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8 **IN THE UNITED STATES DISTRICT COURT**
9 **DISTRICT OF ARIZONA**

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

Case No: 2:07-cv-00954-NVW

13 Plaintiffs,

14 v.

**ANSWER TO ROBERT RUSSO AND
 QED MEDIA GROUP, LLC'S
 SECOND AMENDED
 COUNTERCLAIM**

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

26 Defendants.

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1 ROBERT RUSSO, an individual; QED
2 MEDIA GROUP, L.L.C., a Maine limited
liability corporation,

3 Counterclaimants,

4 v.

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

7 Counterdefendant.
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9 Counterdefendants Xcentric Ventures, LLC ("Xcentric") and Ed Magedson
10 ("Magedson") (collectively, "Counterdefendants") hereby submit the following Answer to
11 Defendant/Counterclaimants' Robert Russo ("Russo") and QED Media Group, LLC
12 ("QED Media") (collectively, "Counterclaimants") Second Amended Counterclaim as
13 filed on June 26, 2007 (the "Counterclaim").

14 1. Counterdefendants lack sufficient knowledge to admit or
15 deny the allegations contained in Paragraphs 1 and 2 of the Counterclaim, and therefore,
16 deny them.

17 2. Counterdefendants admit that Xcentric is an Arizona limited liability
18 company. Counterdefendants admit that Magedson is a single man residing in Maricopa
19 County, Arizona and that Magedson is a Manager of Xcentric. Counterdefendants deny
20 all remaining allegations contained in Paragraph 3 of the Counterclaim.

21 3. Counterdefendants affirmatively allege that this Court has subject matter
22 jurisdiction under 28 U.S.C. § 1332(a) over any valid claim. Counterdefendants deny all
23 remaining allegations contained in Paragraph 4 of the Counterclaim.

24 4. Counterdefendants affirmatively allege that this Court has subject matter
25 jurisdiction under 28 U.S.C. § 1367 for any valid claim. Counterdefendants deny all
26 remaining allegations contained in Paragraph 5 of the Counterclaim.

27 5. Counterdefendants admit that venue is proper. Counterdefendants deny all
28 remaining allegations contained in Paragraph 6 of the Counterclaim.

1 6. Counterdefendants lack sufficient knowledge to admit or deny the
2 allegations contained in Paragraphs 7-13 of the Counterclaim and therefore deny the
3 same.

4 7. Counterdefendants admit that a business relationship exists between
5 Defendant William Stanley (“Stanley”) and Counterclaimants. Counterdefendants lack
6 sufficient knowledge to admit or deny the remaining allegations contained in Paragraph
7 14 of the Counterclaim and therefore deny the same.

8 8. Counterdefendants lack sufficient knowledge to admit or deny the
9 remaining allegations contained in Paragraph 15 of the Counterclaim and therefore deny
10 the same. Counterdefendants affirmatively allege QED Media and its “affiliates” target
11 companies who are the subject of content on ripoffreport.com. Counterdefendants also
12 affirmatively allege that individuals and businesses who post content on the Rip-Off
13 Report website (the “ROR Site”) are required to agree to the ROR Site *Terms of Service*,
14 where the user must agree that they are not posting any information that is defamatory,
15 inaccurate, abusive, obscene, profane, offensive, threatening, harassing, racially offensive,
16 or illegal material, or any material that infringes or violates another party's rights
17 (including, but not limited to, intellectual property rights, and rights of privacy and
18 publicity).

19 9. Counterdefendants admit that Xcentric operates the website known as “The
20 Rip-Off Report” that can be accessed at www.ripoffreport.com and
21 www.badbusinessbureau.com. Counterdefendants deny all remaining allegations
22 contained in Paragraph 16 of the Counterclaim.

23 10. Counterdefendants deny the allegations contained in Paragraph 17 of the
24 Counterclaim.

25 11. Counterdefendants affirmatively allege that results from various search
26 engines such as Google.com and Yahoo.com may provide links to the ROR Site.
27 Counterdefendants deny all remaining allegations contained in Paragraph 18 of the
28 Counterclaim.

1 12. Counterdefendants deny the allegations contained in Paragraph 19 of the
2 Counterclaim.

3 13. Counterdefendants affirmatively allege that pursuant to the ROR Site *Terms*
4 *of Service*, Xcentric will keep confidential all information supplied by any user of the
5 ROR Site to Xcentric, and shall use or disclose such information only for the purposes for
6 which such information was collected, or as required by law. Counterdefendants
7 affirmatively allege that the ROR Site “editors” and “content monitors” review reports
8 and rebuttals before they are published on the ROR Site to ensure the report or rebuttal
9 does not contain any pornography, social security numbers, credit card numbers, or
10 physical threats. Counterdefendants affirmatively allege that any report that contains such
11 material may be deleted or redacted at the discretion of Xcentric. Counterdefendants deny
12 all remaining allegations contained in Paragraph 20 of the Counterclaim.

