

EXHIBIT A

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By EVANGELINA PEREZ, Deputy
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8 **SUPERIOR COURT OF ARIZONA**
9 **MARICOPA COUNTY**

10 XCENTRIC VENTURES, LLC, an
11 Arizona limited liability company; and
EDWARD MAGEDSON, an unmarried
12 man,

13 Plaintiffs,

14 v.

15 SARAH L. BIRD and JOHN DOE BIRD,
16 wife and husband; SEOMOZ, INC d/b/a
SEOMOZ.ORG, a Washington corporation,

17 Defendants.

Case No: CV2009-002032
COMPLAINT
(Defamation; Declaratory Relief)

18 Plaintiffs XCENTRIC VENTURES, LLC and EDWARD MAGEDSON allege as
19 follows:
20

21 **GENERAL ALLEGATIONS**

- 22 1. Plaintiff XCENTRIC VENTURES, LLC ("Xcentric") is an Arizona limited
23 liability company formed under the laws of the State of Arizona.
24 2. Plaintiff EDWARD MAGEDSON ("Magedson") is a single man residing in
25 Maricopa County.
26 3. Magedson is the Manager of Xcentric.
27
28

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1 4. Xcentric operates a consumer information and advocacy website at
2 www.ripoffreport.com ("Rip-off Report"), where consumers and other visitors to the
3 website can post complaints regarding companies.

4 5. Upon information and belief, Defendant SEOMoz, Inc. d/b/a SEOMoz.org
5 "SEOMoz" is a Washington corporation not licensed to do business in the State of
6 Arizona.

7 6. Upon information and belief, Defendants Sarah Bird ("Bird") and John Doe
8 Bird are wife and husband, and were at all times material hereto residents of King County,
9 Washington.

10 7. Upon information and belief, Bird is the Secretary of SEOMoz, Inc.

11 8. It is further alleged that at all times mentioned herein, Sarah Bird was acting
12 for and on behalf of her martial community and for her sole and separate property
13 interests.

14 9. The true and correct name of the Defendant John Doe Bird is not currently
15 known to Plaintiffs. Plaintiffs request leave of court to insert the true and correct name of
16 the Defendant John Doe Bird at such time as it becomes known to the Plaintiffs.

17 10. Bird's statements were made and her conduct was committed in the scope
18 and course of her employment with SEOMoz.

19 11. Defendants have caused events to occur in the State of Arizona, Maricopa
20 County, out of which the Plaintiffs' claims arise and which are the subject of this
21 Complaint.

22 12. Venue in Maricopa County is proper.

23 13. Plaintiffs demand a trial by jury on all issues.

24 **THE PUBLICATION**

25 14. According to its website, SEOMoz "provides the web's best community,
26 tools and educational resources for people and companies engaged in Internet marketing
27 and search engine optimization." See <http://www.seomoz.org/about>.

28

1 15. SEOMoz admits to offering its services "across the US, Canada & Europe."

2 See <http://www.seomoz.org/about>.

3 16. Upon information and belief, various employees of SEOMoz author and
4 cause to be published blog entries on the SEOMoz website.

5 17. According to the SEOMoz website, Sarah Bird is the "Chief Operations
6 Officer, General Counsel, and law and technology blawger extraordinaire" of SEOMoz.

7 See <http://www.seomoz.org/team/sarah>.

8 18. On or about January 21, 2008, SEOMoz published and began circulating an
9 article titled The Anatomy of a RipOff Report Lawsuit, written by Sarah Bird (the
10 "Article"), a true copy of which is attached hereto as **Exhibit "A."**

11 19. The Article was published and is available free of charge on the Internet.

12 20. The Article is readily available to the consumer public and can be found
13 simply by searching "Rip-Off Report" on any major search engine, i.e. Yahoo!, Google,
14 or MSN.

15 **THE FALSITY**

16 21. The Article contains false, unfair, libelous, and defamatory statements of
17 and concerning the Plaintiffs written by Defendant Bird and published by Defendant
18 SEOMoz.

19 22. The Article contains the following text:

20 "Several courts have stated that if the plaintiffs can get
21 evidence that RipOff Report is drafting defamatory titles, then
22 there is a viable defamation claim and no immunity."

23 23. In addition, the following implication is contained within the quote from the
24 Article identified at Paragraph 22: that Rip-Off Report is actually drafting "defamatory
25 titles," but no one has been able to get evidence of it yet.

26 24. The Article contains the following text:

27 "if you're going to sue RipOff Report, it is very important to
28 allege that the website created and/or substantially altered the
meaning of the content. You need to allege facts that get you

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around the CDA immunity provisions in order to avoid being thrown out of Court.”

25. In addition, the following implication is contained within the quote from the Article identified at Paragraph 24: anyone who wants to succeed in a lawsuit against Rip-Off Report must “allege that the website created and/or substantially altered the meaning of the content”, regardless of whether they have actual evidence of that fact.

