

UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

Circuit Mediation Office

Phone (415) 355-7900 Fax (415) 355-8566

<http://www.ca9.uscourts.gov/mediation>**MEDIATION QUESTIONNAIRE**

The purpose of this questionnaire is to help the court's mediators provide the best possible mediation service in this case; it serves no other function. Responses to this questionnaire are **not** confidential. Appellants/Petitioners must electronically file this document within 7 days of the docketing of the case. 9th Cir. R. 3-4 and 15-2. Appellees/Respondents may file the questionnaire, but are not required to do so.

Any party may provide additional information **in confidence** directly to the Circuit Mediation Office at ca09_mediation@ca9.uscourts.gov. Please provide the case name and Ninth Circuit case number in your message. Additional information might include interest in including this case in the mediation program, the case's settlement history, issues beyond the litigation that the parties might address in a settlement context, or future events that might affect the parties' willingness or ability to mediate the case.

9th Circuit Case Number(s):	<input type="text" value="10-15460"/>
District Court/Agency Case Number(s):	<input type="text" value="2:09-cv-01033-ROS"/>
District Court/Agency Location:	<input type="text" value="Arizona"/>
Case Name:	<input type="text" value="Xcentric Ventures, LLC"/> v. <input type="text" value="Sarah Bird, et al."/>

Please briefly describe the dispute that gave rise to this lawsuit.

Appellant/Plaintiff Xcentric Ventures, LLC operates a website called www.RipoffReport.com ("Ripoff Report"). Appellee/Defendant Sarah Bird is a lawyer based in Washington state who works for a website called www.SEOmoz.org.

In January 2008, Ms. Bird wrote and published an article attacking the Ripoff Report and inviting third parties to file lawsuits against the site for various things including "racketeering" regardless of whether such claims had any factual basis. In response to Ms. Bird's encouragement, at least one lawsuit was filed against Ripoff Report by a third party who later confirmed he was acting in response to Ms. Bird's instructions.

Based on these events, Ripoff Report sued Ms. Bird and her employer in Arizona asserting claims for defamation and aiding and abetting tortious conduct, among other things.

(Please continue to next page.)

Briefly describe the procedural history, the result below, and the main issues on appeal.

This case was originally filed in state court and was removed to federal court by Defendants/Appellees. Appellees brought a Motion to Dismiss for lack of personal jurisdiction which was granted over Appellant's opposition.

The single issue on appeal will be whether the District Court erred in finding that Appellees were not subject to personal jurisdiction in Arizona.

Describe any proceedings remaining below or any related proceedings in other tribunals.

There are no remaining proceedings below.

(Please continue to next page.)

Provide any other information that might affect the suitability of this case for mediation.

The question to be decided in this appeal (whether personal jurisdiction in Arizona was proper) is a threshold issue but is also dispositive of the entire case. As such, the resolution of that issue cannot realistically be "mediated" in the traditional sense because there are only two options -- jurisdiction either exists or it does not. This posture would normally tend to weigh heavily against this case being suitable for mediation.

However, Xcentric believes that aside from the question of jurisdiction, the underlying merits-related issues in the case are such that a mediated resolution is still possible. For that reason, Xcentric believes that this matter could be appropriate for mediation.

CERTIFICATION OF COUNSEL

I certify that:

a current service list with telephone and fax numbers and email addresses is attached (see 9th Circuit Rule 3-2).

I understand that failure to provide the Court with a completed form and service list may result in sanctions, including dismissal of the appeal.

Signature

("s/" plus attorney name may be used in lieu of a manual signature on electronically-filed documents.)

Counsel for

Note: Use of the Appellate ECF system is mandatory for all attorneys filing in this Court, unless they are granted an exemption from using the system. **File this document electronically** in Appellate ECF by choosing Forms/Notices/Disclosure > File a Mediation Questionnaire.

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PARTY

Xcentric Ventures, LLC

Plaintiff/Appellant

Edward Magedson

Plaintiff/Appellant

Xcentric Ventures, LLC

Plaintiff/Appellant

Edward Magedson

Plaintiff/Appellant

SEOmoz, Inc.

Defendant/Appellee

Sarah L. Bird

Defendant/Appellee

SEOmoz, Inc.

Defendant/Appellee

Sarah L. Bird

Defendant/Appellee