

1 Michael K. Dana (State Bar No. 019047)  
 2 Teresa K. Anderson (State Bar No. 024919)  
 3 SNELL & WILMER L.L.P.  
 4 One Arizona Center  
 5 400 E. Van Buren  
 6 Phoenix, AZ 85004-2202  
 7 Telephone: (602) 382-6000  
 8 Attorneys for Robert Russo, QED Media Group, L.L.C., and  
 9 Internet Defamation League, LLC

6 IN THE UNITED STATES DISTRICT COURT  
 7 FOR THE DISTRICT OF ARIZONA

8 XCENTRIC VENTURES, LLC, an Arizona  
 9 corporation, d/b/a  
 10 "RIPOFFREPORT.COM"; ED  
 11 MAGEDSON, an individual,

11 Plaintiff,

12 v.

13 WILLIAM "BILL" STANLEY, an  
 14 individual; WILLIAM "BILL" STANLEY  
 15 d/b/a DEFAMATION ACTION.COM;  
 16 WILLIAM "BILL" STANLEY d/b/a  
 17 COMPLAINTREMOVER.COM;  
 18 WILLIAM "BILL" STANLEY aka JIM  
 19 RICKSON; WILLIAM "BILL" STANLEY  
 20 aka MATT JOHNSON; ROBERT RUSSO,  
 21 an individual; ROBERT RUSSO d/b/a  
 22 COMPLAINTREMOVER.COM;  
 23 ROBERT RUSSO d/b/a  
 24 DEFENDMYNAME.COM; ROBERT  
 25 RUSSO d/b/a QED MEDIA GROUP,  
 26 L.L.C.; QED MEDIA GROUP, L.L.C.;  
 27 QED MEDIA GROUP, L.L.C. d/b/a  
 28 DEFENDMYNAME.COM; QED MEDIA  
 GROUP, L.L.C. d/b/a  
 COMPLAINTREMOVER.COM;  
 DEFAMATION ACTION LEAGUE, an  
 unincorporated association; and  
 INTERNET DEFAMATION LEAGUE, an  
 unincorporated association,

Defendants.

Case No. CV07-00954 PHX NVW

**DEFENDANTS/  
 COUNTERCLAIMANTS' REPLY  
 IN SUPPORT OF MOTION TO  
 DISQUALIFY**

**Snell & Wilmer**  
 L.L.P.

LAW OFFICES  
 One Arizona Center, 400 E. Van Buren  
 Phoenix, Arizona 85004-2202  
 (602) 382-6000

1 ROBERT RUSSO, an individual; and QED  
2 MEDIA GROUP, L.L.C.,

3 Counterclaimants,

4 v.

5 XCENTRIC VENTURES, LLC, an Arizona  
6 corporation, d/b/a  
7 “RIPOFFREPORT.COM”; ED  
8 MAGEDSON, an individual,

9 Counterdefendants.

10 Plaintiffs do not offer any legitimate basis supporting their claim that their current  
11 counsel should continue representing Plaintiffs in this lawsuit.

12 Plaintiffs admit that Ms. Speth may be required testify as a witness at trial.  
13 Suspending that determination until “shortly before trial” is unfair to the QED Parties  
14 because it puts them in the position of having to plan and execute their discovery strategy  
15 without knowing the status of Ms. Speth’s role in the case. Moreover, the longer Ms.  
16 Speth remains as counsel of record (she is the only counsel of record for Plaintiffs), the  
17 greater the risk that removing her as counsel will create a hardship for her client.  
18 Plaintiffs and their counsel should not be permitted to remain as counsel through the  
19 duration of this lawsuit, thereby creating the very “substantial hardship” that Plaintiffs  
20 will use to argue the need for Ms. Speth to occupy a dual advocate/witness role in this  
21 case. The determination of whether Ms. Speth will be a witness should be made now  
22 without further delay. Based on her participation at the preliminary injunction hearing,  
23 that determination has already been made – she is clearly a critical witness in this case  
24 who will likely be examined by both sides.

25 Counsel for the QED Parties have standing to raise the ethical issues supporting the  
26 disqualification of Plaintiffs’ counsel. *See Dr. Jamieson v. Slater*, 2006 WL 3421788, \*5  
27 (D. Ariz. 2006). Plaintiffs acknowledge that this Court in *Jamieson* recently recognized  
28 the standing of opposing counsel to seek disqualification based on conflict-of-interest  
grounds. The same rationale applied by the court in *Jamieson* to establish the standing of

1 counsel for the plaintiffs in that case applies here. First, a dual advocacy/witness role by  
2 Ms. Speth would clearly have a negative impact on the QED Parties' ability to have a just  
3 and lawful determination of the claims in this case (1) because such a role would permit  
4 Ms. Speth to argue her own credibility (*see Sellers v. Superior Court*, 14 Ariz. 281, 288,  
5 742 P.2d 292, 299 (App. 1987)) and (2) because the course of discovery may reveal that  
6 the interests of Plaintiffs' counsel require their participation as parties in order to assure a  
7 final adjudication of all the claims and issues in this case. Second, counsel for the QED  
8 Parties have the exact same obligation as counsel for plaintiffs in the *Jamieson* case to  
9 report potential ethical violations to the Court. *See Jamieson*, 2006 WL at \*5. Third,  
10 "[t]here is no evidence that [the QED Parties] Motion to Disqualify has been filed for  
11 tactical reasons." *Id.* The QED Parties' legitimate reasons for seeking disqualification are  
12 clearly set forth in the Motion. Moreover, the QED Parties minimized any disruption to  
13 Plaintiffs by filing this Motion near the commencement of this action, and the QED  
14 Parties will accommodate any extensions necessary for Plaintiffs to obtain new counsel.

15 Plaintiffs' suggestion that their interests are "aligned" with those of their counsel is  
16 of no moment. This case involves numerous claims based on numerous factual  
17 allegations of purported wrongful conduct by multiple defendants. The proprietary  
18 interests of Plaintiffs' counsel are limited to their own copyrights and reputational  
19 interests. During the course of this lawsuit, Plaintiffs' counsel will likely be faced with  
20 numerous decisions that will benefit certain litigation goals at the expense of others. A  
21 final judgment conceivably could be rendered that favors certain of Plaintiffs' interests but  
22 not those of Plaintiffs' counsel, and vice versa.

23 For each of the reasons set forth in the QED Parties' Motion and this reply,  
24 Plaintiffs' counsel should be disqualified from representing Plaintiffs in this case.

25 ///

26 ///

27 ///

28 ///