26. The Article contains the following text:

“There is more than just speculation that Magedson was involved in altering reports. The Declaration of Dickson Earl Woodard Deposition contains the sworn testimony of the Plaintiff’s former employee and states repeatedly that Magedson drafted fake complaints and manipulated search engines.”

27. The Article contains the following text:

“In addition to defamation, attorneys are suing RipOff Report for violations of the RICO Act. These next generation plaintiffs allege that RipOff Report’s conduct is extortion and amounts to racketeering.”

28. In addition, the following implication is contained within the quote from the Article identified at Paragraph 28: the plaintiffs and attorneys who have sued Rip-Off Report for violations of the RICO Act have had a legitimate basis for making those allegations.

29. While the statement in Paragraph 27 is not false, the implication contained within Paragraph 27 is false and defamatory.

30. The Article contains the following text:

“The good news is that the courts have already determined that taking money from a person in order to prevent him from being defamed is extortion. . .Further, several courts have ruled that the facts alleged against RipOff Report could amount to extortion. The courts in Hy Cite and Cambridge Who’s Who ruled that the allegations in the plaintiffs’ Complaints could result in a finding of extortion against RipOff Report.”

31. In addition, the following implication is contained within the quote from the Article identified at Paragraph 30: Rip-Off Report extorts people by taking money from them to prevent them from being defamed.

1 32. In addition, the following implication is contained within the quote from the
2 Article identified at Paragraph 30: courts have found that the acts of Xcentric could be
3 considered extortionate.

4 33. The Article contains the following text:

5 "I hope that plaintiffs will continue to press the
6 RICO/Extortion combo. This will direct the conversation
7 away from the CDA and focus it on the extortion elements of
8 the case. This is appropriate because this is what makes
9 RipOff Report's alleged conduct so reprehensible. If RipOff
report were just providing a neutral and organic platform to
publish good and bad comments about businesses, no one
would be complaining."

10 34. In addition, the following implication is contained within the quote from the
11 Article identified at Paragraph 33: plaintiffs have a good-faith basis to make allegations
12 regarding RICO violations or state law extortion claims.

13 35. In addition, the following implication is contained within the quote from the
14 Article identified at Paragraph 33: Xcentric operates Rip-Off Report in a "reprehensible"
15 manner and its actions constitute extortion.

16 36. In addition, the following implication is contained within the quote from the
17 Article identified at Paragraph 33: the Rip-Off Report website does not allow individuals
18 to publish both good and bad comments about businesses.

19 37. The Article contains the following text:

20 "What transforms this site from a consumer advocacy site to a
21 menace (allegedly) is its aggressive violations of Google's
22 terms of service to increase its rankings, and concomitant
23 demands for exorbitant fees to write a few rebuttal posts. .
The problem here is the apparent intent to damage a person
or business's reputation without regard to the truth of the
matter, only to re-victimize the person or business by
charging them exorbitant fees."

24 38. The Article contains the following text:

25 "For your information, Xcentric Ventures,
26 Badbusinessbureau.com, RipOffReport.com, and Edward
Mageson are all the same party."

27 39. In addition, the Article contains an "Appendix of Cases" whereby
28 Defendant Bird claims to provide a list of pending cases against Plaintiffs and note the

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1 status of these cases. While the status and substance of the cases against Plaintiffs are
2 public record, Defendant Bird interposes her own statements of fact into this section.

3 40. The Appendix of Cases contains the following text:

4 "My favorite is a police report filed by Magedson regarding
5 threatening letters that he received. He drops the complaint
6 once the police begin investigating. You be the judge: Does it
7 sound like Magedson made the whole thing up?"

8 41. In addition, the following implication is contained within the quote from the
9 Article identified at Paragraph 40: Magedson lied to the police.

10 42. The Appendix of Cases contains the following text:

11 "This one is the source of some great declarations by a former
12 employee who throws Magedson under the proverbial bus.
13 Magedson's only retort is that the employee was lying and
14 that it was actually the employee inventing these stories."

15 43. In addition, the following implication is contained within the quote from the
16 Article identified at Paragraph 41: Magedson's former employee made true statements
17 about Magedson that were damaging to this case.

18 44. In addition, the following implication is contained within the quote from the
19 Article identified at Paragraph 41: Magedson has no legitimate defense to the accusations
20 made by the employee.

21 45. Regarding the case of *IGIA v. Xcentric*, the Appendix of Cases contains the
22 following text:

23 "Complaint alleges RICO Act and Defamation claims.
24 Default Judgment entered on December 20, 2007. The
25 Defendant did not appear and defend the lawsuit."

26 46. Neither Magedson nor any employee or agent of Xcentric authors the titles
27 of the reports on Rip-Off Report. The author of the report is also the author of the title of
28 the report.

47. Neither Magedson nor any employee or agent of Xcentric creates or
substantially alters the meaning of content of any report or rebuttal located on Rip-Off
Report.

1 48. Dickson Woodard was never an employee or agent of Xcentric or Rip-Off
2 Report.

