

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

RIGHTHAVEN, LLC,

Plaintiff,

vs.

MICHAEL LEON, et al.,

Defendant.

Case No.: 2:10-cv-01672-GMN-LRL

ORDER

Before the Court is Defendant Denise Nichols’ Motion for Attorney’s Fees and Costs (ECF No. 47). Plaintiff Righthaven filed a Response (ECF No. 49) and Defendant filed a Reply (ECF No. 50).

Plaintiff filed suit against Defendants Leon alleging copyright infringement pursuant to 17 U.S.C. § 501 on September 27, 2010. Plaintiff filed an Amended Complaint on November 24, 2011 before serving any defendants. The Amended Complaint was filed in error and added Defendant Nichols as a party. Ms. Nichols was eventually served with the original complaint and she subsequently filed a Motion to Dismiss because she was not a named party on the complaint. (ECF No. 22.) After multiple filings from the Defendants, the Court became suspicious that there may have been a problem with service of the Amended Complaint and therefore set a hearing to discuss the matter. (ECF No. 30.)

A hearing was held on April 20, 2011. (ECF No. 37.) The Court found that the defendants were not properly served with the Amended Complaint and that the deadline to serve the defendants had passed. At the hearing, the Court asked the parties to stipulate to either a dismissal without prejudice and an award of attorney’s fees or a dismissal with prejudice but without an award of attorney’s fees. Defendant Nichols and Plaintiff agreed that

1 a decision on her motion to dismiss would be deferred while the parties worked out an
2 arrangement regarding attorney's fees and whether or not the dismissal would be with
3 prejudice or without prejudice. The parties never agreed on the terms of dismissal and
4 Plaintiff eventually filed a voluntary dismissal with prejudice. (ECF No. 43.) Defendant
5 Nichols, who was represented by counsel through the hearing and negotiations of dismissal
6 then filed a motion for attorney's fees pro se. (ECF No. 47.)

7 Defendant Nichols bases her motion for attorney's fees on a Rule 11 violation. The
8 court does not find that Rule 11 sanctions are warranted for this matter. Further, the Court
9 made it clear at the hearing that if dismissal was with prejudice attorney's fees would not be
10 granted.

11 **IT IS HEREBY ORDERED** that Defendant Denise Nichols' Motion for Attorney's
12 Fees and Costs (ECF No. 47) is **DENIED**.

13 DATED this 11th day of July, 2011.

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17 Gloria M. Navarro
18 United States District Judge
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