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**LOS ANGELES
SUPERIOR COURT
NORTHEAST DISTRICT**

9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

10 **FOR THE COUNTY OF LOS ANGELES, NORTHEAST DISTRICT**

11 A.H. BARNES

12 Plaintiff,

13 vs.

14 XCENTRIC VENTURES, LLC aka RIP OFF
15 REPORTS; EDWARD MADGESON, an
16 individual; DOES 1-25 inclusive,

17 Defendants.

) Case No. GC041766

) Complaint filed: November 3, 2008

) **COMPLAINT FOR LIBEL (CAL. CIV.
CODE 45)**

) **DEMAND FOR JURY TRIAL**

18 Plaintiff A.H. BARNES, by his undersigned attorney, for his Complaint herein
19 alleges as follows:

20 **The Parties**

21 1. A. H. BARNES ("Plaintiff") is a California resident, an attorney in good
22 standing in the state of California and founded, owns and operates several business entities based in
23 California that conduct business throughout the world.

24 2. XCENTRIC VENTURES, LLC, aka RIP OFF REPORTS ("Rip Off") is,
25 upon information and belief, a business entity organized under the laws of the state of Arizona with
26 its stated purpose to provide an Internet forum for consumers to publish complaints about
27 companies.

28 3. EDWARD MAGDESON, an individual, is, upon information and belief, a

1 resident of the state of Arizona and the founder, owner and manager of Rip Off (“Magdeson”).

2 4. DOES 1-25 (“Does,” and together with Rip Off and Magdeson, the
3 “Defendants”) are, upon information and belief, individuals who have engaged in malicious activity
4 towards the Plaintiff including, but not limited to, the sending of libelous communications to third
5 parties.

6 JURISDICTION AND VENUE

7 5. Jurisdiction and venue are proper in the Superior Court of the State of
8 California, County of Los Angeles. Plaintiff is a resident of this district. Upon information and
9 belief, Rip Off and Magdeson conduct extensive business in this district and at least one or all Does
10 reside in this district. The Defendants’ conduct alleged herein has been with the intent to cause harm
11 the Plaintiff in Los Angeles County. Finally, the claims asserted herein arise under section 45 of the
12 California Civil Code.

13 RIP OFF AND MAGDESON

14 6. Rip Off provides a website that allows users to anonymously post complaints
15 and grievances against companies. The website is accessible by Internet users around the world;
16 including users in Los Angeles County.

17 7. Rip Off and Magdeson have been widely accused of promulgating defamatory
18 content and then extorting money from the victims of the very libel it publishes resulting in at least
19 seventeen known lawsuits filed against both Rip Off and Magdeson for any or all of a combination
20 of claims for defamation, violation of the Communications Decency Act (42 U.S.C. § 230), violation
21 of the Racketeer Influenced and Corrupt Organizations Act and extortion.

22 8. Sworn testimony exists in the public domain related to Rip Off and given by
23 former employees and affiliates that Magdeson deliberately and intentionally alters the content of its
24 purportedly anonymous third-party postings to enhance the salaciousness and magnitude of known
25 defamatory content. Similar sworn testimony exists that Magdeson personally solicits employees
26 from companies with no relation to Rip Off to post defamatory material on Rip Off.

27 9. Rip Off and Magdeson are known to employ intensive search engine-based
28 technologies to ensure that their site obtains unusually high search engine rankings from such

1 entities as Google and Yahoo! thus maximizing the exposure of their derogatory and damaging
2 content resulting in increased damage to the aggrieved company or individual.

3 10. Once a company or individual becomes the target of defamatory, and
4 sometimes manipulated, Rip Off and Magdeson offer the injured party an opportunity to participate
5 in a so-called "corporate mediation program" whereby the injured party is coerced into paying Rip
6 Off and Magdeson to help mitigate the damages caused by the defamatory content. According to
7 one reputable newspaper article, at least 30 companies now pay either Rip Off, Magdeson, or both to
8 help repair the damage caused by the inflammatory, malicious and defamatory postings.