3 49. The deposition testimony of Dickson Woodard, to which Defendant Bird
4 refers to, has since been discredited by the United States District Court, Northern District
5 of Texas in Case No. 3:07-cv-00976.

6 50. The deposition testimony to which Defendant Bird refers has been
7 contradicted and disavowed by additional deposition testimony and other sworn
8 statements by Dickson Woodard.

9 51. Magedson does not run an extortion scheme.

10 52. Xcentric is not an extortion scheme.

11 53. Neither Magedson nor Xcentric extort people by taking money from them
12 to prevent them from being defamed.

13 54. No court has made any dispositive ruling finding the acts of Xcentric or
14 Magedson to be extortionate. Indeed, there has been no case against Xcentric or
15 Magedson where the allegation of extortion or any similar RICO claim has not been
16 dismissed against Xcentric and/or Magedson.

17 55. There is no good faith basis to believe that Xcentric and/or Magedson has
18 extorted anyone.

19 56. The Rip-Off Report website allows any consumer to publish comments
20 about their experience with any business or business person.

21 57. Xcentric does not violate Google's terms of service.

22 58. Xcentric does not charge a fee for anyone to post a report on Rip-Off
23 Report.

24 59. Xcentric does not charge a fee for anyone to post a rebuttal on Rip-Off
25 Report.

26 60. Neither Xcentric nor Magedson act with the intent of harming a person or
27 business's reputation by allowing third-parties to publish their personal experiences with
28 the person or business on Rip-Off Report.

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61. Ripoffreport.com is not a legal entity.

62. Badbusinessbureau.com is not a legal entity.

63. With regards to the police reports filed and used as exhibits in the case of Xcentric Ventures v. Stanley, Magedson did not "drop the charges."

64. With regards to the declarations utilized by the plaintiff in GW Equity v. Xcentric, the declarations were made by a former employee of GW Equity, not of Xcentric. In addition, those declarations were made in a prior case, and attempted to be utilized by GW Equity.

65. Xcentric and Magedson have prevailed on a motion of summary judgment in the GW Equity lawsuit. The court found judgment in Xcentric and Magedson's favor on all of the claims made by plaintiff GW Equity. See *GW Equity, LLC v. Xcentric Ventures, LLC*, 2009 WL 62173 (N.D.Tex.2009).

66. With regards to the case of *IGIA v. Xcentric*, the court determined that the plaintiff (IGIA) failed to properly serve Xcentric, and the court therefore vacated the default judgment. After that point, IGIA chose not to refile its complaint against Xcentric.

COUNT ONE
(Defamation)

67. Plaintiffs incorporate all paragraphs of this Complaint as if fully set forth herein by this reference.

68. The words written by Defendant Bird and published by Defendant SEOmox are defamatory because they bring Plaintiffs into disrepute, contempt or ridicule.

69. Defendants are liable not only for what was said, but also for what was insinuated.

70. The statements as made in the Article and the Appendix of Cases were of and concerning Plaintiffs.

71. Defendants are liable for presumed damages by reason of their reckless or intentional conduct.

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1 72. Defendants made each and every defamatory statement contained in the
2 Article and the Appendix of Cases knowing that said statements were false; in the
3 alternative, Defendants acted in reckless disregard of the truth in making each of the
4 defamatory statements; in the alternative, Defendants was negligent in failing to ascertain
5 the truth of the defamatory statements before making them.

6 73. Each and all of the statements in the Article, separately or in conjunction
7 with one another were and continue to be published by the Defendants by reason of evil
8 motives and/or malice towards the Plaintiffs and were and are intended and designed to
9 and did injure and defame and continue to injure and defame Plaintiffs.

10 74. Defendants' statements, singularly or in combination, have exposed and
11 continue to expose Plaintiff to public contempt. The statements have impeached and
12 continue to impeach the honesty and integrity of the Plaintiffs and leave their reputation
13 severely damaged and subject them to ridicule in the eyes of their friends, acquaintances,
14 business associates, and the general public.

15 75. Defendants' false statements expose Plaintiffs to potential fees and costs in
16 defending lawsuits expected to be brought by readers of the false statements who believe
17 that Magedson writes the complaints on Rip-off Report.

18 76. By reason of the evil motives and malice of the Defendants, Plaintiffs prays
19 for punitive damages.

20 WHEREFORE, Plaintiffs pray that this Court enter judgment against the
21 Defendants as follows:

- 22 A. General damages in an amount to be established at trial, including but not
- 23 limited to emotional distress, damage to reputation, inconvenience, and
- 24 related damages;
- 25 B. For special damages in an amount to be established at trial, including but not
- 26 limited to loss of income and rehabilitative damages;
- 27 C. Punitive damages in an amount to be established at trial;

28

- D. For all costs incurred herein; and
- E. For such other and further relief as the Court deems just and proper.

