

1 DANIEL F. BLACKERT, ESQ., CSB No. 255021

2 LISA J. BORODKIN, ESQ. CSB No. 196412

3 **Asia Economic Institute LLC**

4 11766 Wilshire Blvd., Suite 260

5 Los Angeles, CA 90025

6 Telephone (310) 806-3000

7 Facsimile (310) 826-4448

8 Daniel@asiaecon.org

9 Blackertesq@yahoo.com

10 lisa@asiaecon.org

11 lisa_borodkin@post.harvard.edu

12 Attorney for Plaintiffs,
13 Asia Economic Institute LLC,
14 Raymond Mobrez, and
15 Iliana Llaneras

16 **UNITED STATES DISTRICT COURT**
17 **CENTRAL DISTRICT OF CALIFORNIA**

18 ASIA ECONOMIC INSTITUTE LLC,)
19 a California LLC; RAYMOND)
20 MOBREZ an individual; and ILIANA)
21 LLANERAS, an individual,)

22 Plaintiffs,

23 vs.

24 XCENTRIC VENTURES, LLC, an)
25 Arizona LLC, d/b/a as BADBUSINESS)
26 BUREAU and/or)
27 BADBUSINESSBUREAU.COM)
28 and/or RIP OFF REPORT and/or)
RIPOFFREPORT.COM; BAD)
BUSINESS BUREAU, LLC, organized)
and existing under the laws of St.)
Kitts/Nevis, West Indies; EDWARD)
MAGEDSON an individual, and DOES)
1 through 100, inclusive,)

Defendants.

Case No.: 2:10-cv-01360-SVW-PJW

DECLARATION OF JAN SMITH

1 I , Jan Smith, declare under penalty of perjury as follows:

2 1. My name is Jan Smith. I am a United States Citizen, a resident of the
3 State of North Carolina, I am over 18 years of age, and if called to testify in this
4 Honorable Court or other proceeding I could and would give the following
5 testimony which is based upon my own personal knowledge unless otherwise
6 stated.

7 2. I am an educated, professional woman. I formerly worked as a
8 stockbroker. I have Series 7, Series 63, Series 65 and Series 33 licenses and state
9 insurance licenses in 6 states. I worked as an Account Executive with Dean Witter
10 from 1993 to 1995. Thereafter, I opened my own firm and was the President and
11 owner of Sterling Investment Incorporated from 1996 to 2004, when I retired due
12 to my diagnosis with breast cancer.

13 3. I am extremely interested in the outcome of this case. I flew at my
14 own expense to the hearing in this matter on July 12, 2010. I am hoping there will
15 be a trial so that people like me can at least tell my side of the story in a public
16 hearing. Ripoff Report does not let me tell my side of the story. They do not post
17 all of my rebuttals, and they do not let me post a rebuttal for every report about me.
18 This is contrary to what they advertise on their website at www.ripoffreport.com
19 and in their emails to me personally.

20 4. I cannot afford to pay any money to have an IT consultant push the
21 reports down in the Google listings or to the Defendants to be in the Corporate
22 Advocacy Program. I relied on Defendants' advice to post free rebuttals to their
23 website. Attached hereto as **Exhibit "A"** is a true and correct copy of an email I
24 received dated January 15, 2009 from Karen@ripoffreport.com stating that "your
25 comments will be best served and will benefit the Reported business or individual
26 if you put these comments with an existing Rip-off Report that is against the
27 business or individual instead of posting a new Report... You need to click on the
28

1 REBUTTAL Box at the end of the specific Rip-off Report these comments belong
2 with.”

3 5. There were several instances where I was unable to post rebuttals to
4 reports about me. I registered with the website and filled out the forms, but my
5 rebuttals never appeared. Attached hereto as **Exhibit “B”** is a true and correct copy
6 of an email I sent to info@ripoffreport.com dated January 16, 2009 complaining
7 that my rebuttals were not posting and asking for help.

8 6. Ripoff Report states in many places that it does not take down reports.
9 It says so on the website and in emails. Attached hereto as **Exhibit “C”** is a true
10 and correct copy of emails I received on November 9, 2009 from
11 EDitor@RipoffReport.com stating “...we cannot remove reports from the
12 website.”

13 7. Ripoff Report also states on their website and in emails that they
14 never change reports.

