

UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

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XCENTRIC VENTURES, LLC, an
Arizona Limited Liability Corporation
(Plaintiff)

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CASE NO: CIV' 10-1931 PHX NVW
MEMORANDUM IN SUPPORT OF
SUMMARY JUDGEMENT

v.

Shawn Richeson
(Defendant - Pro. Se.)

IN REM: THE INTERNET CORPORATION FOR
ASSIGNED NAMES & NUMBERS (ICANN)
IN REM: ULTRADNS.NET

**MEMORANDUM
IN SUPPORT OF SUMMARY JUDGEMENT
& RICHESON'S MOTION
TO WITHDRAW HIS COUNTERCLAIM**

The Defendant Richeson in this cause of action has filed his motion for summary judgment against Xcentric Ventures LLC., pursuant to FRCP 56 (DOC 60) on or about Thursday November 23rd 2010 and Attorney Maria Crimi Speth responded (DOC 61).

No materials facts are in dispute and Summary Judgment is just and proper.

I. FACTS

- 1) Xcentric Ventures LLC. acknowledges that she has and is currently running a criminal enterprise as defined under 18 U.S.C. § 1964(C) and 18 U.S.C.A § 1961?
- 2) Xcentric Ventures LLC. acknowledges that RIPOFFREPORT.COM is a criminal enterprise as defined under 18 U.S.C.A § 1961 and unless a Court of competent jurisdiction acts under section § 1962, it is her intention to carry on with this criminal enterprise?
- 3) Xcentric Ventures LLC. acknowledges that Xcentric Ventures LLC. is a criminal enterprise as defined under 18 U.S.C.A § 1961 and unless a Court of competent jurisdiction acts under section § 1962, it is her intention to carry on with this criminal enterprise?
- 4) Xcentric Ventures LLC. acknowledges that Xcentric Ventures LLC. is a criminal enterprise as defined under 18 U.S.C.A § 1961 and that the United States District Court, District of Arizona is the court of competent jurisdiction and demands that it act under section § 1962 and order the disabling of the domain RIPOFFREPORT.COM?
- 5) Xcentric Ventures LLC. acknowledges that Xcentric Ventures LLC. is a criminal enterprise as defined under 18 U.S.C.A § 1961 and that the United States District Court, District of Arizona issue orders and mandates that are necessary to the International Corporation for Assigned Names and Numbers (ICANN) to gain and control and permanent possession of the Domain RIPOFFREPORT.COM?
- 6) Xcentric Ventures LLC. acknowledges that Xcentric Ventures LLC. is a criminal enterprise as defined under 18 U.S.C.A § 1961 and that the United States District Court, District of Arizona issue orders and mandates that are necessary to ULTRADNS.NET and order that the domain RIPOFFREPORT.COM immediately resolve to a 404 error?

Richeson properly served Maria Crimi Speth with his request for 26 admissions (DOC 50) on Friday October 22nd 2010 by US Mail, by Email and she received an Email from pacer through mcs@jaburgwilk.com on Monday October 25th 2010.

Richeson conducted a series of email exchanges with Maria Crimi Speth reminding her of her obligation to serve a response to Richeson's admissions.

Today is Friday the 3rd day of December 2010 and Maria Speth has not served a response to Richeson's request for admissions (DOC 50).

Maria Speth contends that she is not required to respond to Richeson's request for admissions until after the 26(F) hearing which **Richeson disagrees**.

A party may not seek discovery from any source before the parties have conferred as required by Rule 26(f), except in a proceeding exempted from initial disclosure under Rule 26(a)(1)(B), or when authorized by these rules, by stipulation, or by court order.

Richeson and Speth had conferred as required under 26(f) on Friday the 22nd day of October 2010.

Except in a proceeding exempted from initial disclosure under Rule 26(a)(1)(B) or when the court orders otherwise, the parties must confer as soon as practicable - and in any event at least 21 days before a scheduling conference is to be held or a scheduling order is due under Rule 16(b).

A discovery control plan has not been created as of yet, however that does not preclude Richeson from beginning discovery nor does it absolve Mrs. Speth from responding to discovery.

Request for admissions are intended to simplify and streamline a law suit.

Rule 36 serves two vital purposes, both of which are designed to reduce trial time.

Admissions are sought, first to facilitate proof with respect to issues that cannot be eliminated from the case, and secondly, to narrow the issues by eliminating those that can be.

In addition, the procedural operation of the rule is brought into line with other discovery procedures, and the binding effect of an admission is clarified. See generally Finman, The Request for Admissions in Federal Civil Procedure, 71 Yale LJ 371 (1962).

The normal time for response to a request for admissions is lengthened from 10 to 30 days, conforming more closely to prevailing practice.

Richeson served Speth with his request for admissions (DOC 50) on Friday the 22nd of October 2010 and Speth agrees she received an email of (DOC 50) but contends that she has not received any US mail.

Richeson anticipated the "dog ate my homework", defense, thus Richeson filed his request for admissions with this Court and Speth acknowledges that she had downloaded and read (DOC 50) on Monday the 25th of October 2010.

This sort of conduct is all too familiar from Maria Speth, thus Richeson chose to motion this Court to file and exchange all discovery as evidenced in (DOC 50).