COUNT TWO

(Declaratory Relief)

77. Plaintiffs incorporate all paragraphs of this Complaint as if fully set forth herein by this reference.

78. A controversy has arisen between the Plaintiffs and the Defendants as to their respective rights.


79. Plaintiffs request this Court to enter a declaration, under the Uniform Declaratory Judgment Act, A.R.S. §12-1831 *at et. seq.*, that the statements written by Defendant Bird and published by Defendant SEOMoz contained in the Article and the Appendix of Cases were and are false.

WHEREFORE, Plaintiffs pray that this Court enter judgment against the Defendants as follows:

- A. For a declaration that the statements written by Defendant Bird and published by Defendant SEOMoz contained in the Article, individually and collectively, are false;
- B. For cost of suit incurred herein; and
- C. For such other and further relief as the Court deems just and proper.

DATED this 21st day of January, 2009.

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EXHIBIT A

SEOMozBlog

Keep up to date with the most current News, Tips & Highlights from the search marketing industry with the daily SEO Blog.



The Anatomy of a RipOff Report Lawsuit

Posted by Sarah Bird, Esquire on Mon (1/21/08) at 02:27 PM Search and Legal Issues

May It Please the Mozzers,

Last week, there were several excellent posts elucidating the many ways RipOff Report violates Google's Terms of Service, and yet manages to stay on top of the Google search results pages. Rand, Chris Bennet, Will Critchlow, and Andy Beal did a great job of bringing RipOff Report out in the open for a serious discussion.

It is no secret that RipOff Report has been widely and universally accused of promulgating defamatory content and then extorting money from the victims of the very libel it publishes. This business model has made RipOff Report the subject of many lawsuits. In fact, I have at least seventeen listed in the Appendix at the end of this post.

Despite the ubiquitous outcry against RipOff Report, it appears to have survived most of the legal challenges unscathed, leaving it free to carry on business as usual. RipOff Report claims never to have lost a lawsuit.

Is it true that RipOff Report has never lost a lawsuit? Is this a failure of the legal system? Are the allegations unfounded? If there is truth in the allegations, then how is the system going wrong? Why can't RipOff Report be held responsible for its conduct?

As promised, I want to spend Legal Monday digging into these issues. In order to accomplish this, we must take a trip together through RipOff Report's sordid legal history. In doing so, we will gain a basic understanding of the following:

- **Defamation**
- **The Communications Decency Act (42 USC Section 230)**
- **The Racketeer Influenced and Corrupt Organization's Act ("RICO Act")**
- **Extortion**

Let's get started!

BLANK

I. Is It True That RipOff Report Has Never Lost a Lawsuit?

Yes and no. It's true that none of the cases against RipOff Report has gone to trial. I have created an appendix of cases at the end of this post that indicates the status of each case. There are a lot of reasons for why RipOff Report has "never lost a case."

First, RipOff Report has had pretty good success in getting cases alleging mere defamation dismissed immediately. We'll see why this is so below.

Second, RipOff Report sometimes has failed to appear to defend a lawsuit against them. When this happens, a default judgment is entered against RipOff Report. For example, RipOff Report failed to respond to a lawsuit in Canada and another one in the Caribbean. Thus, it 'lost' those cases, but it doesn't really count because RipOff Report just gave up and no one ever had to hold a trial.

Third, RipOff Report, like most civil defendants, has settled many cases. When a case settles, the terms of the settlement are not public and it never goes to trial. Thus, it's very difficult to determine who "won" when the parties settled.

Finally, there are several cases still pending. It is too early to tell how these cases will come out.

II. Why Does RipOff Report Continually "Get Off the Hook" for Spreading Lies?

First, we do not know if RipOff Report has "gotten off the hook." Many cases have settled and the terms of those settlement agreements are unknown. It's entirely possible that significant amounts of cash changed hands and we will never know about it.

For example, Hy Cite Corporation settled its lawsuit with RipOff Report and its negative reports are now out of the title tag and below the fold. (I won't link to the page, but you know where to find it.) Thus, RipOff Report clearly compromised on that issue.

⇒ Isn't It Illegal to Spread Lies About Someone? What Exactly is Defamation?

In its most general form, defamation is a false statement of fact that is harmful to a person's reputation. Defamation is defined by each state individually, so your local jurisdiction will have slight variations, but this is a pretty good general definition. For more information about defamation, check out the [Electronic Frontier Foundation](#).

Many, many plaintiffs in the cases against RipOff Report below made the mistake of accusing RipOff Report of posting defamatory content.

⇒ How is Bringing a Defamation Case a Mistake? Isn't That Exactly What RipOff Report is Accused of Doing?

Well, yes. But thanks to a law known as [The Communications Decency Act](#) ("CDA," 47 USC 230),

RipOff Report cannot be sued for posting defamatory content written solely by its users. It's a different story for content that it creates.

⇒ Is RipOff Report Exploiting Some Kind of Loop Hole?

Nope. Most of us benefit from the Communications Decency Act. It makes the Search Engines and Web 2.0 function. We want users to interact with our sites without having to worry about being sued over something a user did. Sooner or later, some crazy person is going to write something on your site and you are going to be so happy for the Communications Decency Act because you're not responsible for the crazy person's conduct.

