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8 **IN THE UNITED STATES DISTRICT COURT**
 9 **FOR THE DISTRICT OF ARIZONA**
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11 Hy Cite Corporation, a Wisconsin
 12 Corporation;

13 Plaintiff,

14 v.

15 badbusinessbureau.com, L.L.C., a St.
 16 Kitts/Nevis Corporation d/b/a/
 badbusinessbureau.com and/or
 17 ripoffreport.com and/or
 badbusinessbureau.com/Rip-Off
 18 Report.com; Xcentric Ventures, LLC, an
 Arizona Limited Liability company d/b/a/
 19 badbusinessbureau.com and/or
 ripoffreport.com and/or
 20 badbusinessbureau.com/Rip-Off
 Report.com; and Ed Magedson, an Arizona
 21 resident,

22 Defendants.

Case No: CV04-2856 PHX EHC

**XCENTRIC VENTURES, LLC AND
 MAGEDSON'S ANSWER TO FIRST
 AMENDED COMPLAINT**

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 24 Defendant, Xcentric Ventures, LLC, ("Xcentric") and Ed Magedson, answer the
 25 First Amended Complaint as follows:

26 1. Defendants deny the allegations in Paragraph 1 of the First Amended
 27 Complaint.
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JABURG & WILK, P.C.
 ATTORNEYS AT LAW
 3200 NORTH CENTRAL AVENUE
 SUITE 2000
 PHOENIX, ARIZONA 85012

- 1 2. Defendants deny the allegations in Paragraph 2 of the First Amended
2 Complaint.
- 3 3. Defendants lack knowledge or information sufficient to admit the allegation
4 in paragraph 3, and therefore deny it.
- 5 4. Defendants deny the allegations in Paragraph 4 of the First Amended
6 Complaint.
- 7 5. Defendants deny that Xcentric owns the website. Defendants admit the
8 remaining allegations in Paragraph 5 of the First Amended Complaint.
- 9 6. Defendants admit that Magedson is a resident of Arizona, that he
10 incorporated and was a director of badbusinessbureau.org and that he was a member and
11 founder of badbusinessbureau.com, llc. Defendants deny the remaining allegations in
12 Paragraph 6 of the First Amended Complaint.
- 13 7. Defendants deny the allegations in Paragraph 7 of the First Amended
14 Complaint.
- 15 8. Defendants admit that the court has jurisdiction, and denies the remaining
16 allegations of Paragraph 8.
- 17 9. Defendants deny the allegations in Paragraph 9 of the First Amended
18 Complaint.
- 19 10. Defendants admit that Xcentric operates the website and denies the
20 remaining allegations in Paragraph 10 of the First Amended Complaint.
- 21 11. Defendants admit the allegations in Paragraph 11 of the First Amended
22 Complaint.
- 23 12. Defendants admit the allegations in Paragraph 12 of the First Amended
24 Complaint.
- 25 13. Defendants admit the allegations in Paragraph 13 of the First Amended
26 Complaint.
- 27 14. Defendants admit that reports are submitted for free and that companies may
28 submit rebuttals. Defendants deny the remaining allegations in Paragraph 14.

- 1 15. Defendants admit the allegations in Paragraph 15 of the First Amended
2 Complaint.
- 3 16. Defendants deny the allegations in Paragraph 16 of the First Amended
4 Complaint.
- 5 17. Defendants admit the allegations in Paragraph 17 of the First Amended
6 Complaint.
- 7 18. Defendants deny the allegations in Paragraph 18 of the First Amended
8 Complaint.
- 9 19. Defendants deny the allegations in Paragraph 19 of the First Amended
10 Complaint.
- 11 20. Defendants deny the allegations in Paragraph 20 of the First Amended
12 Complaint.
- 13 21. Defendants deny the allegations in Paragraph 21 of the First Amended
14 Complaint.
- 15 22. Defendants admit the allegations in Paragraph 22 of the First Amended
16 Complaint.
- 17 23. Defendants deny the allegations in Paragraph 23 of the First Amended
18 Complaint.
- 19 24. Defendants lack knowledge or information sufficient to admit the allegation
20 in paragraph 24, and therefore deny it.
- 21 25. Defendants lack knowledge or information sufficient to admit the allegation
22 in paragraph 25, and therefore deny it.
- 23 26. Defendants lack knowledge or information sufficient to admit the allegation
24 in paragraph 26, and therefore deny it.
- 25 27. Defendants lack knowledge or information sufficient to admit the allegation
26 in paragraph 27, and therefore deny it.
- 27 28. Defendants lack knowledge or information sufficient to admit the allegation
28 in paragraph 28, and therefore deny it.