9 11. Rip Off and Magdeson do not enforce Rip Off's "terms of use" that state:

10 You will NOT post on ROR any defamatory, inaccurate, abusive, obscene,
11 profane, offensive, threatening, harassing, racially offensive, or illegal
12 material, or any material that infringes or violates another party's rights
13 (including, but not limited to, intellectual property rights, and rights of
14 privacy and publicity). You will use ROR in a manner consistent with any
and all applicable laws and regulations. By posting information on ROR,
you warrant and represent that the information is truthful and accurate.

15 HARM TO PLAINTIFF

16 12. Plaintiff operates a series of companies each with a core business purpose to
17 help attorneys and other individuals find employment. Plaintiff has engaged in these operations
18 since 2001 and has achieved a high degree of success in helping unemployed or underemployed
19 individuals find suitable employment.

20 13. Plaintiff grew and expanded his operations over the years based solely upon
21 his hard work, successful operations and his good reputation earned within regional and professional
22 communities.

23 14. Plaintiff has operated his businesses in a professional and diligent manner at
24 all times taking due care to provide the best services possible and protect the personal information of
25 his customers and employees.

26 15. On May 29, 2008, one or more of the Doe defendants, either individually or
27 collectively, using the title, "Albert' from Los Angeles," placed a malicious and false posting on
28 Rip Off's website claiming, inter alia, that Plaintiff is "cooking the books," is "pathologically

1 incapable of telling the truth,” carries negative references from “most of the people who have known
2 him throughout his life from boyhood to his current age,” and is known to fail to keep promises.
3

4 16. The posting by the one or more Does on May 29, 2008, purported to recite
5 intimate and personal knowledge concerning Plaintiff. The posting commented on Plaintiff’s
6 childhood, reputation within his college, the purported negative opinions of Plaintiff’s own father,
7 and Plaintiff’s assumed marital relations, ultimately concluding with the statement that all these
8 people from Plaintiff’s past would agree with the statement: “don’t trust the [Plaintiff].”

9 17. On September 5, 2008, one or more Doe defendants, either individually or
10 collectively, using the title “Joe C.’ from Florida Keys, FL,” who claimed to have worked for the
11 Plaintiff, placed another posting on the Rip Off website accusing Plaintiff of “scheming and
12 unethical behavior,” lying about the number of individuals who work for his companies and the
13 magnitude of his operations. In addition, “Joe C.” amplified the malicious and false accusations by
14 accusing Plaintiff of engaging in a pattern of criminal activity including breaching the privacy of his
15 customers, software piracy, data theft and deliberately violating federal anti-SPAM laws and
16 regulations.

17 18. Upon information and belief, the one or several Does placed the second
18 posting on September 5, 2008, Rip Off and Magdeson, through their own manipulation of content,
19 updated the title of the defamatory thread to include the statement “UPDATE Ex-Employee
20 responds . . . SCAM, FRAUD and tons of SPAM.” Such manipulation of purported third-party
21 content demonstrates that Rip Off, Magdeson, or both exercised at least some degree of control over
22 Rip Off’s content thus losing the right to avail themselves of the safe harbor provisions of the
23 Communications Decency Act.

24 19. As stated in paragraph nine above, Rip Off’s and Magdeson’s publically
25 known manipulation of user content demonstrates a reasonable basis to assert that either Rip Off,
26 Magdeson, or both altered their site content in an effort to enhance their site rankings, sensationalize
27 their business, and seek economic leverage over Plaintiff by enhancing the existing defamatory
28 content.

1
2 20. On at least one occasion known to Plaintiff, a prospective business partner
3 expressed direct and serious concern with regard to entering into a business relationship with
4 Plaintiff in Los Angeles County until Plaintiff was able to explain and refute the allegations cited on
5 the Rip Off site.

6 21. On at least several other occasions after the September 5, 2008 posting,
7 prospective business partners shunned potential business relations with Plaintiff, explaining that they
8 had discovered unfavorable information concerning Plaintiff on the Internet.