⇒ Why I Love the Communications Decency Act: Don't Blame the CDA for RipOff Report's Success

I'm going to be honest here. As someone who is in charge of handling the legal issues for a website with vibrant conversations driven by user contributions, I am relieved that the CDA exists. Without the CDA, SEOMoz would either have to independently review and investigate the accuracy of every comment posted to the site, or simply refuse to have any third party content altogether. Goodbye comments! Goodbye member profiles! See you later, YOUmoz! SEOMoz as we know it would not exist if it weren't for the CDA.

⇒ Website Owners Are 100% Responsible for Content That They Have Created

I am an employee and I am posting this content. Thus, SEOMoz is responsible for everything contained in this post. However, SEOMoz is not responsible for your comments. (phew!)

⇒ Website Owners Risk Losing Immunity When They Alter, Develop, Collaborate, or Change User-Generated Content

It makes intuitive sense that when a website owner starts to change user-generated content, he should no longer be allowed to throw up his hands and claim no responsibility for the content.

The unresolved question for courts is where the line is between creating and editing. A certain amount of editing (for spelling, grammar) would not cause a website owner to lose immunity. However, substantial edits that affect the meaning of the user-generated content may cause the website owner to lose immunity. Thus, SEOMoz could lose immunity from suit by soliciting, creating, developing, and over-zealously editing your comments.

Similarly, RipOff Report cannot be held liable for content created by its users. Strangers can write just about whatever they want on RipOff Report and so long as Magedson (the manager and alleged controller/operator of RipOff Report)³ does not interfere, he cannot be liable. However, what if he substantially alters user-generated complaints? Is he responsible for titles containing defamatory language?

⇒ How Much Does a Website Owner Have to Change a Third Party's Content Before He Can Be Held Liable?

No one knows right now. The statute creates very broad protection for website owners. However, if a website owner does enough editing to change the meaning of user-generated content, then immunity may be lost. There are several big cases in the pipeline that may help define this boundary in the next year or two. In the meantime, if you want to know more, you can check out the CDA immunity provisions [here](#).

⇒ If RipOff Report Writes the Negative, Defamatory Titles and Stuffs Them With Keywords, Is That Enough to Make Them Liable for Defamation?

Arguably, yes. There is no agreement on this right now. Several courts have stated that if the plaintiffs can get evidence that RipOff Report is drafting defamatory titles, then there is a viable defamation claim and no immunity. Thus, if you're going to sue RipOff Report, it is very important to allege that the website created and/or substantially altered the meaning of the content.¹ You need to allege facts that get you around the CDA immunity provisions in order to avoid being thrown out of Court.

There is more than just speculation that Magedson was involved in altering reports. The Declaration of Dickson Earl Woodard Deposition contains the sworn testimony of the Plaintiff's former employee² and states repeatedly that Magedson drafted fake complaints and manipulated search engines:

Attorney: So what I've gathered from all of your testimony, Dickson, is that Ed Magedson has indirectly told you that he is responsible for making posts about companies. He will make these posts.

Mr. Woodard: Yes.

Attorney: And then he will manipulate the search engines; is that true?

Mr. Woodard: No question about the search engines. That's where the money is made.

In his Response to Woodard's testimony, Magedson blames Woodard for making the fake complaints.

Magedson's deposition also throws his credibility into doubt. [Read excerpts of his testimony](#) and determine for yourself whether he's telling the truth when he states that he did not write the email asking a disgruntled employee to write an inflammatory post about his employer.

III. The New [old] Approach: Next Generation Plaintiffs Are Focusing on RICO Act Claims Based on Extortion, Rather Than Defamation

Because the CDA bars RipOff Report from liability for many civil suits, attorneys are shifting their focus. In addition to defamation, attorneys are suing RipOff Report for violations of the RICO Act. These next generation plaintiffs allege that RipOff Report's conduct is extortion and amounts to racketeering.

⇒ What is the RICO Act?

The Racketeer Influenced and Corrupt Organizations Act was designed to bust up organized crime like the mob. The Godfather, as everybody knows, never did his own dirty work. He had people to take care of his unlawful business. Thus, it was not easy for law enforcement to pin him with money laundering and murder because he wasn't doing it himself. After years of mafia domination, the legislature wised up and finally

made a law that made it illegal to be the head of an organization that conducts a pattern of unlawful activity. It didn't matter anymore if the Godfather didn't pull the trigger. Because he was in charge of the organization that made the murder happen, he could be found liable for a RICO Act violation.

Plaintiffs are now applying this same strategy to RipOff Report litigation.

⇒ The RICO Act is a Favorite with Plaintiffs Because It Allows for Punitive Damages

There is another brilliant thing about RICO Act claims that make them a very attractive avenue to plaintiffs' attorneys: Punitive or treble damages. If you are found liable of a RICO Act claim and you extorted \$50,000.00, the Judge can order you to pay three times that amount! Most civil lawsuits (like defamation, for example) only allow plaintiffs to recover the amount that they were actually damaged. The ability to recover punitive damages is what makes RICO so suave, my friend.