- 1 29. Defendants lack knowledge or information sufficient to admit the allegation
2 in paragraph 29, and therefore deny it.
- 3 30. Defendants lack knowledge or information sufficient to admit the allegation
4 in paragraph 30, and therefore deny it.
- 5 31. Defendants lack knowledge or information sufficient to admit the allegation
6 in paragraph 31, and therefore deny it.
- 7 32. Defendants lack knowledge or information sufficient to admit the allegation
8 in paragraph 32, and therefore deny it.
- 9 33. Defendants deny the allegations in Paragraph 33 of the First Amended
10 Complaint.
- 11 34. Defendants lack knowledge or information sufficient to admit the allegation
12 in paragraph 34, and therefore deny it.
- 13 35. Defendants lack knowledge or information sufficient to admit the allegation
14 in paragraph 35, and therefore deny it.
- 15 36. Defendants admit the allegations in Paragraph 36 of the First Amended
16 Complaint.
- 17 37. Defendants lack knowledge or information sufficient to admit the allegation
18 in paragraph 37, and therefore deny it.
- 19 38. Defendants lack knowledge or information sufficient to admit the allegation
20 in paragraph 38, and therefore deny it.
- 21 39. Defendants admit the allegations in Paragraph 39 of the First Amended
22 Complaint.
- 23 40. Defendants deny the allegations in Paragraph 40 of the First Amended
24 Complaint.
- 25 41. Defendants lack knowledge or information sufficient to admit the allegation
26 in paragraph 41, and therefore deny it
- 27 42. Defendants lack knowledge or information sufficient to admit the allegation
28 in paragraph 42, and therefore deny it.

- 1 43. Defendants admit the allegations in Paragraph 43 of the First Amended
2 Complaint.
- 3 44. Defendants admit the allegations in Paragraph 44 of the First Amended
4 Complaint.
- 5 45. Defendants deny the allegations in Paragraph 45 of the First Amended
6 Complaint.
- 7 46. Defendants admit the allegations in Paragraph 46 of the First Amended
8 Complaint.
- 9 47. Defendants admit the allegations in Paragraph 47 of the First Amended
10 Complaint.
- 11 48. Defendants admit the allegations in Paragraph 48 of the First Amended
12 Complaint.
- 13 49. The document cited speaks for itself.
- 14 50. The document cited speaks for itself.
- 15 51. The document cited speaks for itself
- 16 52. Defendants admit the allegations in Paragraph 52 of the First Amended
17 Complaint.
- 18 53. The document cited speaks for itself.
- 19 54. The document cited speaks for itself.
- 20 55. The document cited speaks for itself.
- 21 56. The document cited speaks for itself.
- 22 57. Defendants deny the allegations in Paragraph 57 of the First Amended
23 Complaint.
- 24 58. Defendants deny the allegations in Paragraph 58 of the First Amended
25 Complaint.
- 26 59. Defendants deny the allegations in Paragraph 59 of the First Amended
27 Complaint.
- 28