13 14. Counterdefendants deny the allegations contained in Paragraph 21 of the
14 Counterclaim.

15 15. Counterdefendants admit that Xcentric does not verify the reports or
16 rebuttals posted on the ROR Site for accuracy. Counterdefendants admit that the ROR
17 Site’s *Terms of Service* state that any material submitted for publication on the ROR Site
18 will not be removed even at the user’s request. Counterdefendants deny all remaining
19 allegations contained in Paragraph 22 of the Counterclaim.

20 16. Counterdefendants admit that the Communications Decency Act, 47 U.S.C.
21 § 230, provides that when a defendant is the provider of an interactive website, the
22 defendant is not liable for material posted on the website by another “content provider”;
23 i.e, a third party. Counterdefendants deny all remaining allegations contained in
24 Paragraph 23 of the Counterclaim.

25 17. Counterdefendants deny all allegations contained in Paragraphs 24-25 of the
26 Counterclaim.

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1 18. Counterdefendants admit that Russo contacted Magedson in February of
2 2007. Counterdefendants deny the remaining allegations contained in Paragraph 26 of the
3 Counterclaim.

4 19. Counterdefendants admit the allegations of Paragraph 27 of the
5 Counterclaim.

6 20. Counterdefendants deny the allegations of Paragraph 28-33 of the
7 Counterclaim.

8 21. Counterdefendants admit that Magedson sent an email identifying Russo's
9 affiliation with QED Media. Counterdefendants deny all remaining allegations of
10 Paragraph 34 of the Counterclaim.

11 22. Counterdefendants admit that Magedson's email suggests that Russo
12 participated in sending two threatening letters to Magedson, and that the two threat letters
13 to Magedson were included in the email. Counterdefendants deny all remaining
14 allegations of Paragraph 35 of the Counterclaim.

15 23. Counterdefendants deny all allegations contained in Paragraph 36 of the
16 Counterclaim.

17 24. Counterdefendants admit the allegations contained in Paragraphs 37 and 38
18 of the Counterclaim.

19 25. Counterdefendants deny the allegations contained in Paragraph 39 of the
20 Counterclaim.

21 26. Counterdefendants lack sufficient knowledge to admit or deny the
22 allegations contained in Paragraph 40 of the Counterclaim as to the actions taken by the
23 Mesa Police Department, and therefore deny the same. Counterdefendants deny all
24 remaining allegations contained in Paragraph 40 of the Counterclaim.

25 27. Counterdefendants admit the allegations contained in Paragraph 41 of the
26 Counterclaim.

27 28. Counterdefendants deny the allegations contained in Paragraphs 42 and 43
28 of the Counterclaim.

1 29. Counterdefendants admit that Magedson spoke with “Devon” from Prosper
2 Learning by telephone and that Magedson recorded his conversation with Devon.
3 Counterdefendants deny all remaining allegations contained in Paragraph 44 of the
4 Counterclaim.

5 30. Counterdefendants deny all allegations contained in Paragraphs 45-49 of the
6 Counterclaim.

7 31. Counterdefendants admit that Magedson had the recording of his
8 conversation with “Devon” from Prosper Learning transcribed, and that portions of the
9 transcription of his conversation were used as an exhibit at the Preliminary Injunction
10 hearing held before this Court. Counterdefendants deny all remaining allegations
11 contained in Paragraph 50 of the Counterclaim.

12 32. Counterdefendants deny all allegations contained in Paragraphs 51 and 52 of
13 the Counterclaim.

14 33. Counterdefendants lack sufficient knowledge or information to admit or
15 deny the allegations contained in Paragraph 53 of the Counterclaim, and therefore deny
16 the same.

17 34. Counterdefendants deny that Counterdefendants or any agent of
18 Counterdefendants have posted any statements about Counterclaimants.
19 Counterdefendants lack sufficient knowledge or information to admit or deny the
20 remaining allegations contained in Paragraph 54 of the Counterclaim and therefore deny
21 the same.

22 35. Counterdefendants lack sufficient knowledge or information to admit or
23 deny the remaining allegations contained in Paragraph 55 of the Counterclaim and
24 therefore deny the same.

25 36. The document speaks for itself. Counterdefendants lack sufficient
26 knowledge or information to admit or deny the remaining allegations contained in
27 Paragraph 56 of the Counterclaim and therefore denies the same.
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1 37. The document speaks for itself. Counterdefendants deny all remaining
2 allegations contained in Paragraph 57 of the Counterclaim.

3 38. The document speaks for itself. Counterdefendants admit that an article
4 about QED Media was published in the Wall Street Journal. Counterdefendants deny all
5 remaining allegations contained in Paragraph 58 of the Counterclaim.