⇒ What Does a Plaintiff Have to Prove to Hold RipOff Report Liable for a RICO Act Violation?

The most common RICO claim makes it unlawful for a person to manipulate an enterprise for purposes of engaging in, concealing, or benefiting from a pattern of racketeering activity. In order to prove a "racketeering activity," you must essentially prove a crime within a crime. Extortion can serve as a "racketeering activity" under the statute.

In the case of RipOff Report, a plaintiff must demonstrate that Magedson manipulated an enterprise (RipOffReport.com) for the purpose of engaging in a pattern of extortion.

Note: If you want to learn more about the RICO Act, I commend to your attention to Mr. Jeffrey Ernest Grell's RICO Act in at Nutshell. It's a thorough review and will tell you everything you want to know and more about RICO.

⇒ What is Extortion: When Is it Wrong to Ask Someone for Money?

RipOff Report expressly states on its site that it is not engaging in extortionate conduct. This begs the question, what is extortion? Is paying someone tens of thousands of dollars in addition to a monthly fee to help you communicate with your angry clients the price of good PR, or extortion?

Generally, the term "extortion" means the obtaining of property from another, with his consent, induced by wrongful use of actual or threatened force, violence, or fear, or under color of official right. In other words, you are committing extortion if you are wrongfully threatening someone to give you money or property. But it's not always easy to determine whether the use of force is "wrongful."

The good news is that the courts have already determined that taking money from a person in order to prevent him from being defamed is extortion. As an example, here's a kooky and highly entertaining case involving the criminal underbelly of the Church of Scientology that's surprisingly on point.

Further, several courts have ruled that the facts alleged against RipOff Report could amount to extortion. The courts in *Hy Cite* and *Cambridge Who's Who* ruled that the allegations in the plaintiffs' Complaints

could result in a finding of extortion against RipOff Report.

⇒ **Does the CDA Grant Immunity from a RICO Act Claim as Well as a Defamation Claim?**

The CDA grants immunity against more claims than just defamation. For example, the CDA has granted immunity from suits involving negligent misrepresentation, interference with business expectancy, breach of contract, intentional nuisance, violations of federal civil rights, and emotional distress. However, the CDA does not grant immunity for federal criminal law, intellectual property law, and electronic communications privacy law.

The issue over whether the CDA grants immunity from RICO Act claims has not been addressed by a court yet. So far, none of the RipOff Report rulings state that the CDA grants immunity from RICO charges. However, none of the courts have found that the CDA does not grant immunity, either.

The Hy Cite Court ruled, "Here, Defendants operate a website. Plaintiff alleges that Defendants create and solicit false and defamatory complaints against businesses, but will cease this conduct for a \$50,000 fee and a \$1,500 monthly retainer. Remedying the publication of false and defamatory complaints, which Defendants allegedly created and solicited, does not give Defendants the right to collect fees. Plaintiff has properly alleged threatened extortion."

Thus, so far, courts are not bothered by the implications of the CDA on the RICO Act. I for one, hope it stays this way.

IV. Where RipOff Report Litigation Should Go from Here

The steady stream of lawsuits against RipOff Report have not slowed down and there is no indication that they will. Plaintiffs have become more sophisticated in order to avoid being kicked out of Court by the Communication Decency Act's broad immunity provisions. Plaintiffs are being sure to plead that RipOff report was directly responsible for creating defamatory content, not just publishing it.

Because a lot of us have much to gain from a strong CDA, I hope that plaintiffs will continue to press the RICO/Extortion combo. This will direct the conversation away from the CDA and focus it on the extortion elements of the case. This is appropriate because this is what makes RipOff Report's alleged conduct so reprehensible. If RipOff report were just providing a neutral and organic platform to publish good and bad comments about businesses, no one would be complaining.

What transforms this site from a consumer advocacy site to a menace (allegedly) is its aggressive violations of Google's terms of service to increase its rankings, and concomitant demands for exorbitant fees to write a few rebuttal posts. It is not the defamatory nature of the posts that are the problem. After all, those are all over the web and probably always will be. The problem here is the apparent intent to damage a person or business's reputation without regard to the truth of the matter, only to re-victimize the person or business by charging them exorbitant fees.

The legal theories have come a long way. A lot of cases are in aggressive investigation phases right now. I'm hoping that some plaintiff out there will take this case "all the way" so that the public can finally have full access to the evidence and testimony necessary to make a fair decision. If the allegations against RipOff

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Report are true, I believe the RICO Act is the best method for holding RipOff Report accountable.

Thank you for taking the time to read this Anatomy of a RipOff Report lawsuit. I hope you have found it interesting and useful. As always, I welcome your questions and comments. In particular, please let me know if you know of any cases that are not included in my Appendix below.

Very truly yours,
Sarah

Appendix of Cases

I thought it might be useful to list the cases involving RipOff Report that I have located so far and indicate their status. If anyone knows of others, please let me know so I can add it to my list. For example, I know there is a Canadian case that I've left out here. For your information, Xcentric Ventures, Badbusinessbureau.com, RipOffReport.com, and Edward Magedson are all the same party.

