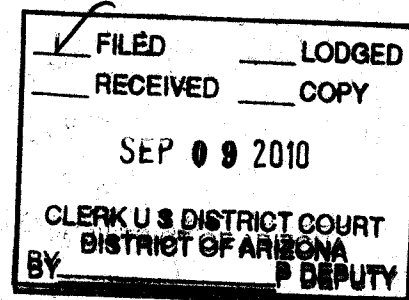


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UNITED STATES DISTRICT COURT **SEALED**
DISTRICT OF ARIZONA

XCENTRIC VENTURES, LLC, an
 Arizona limited liability corporation, and
JABURG & WILK, P.C., a professional
 corporation,

Plaintiffs,

v.

SHAWN RICHESON,
 Defendant.

CIV '10 193 1 PHX NVU

Case No.

**EMERGENCY MOTION TO SEAL
 WITHOUT NOTICE**

Pursuant to L.R.Civ. Rule 5.6(b), Plaintiffs Xcentric Ventures, LLC, an Arizona limited liability company ("Xcentric") and Jaburg & Wilk, P.C. ("Jaburg & Wilk") (collectively, "Plaintiffs") respectfully request the Court enter an Order permitting the following documents to be temporarily filed under seal until such time that Plaintiffs obtain the requested injunctive relief:

1. Verified Complaint
2. Emergency Application for Temporary Restraining Order Without Notice
3. Declaration of Maria Crimi Speth

1 Plaintiffs seek to file the above-referenced pleadings under seal because the Defendant has
2 made substantial and repeated threats regarding the harmful actions he will undertake
3 against Plaintiffs if a lawsuit is filed and an injunction is requested (as is being done here).
4 Plaintiffs are aware, as represented to them by Defendant Richeson, and as evidenced by
5 his previous activities, that he regularly monitors the Court's docket to see if any litigation
6 against him or related to Xcentric has been filed or otherwise progressed in any way.
7 Were the Court to allow these papers to be filed without the protection of sealing them,
8 even the potentially short time period between the filing of these documents and the entry
9 of the requested injunctive relief against Defendant Richeson would allow him ample time
10 to launch a massive internet attack against the reputations of Plaintiffs and their clients
11 and customers.

12 Defendant Richeson specializes in web-based activities, and has identified himself
13 to Plaintiffs as having "internet gurus" and "Indian friends" who will "dig[] into all of
14 [Plaintiffs'] employees, clients etc." Defendant Richeson further threatened, "By the time
15 you get an emergency TRO filed on Tuesday, this baby¹ will have hit the 10K IP pull
16 range." He has made additional threats against Plaintiffs' clients, such as "Every lawyer,
17 paralegal and client you have will see all of their criminal records and any other
18 unflattering piece of dirt that exists out their on the web right in the center of the Google
19 and Yahoo search results." If notice is given or if Defendant Richeson is able to discover
20 this lawsuit before injunctive relief is granted, Defendant Richeson will make every
21 possible effort to inflict the maximum amount of damage to Plaintiffs before he is
22 restrained from doing so. Each of these is a compelling reason why the Court should
23 allow the requested documents to be *temporarily* sealed to allow Plaintiffs the opportunity
24 to obtain injunctive relief without incurring additional irreparable harm in the meantime.

25 "[A]ccess to judicial records is not absolute." *Kamakana v. City & County of*
26 *Honolulu*, 447 F.3d 1172, 1178 (9th Cir. 2006). A narrow range of documents is not

27
28 ¹ Defendant Richeson was referencing the defamatory and harmful websites he has already published about
Xcentric's general counsel and about Jaburg & Wilk.

1 subject to the right of public access because the records have “traditionally been kept
2 secret for important policy reasons.” *Times Mirror Co. v. United States*, 873 F.2d 1210,
3 1219 (9th Cir.1989). “Every court has supervisory power over its own records and files,
4 and access has been denied where court files might have become a vehicle for improper
5 purposes.” *Nixon v. Warner Communications, Inc.*, 435 U.S. 589, 598, 98 S.Ct. 1306,
6 1312, 55 L.Ed.2d 570 (1978). Access to the requested documents must be temporarily
7 denied to the public to ensure that Defendant Richeson does not utilize the filing of these
8 documents as a vehicle (or excuse) to engage in improper activities.

9 A party seeking to seal a judicial record then bears the burden of overcoming this
10 strong presumption by meeting the “compelling reasons” standard. *Foltz v. State Farm*
11 *Mutual Auto. Insurance Company*, 331 F.3d 1122, 1135 (9th Cir.2003). Plaintiffs have
12 “articulated compelling reasons supported by specific factual findings,” *id.* (citing *San*
13 *Jose Mercury News, Inc. v. U.S. Dist. Ct.*, 187 F.3d 1096, 1102-03 (9th Cir.1999)), that
14 outweigh the general history of access and the public policies favoring disclosure, such as
15 the “ ‘public interest in understanding the judicial process.’ ” *Hagestad v. Tragesser*, 49
16 F.3d 1430, 1434 (9th Cir.1995) (quoting *EEOC v. Erection Co.*, 900 F.2d 168, 170 (9th
17 Cir.1990)). In turn, the court must “conscientiously balance[] the competing interests” of
18 the public and the party who seeks to keep certain judicial records secret. *Foltz*, 331 F.3d
19 at 1135.

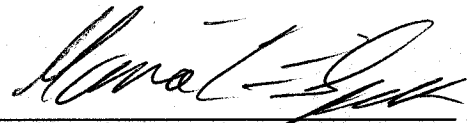
20 Plaintiffs are not requesting that these documents be permanently sealed; instead,
21 they are simply requesting that they be sealed while the Court analyzes Plaintiffs’ request
22 for injunctive relief, and through the time when the Court issues a Temporary Restraining
23 Order. After such time, there is no reason for these documents to remain sealed, and they
24 may become a matter of public record at that time. Therefore, the Court can easily
25 balance the competing interest of the public and the Plaintiffs by sealing for only a short
26 period of time the requested documents.

1 Based on the foregoing, Plaintiffs request that the Court enter an Order in the form
2 attached hereto permitting the following documents to be filed under seal up through and
3 until such time that the Court grants the requested injunctive relief:

- 4 1. Verified Complaint
- 5 2. Emergency Application for Temporary Restraining Order Without Notice
- 6 3. Declaration of Maria Crimi Speth

7 DATED this _____ day of September, 2010.

8
9 JABURG & WILK, P.C.

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11 Maria Crimi Speth
12 Attorneys for Plaintiffs
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