcolm DeVoy IV

7 Co-Counsel:
8 Ronald D. Coleman
9 GOETZ FITZPATRICK LLP

10 Attorney for *Amicus Curiae*,
Media Bloggers Association

CERTIFICATE OF SERVICE

Pursuant to Federal Rule of Civil Procedure 5(b), I hereby certify that I am a representative of Randazza Legal Group and that on this 19th day of April, 2011, I caused documents entitled:

AMICUS MEDIA BLOGGERS ASSOCIATION'S SUPPLEMENTAL MEMORANDUM ADDRESSING RECENTLY PRODUCED EVIDENCE RELATING TO PENDING MOTION

to be served as follows:

by depositing same for mailing in the United States Mail, in a sealed envelope addressed to Steven A. Gibson, Esq., Righthaven, LLC, 9960 West Cheyenne Avenue, Suite 210, Las Vegas, Nevada, 89129-7701, upon which first class postage was fully prepaid; and/or

Pursuant to Fed. R. Civ. P. 5(b)(2)(D), to be sent via facsimile as indicated; and/or

to be hand-delivered;

by the Court's CM/ECF system.

/s/ J. Malcolm DeVoy

J. Malcolm DeVoy