15 8. Because I believed that Ripoff Report does not take down reports, I
16 believed I had no legal recourse and no options. Everything I had read about Ripoff
17 Report led me to believe that a lawsuit could not get reports taken down or
18 changed.

19 9. Because of this, I contacted about six or seven public officials to see if
20 the law could be changed. One of these was California State Senator Tom Harman.
21 There were some Ripoff Reports about Senator Harman. I engaged in email
22 correspondence with a staff member of Senator Harman named Eileen from around
23 Thanksgiving time 2009 to December 2009. Senator Harmon’s staff seemed
24 interested in helping me but our correspondence ceased in December 2009.

25 10. Beginning on January 20, 2020, Ripoff Report’s General Counsel,
26 David Gingras, initiated email correspondence with me. I had not given Mr.
27 Gingras my email, but he obtained it from my user records on Ripoff Report. We
28 exchanged several messages by email, including one about this California lawsuit.

1 11. I asked Mr. Gingras for help in taking down or changing my reports.
2 Mr. Gingras gave me his phone number and asked me to call him. In an email to
3 me dated April 10, 2010, Mr. Gingras stated:

4 “I know I never told you this, but I argued with Ed Magedson onOf
5 course, as you know, Ed [Magedson] has a policy of simply never taking
6 stuff down, so he asked me why we should treat your situation differently
7 than everyone else. I responded with the points you note below, and
8 eventually I just explained to him that sometimes you don’t need a reason
9 for doing something...you should just do it to be nice to another person.

10 Attached hereto as **Exhibit “D”** is a true and correct copy of email I received on
11 April 10, 2010.

12 12. On April 13, 2010 at 7:54:59 P.M. Eastern Time, I had a telephone
13 conversation with Mr. Gingras that lasted 30:06 minutes. I called him from my
14 home phone to the number he had given me in the email, (480) xxx-xxxx.

15 13. In the 30-minute April 13, 2010 telephone call, we discussed at length
16 my desire to take down or change reports about or by me. In this call, Mr. Gingras
17 told me the story of the 16-year old girl again and told me that they “took down”
18 the report about her father. Mr. Gingras, he explicitly told me that Ripoff Report
19 “took down a report.” There was no confusion that he meant that they had
20 redacted a report. He said they took it down.

21 14. He told me he would ask Ed Magedson if he would “take down” my
22 reports. I am certain of what we discussed in this call because I then talked about
23 the call in my group therapy session the following Monday and about how I hoped
24 he would help me by taking down the reports. The doctor’s notes of this therapy
25 session would confirm that.

26 15. I spoke again with Mr. Gingras on June 3, 2010 at 2:40:52 PM
27 Eastern Time for 39:00 minutes, as reflected in my telephone records.
28

1 16. In my phone call with Mr. Gingras on June 3, 2010, I asked him,
2 “Why won’t you help people like Tina?” This was referring to my friend, Tina
3 Norris. Mr. Gingras said “We do.” Mr. Gingras invited me to have Ms. Norris call
4 him. I thanked Mr. Gingras and he said “I haven’t done anything for you. Don’t
5 thank me.” I subsequently called Ms. Norris on June 3, 2010 at 3:21 PM Eastern
6 Time for 1:54 minutes. During this call, I told her to call Mr. Gingras. I am
7 informed and believe that Ms. Norris called Mr. Gingras that same day.

8 17. I had other conversations with Mr. Gingras on July 8, 2010 at 7:10:13
9 PM Eastern Time for 11:12 minutes, July 8, 2010 at 7:55:34 PM Eastern Time for
10 7:24 minutes, and on July 9, 2010 at 12:21:14 PM Eastern Time for 4:12 minutes.

11 18. I had three reports on Ripoff Report about me. There is currently only
12 one. I had reports posted about me under the category of suspicious activities.
13 These reports are gone. In fact, this category no longer exists. I do not recall
14 exactly when they came down, but know that only one report currently shows up
15 on a search of my name.

16 19. On or about July 20, 2010, I tried to log into my account at
17 ripoffreport.com and I could not log in. I understand that my account has been
18 deactivated. I did not do so.

1 Pursuant to 28 U.S.C., Section 1746, I declare under penalty of perjury under
2 the Laws of the United States of America that the foregoing is true and
3 correct.

4
5 Dated: July 24, 2010

6 
7 _____
8 Jan Smith
9