1 60. Defendants deny the allegations in Paragraph 60 of the First Amended
2 Complaint.
3 61. Defendants deny the allegations in Paragraph 61 of the First Amended
4 Complaint.
5 62. Defendants deny the allegations in Paragraph 62 of the First Amended
6 Complaint.
7 63. Defendants deny the allegations in Paragraph 63 of the First Amended
8 Complaint.
9 64. Defendants deny the allegations in Paragraph 64 of the First Amended
10 Complaint.
11 65. Defendants deny the allegations in Paragraph 65 of the First Amended
12 Complaint.
13 66. Defendants deny the allegations in Paragraph 66 of the First Amended
14 Complaint.
15 67. Defendants deny the allegations in Paragraph 67 of the First Amended
16 Complaint.
17 68. Defendants deny the allegations in Paragraph 68 of the First Amended
18 Complaint.
19 69. Defendants deny the allegations in Paragraph 69 of the First Amended
20 Complaint.
21 70. Defendants deny the allegations in Paragraph 70 of the First Amended
22 Complaint.
23 71. Defendants deny the allegations in Paragraph 71 of the First Amended
24 Complaint.
25 72. Defendants admit the allegations in Paragraph 72 of the First Amended
26 Complaint.
27 73. Defendants lack knowledge or information sufficient to admit the allegation
28 in paragraph 73, and therefore deny it.

1 74. Defendants deny the allegations in Paragraph 74 of the First Amended
2 Complaint.

3 75. Defendants lack knowledge or information sufficient to admit the allegation
4 in paragraph 75, and therefore deny it.

5 76. Defendants lack knowledge or information sufficient to admit the allegation
6 in paragraph 76, and therefore deny it.

7 77. Defendants admit the allegations in Paragraph 77 of the First Amended
8 Complaint.

9 78. Defendants lack knowledge or information sufficient to admit the allegation
10 in paragraph 78, and therefore deny it.

11 79. Defendants deny the allegations in Paragraph 79 of the First Amended
12 Complaint.

13 80. Defendants deny the allegations in Paragraph 80 of the First Amended
14 Complaint.

15 81. Defendants deny the allegations in Paragraph 81 of the First Amended
16 Complaint.

17 82. Defendants deny the allegations in Paragraph 82 of the First Amended
18 Complaint.

19 83. Defendants deny the allegations in Paragraph 83 of the First Amended
20 Complaint.

21 84. Defendants deny the allegations in Paragraph 84 of the First Amended
22 Complaint.

23 85. Defendants repeat and reallege each and every allegation of this answer.

24 86. Defendants deny the allegations in Paragraph 86 of the First Amended
25 Complaint.

26 87. Defendants admit the allegations in Paragraph 87 of the First Amended
27 Complaint.

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- 1 88. Defendants deny the allegations in Paragraph 88 of the First Amended
2 Complaint.
- 3 89. Defendants deny the allegations in Paragraph 89 of the First Amended
4 Complaint.
- 5 90. Defendants deny the allegations in Paragraph 90 of the First Amended
6 Complaint.
- 7 91. Defendants deny the allegations in Paragraph 91 of the First Amended
8 Complaint.
- 9 92. Defendants deny the allegations in Paragraph 92 of the First Amended
10 Complaint.
- 11 93. Defendants deny the allegations in Paragraph 93 of the First Amended
12 Complaint.
- 13 94. Defendants deny the allegations in Paragraph 94 of the First Amended
14 Complaint.
- 15 95. Defendants deny the allegations in Paragraph 95 of the First Amended
16 Complaint.
- 17 96. Defendants deny the allegations in Paragraph 96 of the First Amended
18 Complaint.
- 19 97. Defendants repeat and reallege each and every allegation of this answer.
- 20 98. Defendants deny the allegations in Paragraph 98 of the First Amended
21 Complaint.
- 22 99. Defendants deny the allegations in Paragraph 99 of the First Amended
23 Complaint.
- 24 100. Defendants deny the allegations in Paragraph 100 of the First Amended
25 Complaint.
- 26 101. Defendants deny the allegations in Paragraph 101 of the First Amended
27 Complaint.
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- 1 102. Defendants lack knowledge or information sufficient to admit the allegation
2 in paragraph 102, and therefore deny it.
- 3 103. Defendants deny the allegations in Paragraph 103 of the First Amended
4 Complaint.
- 5 104. Defendants deny the allegations in Paragraph 104 of the First Amended
6 Complaint.
- 7 105. Defendants deny the allegations in Paragraph 105 of the First Amended
8 Complaint.
- 9 106. Defendants deny the allegations in Paragraph 106 of the First Amended
10 Complaint.
- 11 107. Defendants repeat and reallege each and every allegation of this answer.
- 12 108. Defendants deny the allegations in Paragraph 108 of the First Amended
13 Complaint.
- 14 109. Defendants deny the allegations in Paragraph 109 of the First Amended
15 Complaint.
- 16 110. Defendants deny the allegations in Paragraph 110 of the First Amended
17 Complaint.
- 18 111. Defendants deny the allegations in Paragraph 111 of the First Amended
19 Complaint.
- 20 112. Defendants repeat and reallege each and every allegation of this answer.
- 21 113. Defendants deny the allegations in Paragraph 113 of the First Amended
22 Complaint.
- 23 114. Defendants deny the allegations in Paragraph 114 of the First Amended
24 Complaint.
- 25 115. Defendants deny the allegations in Paragraph 115 of the First Amended
26 Complaint.
- 27 116. Defendants deny the allegations in Paragraph 116 of the First Amended
28 Complaint.

