

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No.: 1:11-cv-00830

RIGHTHAVEN, LLC,

Plaintiff,

v.

LELAND WOLF, an individual, and
THE IT MAKES SENSE BLOG, an entity
of unknown nature and origin,

Defendants.

MOTION TO DISMISS FOR LACK OF SUBJECT MATTER JURISDICTION

COMES NOW Defendant Leland Wolf and files this his Motion to Dismiss for Lack of Subject Matter Jurisdiction (the “Motion”).¹ For the reasons set forth in his Brief in Support of the Motion (the “Brief”), Mr. Wolf respectfully requests that the Court enter an Order dismissing Plaintiff’s Complaint for lack of subject matter jurisdiction.

In support of the Motion, Mr. Wolf relies upon this Motion, his Brief, Righthaven’s Strategic Alliance Agreement with Stephens Media LLC, Righthaven and Stephens Media

¹ In the caption of its Complaint, Plaintiff names both Mr. Wolf and the It Makes Sense Blog as Defendants. While Plaintiff alleges in the caption that The It Makes Sense Blog is “an entity of unknown origin and nature”, the It Makes Sense Blog is in fact not an organized legal entity. Rather, it is the domain name of a website owned and operated by Mr. Wolf. As the It Makes Sense Blog is not a person or legal entity, the It Makes Sense Blog is not capable of being sued. See, e.g., Aston v. Cunningham, 216 F.3d 1086 n. 3 (10th Cir. 2000) (dismissing Salt Lake County jail as a defendant because a detention facility is not a person or legally created entity capable of being sued). The It Makes Sense Blog should be dismissed for this reason alone.

Given that the It Makes Sense Blog is an improper Defendant as it lacks capacity to be sued, by appearing specially to contest this Court’s jurisdiction, Mr. Wolf is appearing only in his individual capacity and not on behalf of the named Defendant the It Makes Sense Blog. To the extent that the Court finds that the It Makes Sense Blog is capable of being sued, Mr. Wolf respectfully requests that the Court construe Mr. Wolf’s limited appearance as being made on behalf of both himself and on behalf of the It Makes Sense Blog.

LLC's May 9, 2011 Clarification to that Agreement, the Plaintiff's Complaint and exhibits thereto.

WHEREFORE, Mr. Wolf respectfully requests that the Court grant the Motion and enter an Order dismissing the Complaint for lack of personal jurisdiction.

Respectfully submitted this 17th day of May, 2011.

CONTIGUGLIA / FAZZONE, P.C.

/s/ Andrew J. Contiguglia

By: _____
Andrew J. Contiguglia
Colorado Bar No. 26901
400 S. Colorado Blvd., Suite 830
Denver, Colorado 80246
O: (303) 780-7333
F: (303) 780-7337

RANDAZZA LEGAL GROUP

/s/ Marc J. Randazza

By: _____
Marc J. Randazza
California Bar No. 269535
Jason A. Fischer
Florida Bar No. 68762
J. Malcolm DeVoy IV
Nevada Bar No. 11950
7001 W. Charleston Blvd., #1043
Las Vegas, Nevada 89117
O: (888) 667-1113
F: (305) 437-7662

CERTIFICATE OF SERVICE

Undersigned hereby certifies that a true and accurate copy of the foregoing **MOTION TO DISMISS FOR LACK OF SUBJECT MATTER JURISDICTION** was sent through the PACER EFS system on this 17th day of May 2011 to the following interested parties:

Shawn A. Mangano, Esq.
Shawn A. Mangano, Ltd.
9960 West Cheyenne Ave., Suite 170
Las Vegas, NV 89129-7701

Steven G. Ganim, Esq.
RIGHTHAVEN, LLC
9960 West Cheyenne Ave., Suite 210
Las Vegas, NV 89129-7701

/s/ J. Malcolm DeVoy IV