Ottis v. Magedson—Filed October 18, 2007, in the Nebraska District Court under cause number 4:2007cv03251. Mr. Ottis is asserting both libel and RICO Claims. Case Pending.

Children of America v. Magedson—Filed February 2007, in Maricopa County Superior Court in Arizona under cause number CV 2007-003720. The Court ruled that CofA may have a claim against Magedson for creating and developing complaints and/or titles to complaints. The case is still pending. If anyone has further information about this case, please let me know.

Xcentric Ventures v. Stanley—Filed May 20, 2007, in Arizona's District Court under cause number 2:2007cv00954. This is an unusual case because ROR is the Plaintiff. Further, one of the named defendants is The Defamation Action League. How cool does that sound? There are some very interesting documents in the docket here. My favorite is a police report filed by Magedson regarding threatening letters that he received. He drops the complaint once the police begin investigating. You be the judge: Does it sound like Magedson made the whole thing up? The case is still pending with discovery (disputes) active.

Global Royalties v Xcentric—Filed May 10, 2007, in Arizona's District Court under cause number 2:2007cv00956. The case is still active and pending a decision by the 9th Circuit ruling on the Roommates case (which will interpret the CDA). **UPDATE:** The case was dismissed in February 2008. The District Court granted ROR's Motion to Dismiss, ruling that mere allegations that ROR encouraged third parties to create defamatory postings was not sufficient to get Global Royalties around the broad CDA immunity. Notably, the question of a RICO act violation was not before the Court. Instead, the Court ruled consistently with prior CDA cases stating that if a third party wrote the content, ROR is not liable for defamation. This is true even when the original poster of the defamatory content later admits that the statements are not true and asks ROR to remove them. The Court states, "Unless Congress amends the statute, it is legally (although perhaps not ethically) besides the point whether defendants refuse to remove the material, or how they might use it to their advantage." You can read the Court's entire Order here.

GW Equity v. Xcentric—Filed June 1, 2007, in Texas Northern District Court under cause number

3:2007cv00976. This one is the source of some great declarations by a former employee who throws Magedson under the proverbial bus. Magedson's only retort is that the employee was lying and that it was actually the employee inventing these stories. The case includes a RICO claim. The case is still pending and discovery is active.

RSA v. Rip-OffReport.com—Filed April 23, 2007, in the New Jersey District Court under cause number 2:07cv01882-HAA-ES. RSA also sued Google in this case. That was a mistake. Case voluntarily Dismissed in August 2007. The report is still online and there is a rebuttal from the owner.

IGIA v. Xcentric—Filed January 2007, in the Southern District Court of New York under cause number 1:07-cv-00222-SAS-KNF. Complaint alleges RICO Act and Defamation claims. Default Judgment entered on December 20, 2007. The Defendant did not appear and defend the lawsuit.

Manchanda Law Offices v. Xcentric—Filed July 25, 2007, in the New York Southern District Court under cause number 1:2007cv06708. Originally failed to plead RICO, but amended the Complaint in October 2007 to include a RICO claim. The lawsuit was never served and was withdrawn by the Plaintiff in November 2007. The negative "reports" are still on Ripoff Report.

Magedson v. Sharp—Filed February 2007, in Maricopa County Arizona State Court under cause number CV2007-001968. The case is still pending. If anyone has further information about this case, please let me know.

Energy Automation Systems v. Xcentric Ventures—Filed November 2, 2006, in Tennessee's Middle District Court under cause number 3:2006cv01079. Recently Settled.

Cambridge Who's Who Publishing v. Xcentric—Filed December 11, 2006, in New York's District Court under cause number 2:2006cv06590. Settled January 16, 2008.

Magedson v. Federated Financial Services—Filed October 2005, in Maricopa County Arizona under cause number CV2005-015552. Case dismissed December 2005. If anyone has further information about this case, please pass it on.

Hy Cite v. Badbusinessbureau.com—Filed December 11, 2004, in Arizona District Court under cause number 2:2004cv02856. The plaintiff amended its Complaint to include defamation, RICO Act claims, and trademark infringement. The Court dismissed the trademark associated claims, but ruled that the RICO Act claims and the claims that Magedson authored and/or edited defamatory statements can go forward. The case includes a thoughtful and well-written Order authored by Judge Earl H. Carroll going through the legal arguments and defenses. Surely, this well-reasoned order created the impetus necessary for the parties to settle in May 2007. Interestingly, Hy Cite is still listed on RipOffReport.com, but unlike other rebuttals to complaints, the rebuttal appears in the title and above the Complaint. I speculate that this could have been part of the settlement terms. [Note: Hy Cite originally filed in Wisconsin. However, that case was dismissed because the Wisconsin ruled that it didn't have jurisdiction over RipOffReport.com et al.]