1 117. In answer to paragraph 117 Defendants state that this claim has been
2 dismissed and does not require an answer.

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4 119.

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10 125.

11 126. Defendants repeat and reallege each and every allegation of this answer.

12 127. Defendants deny the allegations in Paragraph 127 of the First Amended
13 Complaint.

14 128. Defendants deny the allegations in Paragraph 128 of the First Amended
15 Complaint.

16 129. Defendants repeat and reallege each and every allegation of this answer.

17 130. Defendants deny the allegations in Paragraph 130 of the First Amended
18 Complaint.

19 131. Defendants deny the allegations in Paragraph 131 of the First Amended
20 Complaint.

21 132. Defendants deny the allegations in Paragraph 132 of the First Amended
22 Complaint.

23 133. Defendants deny the allegations in Paragraph 133 of the First Amended
24 Complaint.

25 134. Defendants affirmatively allege that any fact not expressly admitted in this
26 Answer is denied.

27 **Affirmative Defenses**

28 Defendant asserts the following affirmative defenses:

1 135. The causes of action fail to state a claim upon which relief can be granted as
2 against Defendant because the claims are barred by the Communications Decency Act, 47
3 USC §230.

4 136. It is unconstitutional to issue injunctive relief against Defendant and such
5 action constitutes a prior restraint on speech.

6 137. Plaintiff incurred no damages.

7 138. Plaintiff failed to mitigate its damages.

8 139. The damages complained of were proximately caused in whole or in part by
9 the negligence of Plaintiff and/or a third party.

10 140. Additional facts may be revealed in the course of future investigation and
11 discovery which may support additional affirmative defenses.

12 141. Accordingly, in order to preserve all such defenses, Defendant hereby
13 alleges and incorporates all available affirmative defenses, including but not limited to the
14 following: failure to state a claim as to which relief can be granted, estoppel, waiver,
15 laches and, unclean hands. Defendant/Counterclaimant reserves the right to amend his
16 Answer upon revelation of more definitive facts by Plaintiff and/or upon more discovery
17 and investigation of this matter.

18
19 Wherefore, having fully answered the Complaint, Defendant prays for judgment
20 against Plaintiff as follows.

21 A. That Plaintiff take nothing by reason of its Complaint, that judgment
22 be rendered in favor of the Defendant;

23 B. That Defendant be awarded his costs of suit incurred in the defense
24 of this action; and

25 C. For such other and further relief as this court deems just and proper.
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DATED this 19th day of January, 2006.

JABURG & WILK, P.C.

Maria Crimi Speth
Attorneys for Defendants

Copy of the foregoing mailed
this _____ day of
January 20, 2006, to:

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