II. AUTHORITY

Summary judgment is properly granted when the evidence in support of the moving party establishes that there is no issue of material fact to be tried. (Code Civ. Proc., section 437c; Mann v. Cracchiolo (1985) 38 Cal.3d 18, 35.)

If the court determines there is no triable issue of fact, the court will determine any remaining issues of law. (Pittelman v. Pearce (1992) 6 Cal.App.4th 1436, 1441.)

In the capacity of Defendant, Richeson moves that this Court grant summary judgment in favor of Richeson on the undisputable fact that Xcentric Ventures LLC. is a criminal enterprise and order that it be shut down.

Richeson does not seek a reimbursement of any costs.

Richeson respectfully moves that this Court wrap these deemed admissions around any legal doctrine that applies and enter an appropriate order using the same.

Richeson respectfully **withdraws** his **counterclaims** against all parties, reserving the option to counter or cross claim when and if to do so would be appropriate.

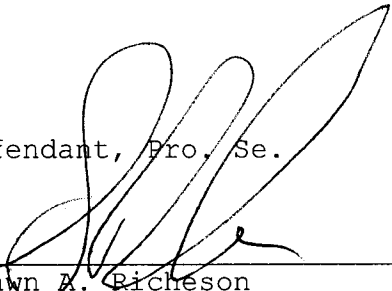
**III. XCENTRIC VENTURES LLC.
IS BARRED FROM PREVAILING ON ANY CLAIM**

A criminal enterprise is as a matter of law incapable of recovering and Xcentric Ventures LLC. is in fact a criminal enterprise and its claims are barred entirely on that fact.

Because all of Richeson's postings were truthful, Xcentric Ventures LLC would be barred from prevailing on any claim even if it were not a criminal enterprise.

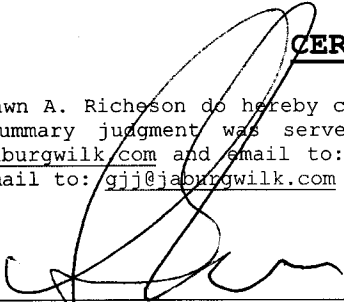
Wherefore premises considered, Richeson prays that this Court allow Richeson to withdraw his counter claim, grant his motion for final summary judgment and enter an order granting the same and for any other remedy both just and appropriate.

Defendant, Pro. Se.



Shawn A. Richeson
1906 Twilight Drive
Killeen, Texas 76543
Shawn@ClickaNerd.com

CERTIFICATE OF SERVICE



I, Shawn A. Richeson do hereby certify that a true and correct copy of Richeson's motion for summary judgment was served upon Maria Crimi Speth via us mail and email to: mcs@jaburgwilk.com and email to: David@RipoffReport.com and email to: ask@jaburgwilk.com and email to: gjj@jaburgwilk.com on this Friday the 3rd day of December 2010.

Shawn A. Richeson

Maria Speth - US MAIL
3105 East Claire Drive
Phoenix Arizona
85032

United States District Clerk - US MAIL ✓
Sandra Day O'Connor U.S. Courthouse
401 West Washington Street
Phoenix, AZ 85003

Please file this in cause of action **10-1931 PHX NVW**

Shawn - Field Manager

From: Shawn - Field Manager [Shawn@ClickaNerd.com]
Sent: Friday, December 03, 2010 12:45 PM
To: 'Maria Crimi Speth'
Subject: RE: Xcentric V. Richeson - Withdraw Counterclaim & MEM-MSJ

M,
I am looking for a final summary judgment in the capacity of defendant.
I want to use the deemed admissions as part of my final summary judgment.
S

-----Original Message-----

From: Maria Crimi Speth [mailto:mcs@jaburgwilk.com]
Sent: Friday, December 03, 2010 12:27:PM
To: Shawn - Field Manager
Cc: Adam S. Kunz; david@ripoffreport.com; editor@ripoffreport.com
Subject: RE: Xcentric V. Richeson - Withdraw Counterclaim & MEM-MSJ

I got your email and the pdf is just fine.

I am a bit confused though. I thought you wanted summary judgment on your counterclaim, but your closing paragraph is that you want to withdraw your counterclaim.

Is it that you want summary judgment in your favor on Xcentric's claim against you?

Maria Crimi Speth, Esq.
Jaburg & Wilk, P.C.
3200 N. Central Ave., Suite 2000
Phoenix, AZ 85012

602-248-1089
602-248-0522 (fax)

www.jaburgwilk.com

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-----Original Message-----

From: Shawn - Field Manager [mailto:Shawn@ClickaNerd.com]
Sent: Friday, December 03, 2010 11:05 AM
To: Maria Crimi Speth
Cc: Adam S. Kunz; david@ripoffreport.com; Debra A. Gower; Gary J. Jaburg; editor@ripoffreport.com
Subject: Xcentric V. Richeson - Withdraw Counterclaim & MEM-MSJ

Dear Maria,
Attached is my memorandum in support of summary judgment and my motion to withdraw my counterclaim.
If the .pdf does not come out, please let me know.
Additionally, what time did Adam want to meet on Monday?