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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Xcentric Ventures, LLC, an Arizona
limited liability corporation, and Jaburg &
Wilk, P.C., a professional corporation,
Plaintiff,
vs.
Shawn Richeson,
Defendant.

No. CV-10-01931-PHX-NVW

ORDER

Before the Court are: (1) “Plaintiff’s Motion to Dismiss Action Pursuant to Rule 41 (A)(2)” (Doc. 65); (2) Richeson’s “Motion for - Leave of Court to Pursue New Counter Claim – Witness Tampering” (Doc. 70); and (3) Richeson’s “Motion to Include – CD ROM James P. Rogers – Audio Recording in Support of Motion for Leave to Pursue the Counterclaim of Witness Tampering” (Doc. 74). The Court will grant the first motion and deny the other two.

Xcentric has moved to dismiss its own claims against Richeson. No counterclaims remain, and Richeson has stipulated to Xcentric’s motion. (Doc. 71 at 4.) The Court will therefore grant Xcentric’s motion.

Richeson’s two motions ask this Court to permit him to pursue a cause of action against Xcentric for witness tampering in violation of 18 U.S.C. § 1512. But that statute creates no private cause of action. *Shahin v. Darling*, 606 F. Supp. 2d 525, 538 (D. Del.

1 2009). Further, the witness with whom Xcentric allegedly tampered is not Richeson himself,
2 nor does Richeson allege any harm to himself caused by the alleged tampering. Richeson
3 therefore would not have standing to bring such a cause of action, if it existed. The Court
4 will therefore denying Richeson's motion for leave to file a new counter claim, and the
5 attendant motion to file the audio recording.

6 The effect of this order is to end this case. Xcentric therefore asks this Court to
7 declare that the permanent injunction entered on November 24, 2010 (Doc. 59), is a final
8 judgment. Because the permanent injunction was immediately appealable, *see* 28 U.S.C.
9 § 1292(a)(1), it is already a "judgment," Fed. R. Civ. P. 54(a) ("Judgment' as used in these
10 rules includes a decree and any order from which an appeal lies."). No separate declaration
11 to that effect is needed.

12 Xcentric also asks this Court to exonerate the bond Xcentric and Jaburg & Wilk
13 posted as security for the temporary restraining order. The Court will grant this request.

14 IT IS THEREFORE ORDERED that "Plaintiff's Motion to Dismiss Action Pursuant
15 to Rule 41 (A)(2)" (Doc. 65) is GRANTED. The Clerk will please close this case.

16 IT IS FURTHER ORDERED that Richeson's "Motion for - Leave of Court to Pursue
17 New Counter Claim - Witness Tampering" (Doc. 70) is DENIED.

18 IT IS FURTHER ORDERED that Richeson's "Motion to Include - CD ROM James
19 P. Rogers - Audio Recording in Support of Motion for Leave to Pursue the Counterclaim of
20 Witness Tampering" (Doc. 74) is DENIED. The Clerk will please return the original CD
21 placed in the Records Department to Richeson.

22 IT IS FURTHER ORDERED that the \$100 bond posted on September 9, 2010, is
23 exonerated. The Clerk will please send a \$100 check, payable to Jaburg & Wilk, P.C., to
24 3200 North Central Ave., Suite 2000, Phoenix, AZ 85012.

25 DATED this 6th day of January, 2011.

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28 _____
Neil V. Wake
United States District Judge