Whitney Information Network v. Xcentric—Filed January 27, 2004, in Florida's Middle District Court under cause number 2:2004cv00047. This case is helpful for providing evidence that Magedson solicited

reports designed to harass businesses. See [document 158-2](#), which is an excerpt from a deposition with Magedson in which he discusses an email where he invites a disgruntled employee to "post something or part of the e-mail below? This would be great, and it would definitely piss them off!" **UPDATE: This case is now dismissed.** In February 2008, the District Court dismissed this case after Ripoff Report filed a Motion for Summary Judgment. The only claim before the Court was defamation. There was no RICO Act violation alleged in the Complaint. The Court ruled that RipOff Report cannot be held liable for defamation by having created the drop-down menu of descriptions (such as "scam" and "rip off") from which the person filing the report chooses to describe his or her report. In other words, drop down menus don't make you an author. The Court noted that Ed and other RipOff Report employees submitted signed statements indicating that they had never authored a report. The plaintiff did not submit any evidence that RipOff Report authored the reports at issue in the case. Thus, the Court held that the case was dismissed because there was no evidence that RipOff Report authored the reports at issue in this case. You can read [the Court's Order here](#). Also, you can read [Eric Goldman's summary here](#). While looking for the Court's order in this case, I found the transcript from Ed Magedson's deposition taken back in August 2007. I'm sorry it is broken up into many many pieces. I'm going to list them here for those who are interested. Parts 1-9 are the deposition and index; the remaining parts are exhibits. [Part 1](#), [Part 2](#), [Part 3](#), [Part 4](#), [Part 5](#), [Part 6](#), [Part 7](#), [Part 8](#), [Part 9](#), [Part 10](#), [Part 11](#), [Part 12](#), [Part 13](#), [Part 14](#), [Part 15](#), [Part 16](#), [Part 17](#), [Part 18](#), [Part 19](#), [Part 20](#), [Part 21](#), [Part 22](#), [Part 23](#), [Part 24](#), [Part 25](#), [Part 26](#), [Part 27](#), [Part 28](#), [Part 29](#), [Part 30](#)

George S. May Intl v. Xcentric—Filed September 15, 2004, in Illinois District Court under cause number 1:2004cv06018. [Agreed dismissal in February 2007.](#)

Pritchard v. Magedson—Filed April 14, 2004, in the Western District of Pennsylvania under cause number 2:04-cv-00567-JFC. [Case closed on Plaintiff's Motion on May 2004.](#)

Leavenbaum v. Xcentric—Filed October 2004, in Maricopa County Superior Court for the State of Arizona under cause number CV2004-020368. [Case closed on October 2005 by an Order on Dismissal.](#) If anyone has further information about this case, I am curious.

Alyon Technologies v Badbusinessbureau.com—Filed 2003 in the Eastern Caribbean Supreme Court in the High Court of Justice Federation of Saint Christopher and Nevis Saint Christopher Circuit under claim number SKBHCV2003/052. [Default Judgment entered on July 4, 2003 for \\$27,100,932.00](#) because the defendants failed to appear and defend themselves in the suit.

MCW v Badbusinessbureau.com—Filed December 2002, in the Northern District of Texas District Court under cause number 3:06cv0179. There is a valuable opinion from this unpublished case that states Magedson is not entitled CDA immunity to the extent that he is developing and creating "report titles, headings, and some of the defamatory messages posted on the websites." [Case closed and the report is still online with no rebuttal.](#)

Magedson v Village Voice Media—Filed January 31, 2008, in Maricopa County State Court under cause number CV2008-002416. Unfortunately I don't have access to the Complaint that was filed. However, I imagine that Magedson is suing because of [this article written in the Pheonix New Times News](#). Ironically, he may be suing the news paper for defamation-related claims. If anyone has a copy of this Complaint, please send me a copy. UPDATE: ROR write [defensive letter](#) about filing this case.

¹ It was brought to my attention on March 21, 2008 by David Gingras, an attorney for RipOff Report, that this comment may "invite people to make knowingly false allegations." Although I don't think my article does this, I want to make sure that the reader understands I am not advocating dishonesty. Please do not make knowingly false allegations against any person or company at any time.

² Previously, inaccurately reported as RipOff Report's former employee.

³ It was brought to my attention on March 28, 2008 by Maria Crimi Speth, another attorney for RipOff Report, that Ed Magedson is not the owner of RipOff Report. Xcentric Ventures is the legal owner of RipOff Report. Ed Magedson manages Xcentric. Many Complaints allege that he operates and controls Xcentric and RipOff Report.

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117 Comments

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Sean Maguire

Mon (1/21/08) at 02:54 PM



*"...involving the **criminal underbelly** of the Church of Scientology, but it's surprisingly on point."*

Thumbs Down

No doubt, you're referring to Suri Cruise, the Satanic Spawn of L. Ron Hubbard. Just FYI - she's no longer underbelly.

Thumbs Up

Okay, that was both a lame and pathetic attempt at levity and a validation of your comment:

"SEOMoz is not responsible for your comments. (phew!)"