9 22. Although Rip Off and Magdeson claim that they maintain their business and
10 website for consumer protection, the anonymous and manipulated postings described in this
11 complaint do not comport with such stated business purposes or their terms of use and are instead
12 posted for the ulterior motive of attacking the Plaintiff personally and to potentially coerce Plaintiff
13 to pay Rip Off and Magdeson to participate in the so-called corporate mediation program.

14 **CLAIM FOR RELIEF**

15 **DEFAMATION**

16 **(AGAINST ALL DEFENDANTS)**

17 23. Plaintiff repeats and realleges each and every allegation of paragraphs 1
18 through 22 above, as though fully set forth at length.

19 24. Defendants have willfully, without justification, and without privilege
20 communicated and caused to be communicated to other persons and entities disparaging comments
21 including, without limitation, the false and misleading statements alleged herein. Such
22 communications were willful oppressive and/or fraudulent made with the intent to damage Plaintiff
23 and his businesses.

24 25. Defendants' statements and actions concern the honesty, integrity, and
25 professional competence of Plaintiff and are so understood by those who have heard such
26 statements. They are also understood by those who have read Defendants' statements as concerning
27 Plaintiff's honesty, integrity, and professional competence.

28 26. Defendants' statements are defamatory per se because they falsely accuse
Plaintiff of engaging in criminal behavior.

1 27. At all times Defendants either knew that their statements were false or acted
2 in reckless disregard of the truth. Accordingly, Defendants made the representations with actual
3 malice.

4 28. At least Rip Off and Magdeson modified the defamatory postings in an
5 attempt to heighten their public dissemination of the malicious communications so as to profit from
6 the defamatory communications.

7 29. On information and belief, some or all of the people to whom Defendants
8 disseminated these false statements actually believed one or more of the statements to be true.

9 30. As a direct and proximate result of Defendants' disparaging and false
10 statements, Plaintiff has been injured and has suffered damage and will continue to suffer damage in
11 an amount according to proof at trial.

12 31. Defendants harmed Plaintiff's reputation in Plaintiff's community.
13 Defendants disseminated false and disparaging statements set forth herein to members of Plaintiff's
14 home and work community in Los Angeles County, the community where Plaintiff has spent years
15 of his life establishing his reputation and good name.

16 32. Defendants' oppressive, fraudulent and malicious actions continue because
17 Rip Off and Magdeson refuse to enforce their terms of use by removing known defamatory content
18 from their website, they further refuse to reveal the identity of any of the Does to Plaintiff and the
19 Doe defendants have not individually acted in any manner to request that the defamatory postings be
20 removed from the Rip Off website or otherwise mitigate Plaintiff's damages.

21 33. Defendants' conduct was in bad faith, in conscious disregard of Plaintiff's
22 rights and performed with the intention of depriving Plaintiff of his rights. Accordingly, Defendants'
23 conduct merits, and Plaintiff seeks, an award of punitive damages in an amount sufficient to punish
24 Defendants and deter such conduct in the future.


25 33. As a direct and proximate result of Defendants' willful and intentional actions,
26 Plaintiff is suffering irreparable harm in the form of loss of goodwill both personally and within the
27 professional community. Unless Defendants are restrained, Plaintiff will continue to suffer
28 irreparable harm.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff demands judgment against Defendants as follows:

1. That Defendants be ordered to cease and desist their false, misleading and unfair representations, and that Rip Off and Madgeson be ordered to enforce their own "terms of use" by removing permanently all defamatory postings concerning Plaintiff and preventing the posting of any further such postings;
2. That the Court award Plaintiff damages for the harm occasioned by Defendants' conduct, in an amount to be proved at trial but not less then \$10,000;
3. That the Court award Plaintiff his costs and reasonable attorneys' fees incurred in bringing this action;
4. That Defendants be ordered to pay Plaintiff punitive and exemplary damages in sum sufficient to punish Defendants, to make an example of them, and to deter them from similar wrongdoing in an amount not less then \$100,000; and
5. For such other and further relief as the Court deems just and proper.

DATED: November 3, 2008

By: 
Todd D. Gorman
Counsel for Defendant A. H.
BARNES