6 39. Counterdefendants affirmatively allege that neither Counterdefendants nor
7 any agent of Counterdefendants have posted any reports or rebuttals about
8 Counterclaimants on the ROR Site. Counterdefendants lack sufficient knowledge or
9 information to admit or deny the remaining allegations contained in Paragraph 59 of the
10 Counterclaim and therefore deny the same.

11 40. The document speaks for itself. Counterdefendants deny all remaining
12 allegations contained in Paragraph 60 of the Counterclaim.

13 41. Counterdefendants affirmatively allege that neither Counterdefendants nor
14 any agent of Counterdefendants have posted any reports or rebuttals about
15 Counterclaimants on the ROR Site. Counterdefendants lack sufficient knowledge or
16 information to admit or deny the remaining allegations contained in Paragraph 61 of the
17 Counterclaim and therefore deny the same.

18 42. Counterdefendants lack sufficient knowledge or information to admit or
19 deny the allegations contained in Paragraphs 62 and 63 of the Counterclaim and therefore
20 deny the same.

21 43. Counterdefendants admit that reports exist on the ROR Site about
22 Counterclaimants. Counterdefendants deny all remaining allegations contained in
23 Paragraph 64 of the Counterclaim.

24 44. Counterdefendants admit that a user of the ROR Site may not remove a
25 report that the user authored from the ROR Site. Counterdefendants deny all remaining
26 allegations contained in Paragraph 65 of the Counterclaim.

27 45. In response to Paragraph 66 of the Counterclaim, Counterdefendants repeat
28 and reallege all Paragraphs of this Answer as if set forth fully herein.

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SECOND AFFIRMATIVE DEFENSE

(Unclean hands)

The Complaint and each cause of action set forth therein is barred by the doctrine of unclean hands.

THIRD AFFIRMATIVE DEFENSE

(Truth)

Any defamation-based claims set forth in the Complaint are barred to the extent that the statements which form the basis for such claims are, in fact, true.

FOURTH AFFIRMATIVE DEFENSE

(Lack of Intent; Actual Malice)

Notwithstanding the fact that Counterdefendants did not publish any of the alleged defamatory or unlawful statements at issue in this case, any defamation-based claims set forth in the Complaint are barred to the extent that Plaintiff is a public figure and Counterdefendants lacked actual malice and/or negligence sufficient to support any defamation-based claims.

FIFTH AFFIRMATIVE DEFENSE

(Communications Decency Act Immunity)

All claims set forth in the Complaint are barred to the extent that the content of the statements which form the basis for such claims was provided by third parties. As such, pursuant to 47 U.S.C. § 230(c)(1), Counterdefendants are absolutely immune from civil liability for any such statements posted by third parties. *See* 47 U.S.C. § 230(c)(1); *Carafano v. Metroplash.com, Inc.* 339 F.3d 1119 (9th Cir. 2003); *Batzel v. Smith*, 333

1 F.3d 1018 (9th Cir. 2003); *Doe v. America Online, Inc.*, 783 So.2d 1010 (Fl. 2001);
2 *Schneider v. Amazon.com, Inc.*, 31 P.3d 37 (Wash.App 2001); *Zeran v. America Online,*
3 *Inc.*, 129 F.3d 327 (4th Cir. 1997).
4

5 WHEREFORE, having fully answered Counterclaimants' Second Amended
6 Counterclaim, Counterdefendants request that this Honorable Court grant the following
7 relief:

- 8 A. Dismiss Counterclaimants' Second Amended Counterclaim with prejudice
9 and order that Counterclaimants take nothing thereby;
10 B. Deny, with prejudice, all equitable, injunctive, and/or declaratory relief in
11 any form requested by Counterclaimants;
12 C. Award judgment for all reasonable attorney's fees incurred in favor of
13 Counterdefendants and against Counterclaimants pursuant to 15 U.S.C. §
14 1117(a); Fed. R. Civ. P. 11(c) and/or under any other applicable authority;
15 and costs pursuant to any other applicable authority;
16 D. Any other relief deemed appropriate by the Court.
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18 DATED this 16th day of August, 2007

19
20 **JABURG & WILK, P.C.**

21
22 s/ Maria Crimi Speth
23 Maria Crimi Speth
24 Attorneys for Plaintiffs
25

26 **Certificate of Service**

27 I hereby certify that on August 16, 2007, I electronically transmitted the attached
28 document to the Clerk's Office using the CM/ECF System for filing, and for transmittal of
a Notice of Electronic Filing to the following CM/ECF registrants:

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Attorneys for Defendants Robert Russo,
QED Media Group, LLC and Internet
Defamation League

With a COPY of the foregoing emailed on the 16th day of August, 2007, to:

William "Bill" Stanley
defamationaction@gmail.com
geographicalseo@gmail.com

With a COPY of the foregoing hand delivered on the 17th day of August, 2007, to:

Honorable Neil V Wake
United States District Court
District of Arizona

s/Debra Gower