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Attorneys for Plaintiffs,

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

ASIA ECONOMIC INSTITUTE, a
 California LLC; RAYMOND
 MOBREZ an individual; and ILIANA
 LLANERAS, an individual,

Plaintiffs,

vs.

XCENTRIC VENTURES, LLC, an
 Arizona LLC, d/b/a as BADBUSINESS
 BUREAU and/or
 BADBUSINESSBUREAU.COM
 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

The Honorable Stephen V. Wilson

**NOTICE OF MOTION AND
 MOTION FOR
 RECONSIDERATION OF ORDER
 GRANTING PARTIAL
 SUMMARY JUDGMENT ON
 PLAINTIFFS RICO CLAIMS
 PREDICATED ON EXTORTION
 AND FOR RECONSIDERATION
 OF ORDER DNYING RELIEF
 UNDER RULE 56(F)**

**[Fed. R. Civ. Proc. 52(b); 59(e);
 Local Rule 7-18]**

**[REQUEST FOR JUDICIAL
 NOTICE; MEMORANDUM OF
 POINTS AND AUTHORITES;
 DECLARATION OF RAYMOND
 MOBREZ AND LISA J.
 BORODKIN FILED
 CONCURRENTLY HEREWITH]**

Date: September 20, 2010

Time: 1:30 p.m.

Ctrm: 6

1 TO ALL PARTIES AND THEIR COUNSEL OF RECORD:

2 PLEASE TAKE NOTICE that on September 20, 2010, at 1:30 p.m.,
3 in Courtroom 6 of the above-entitled Court, located at 312 N. Spring Street, Los
4 Angeles, California 90012, Plaintiffs Asia Economic Institute LLC, Raymond
5 Mobrez and Iliana Llaneras (“Plaintiffs”) will and hereby do move this Honorable
6 Court under Federal Rules of Civil Procedure 59(e) and 60 under Local Civil Rule
7 7-18(a) and (b) for reconsideration of the portions of its Order of July 19, 2010
8 (“Order of July 19, 2010”) granting partial summary judgment to Defendants on
9 Plaintiffs’ claims for civil violations of RICO predicated on extortion, 18 U.S.C. §
10 1962(c), and conspiracy to violate civil RICO predicated on extortion, 18 U.S.C. §
11 1962(d), and denying Plaintiffs’ Motion under Rule 56(f) for leave to take
12 additional discovery on the RICO claim.

13 The grounds for this Motion are the discovery of a material difference
14 in fact or law from that presented to the Court, the emergence of new material
15 facts or law occurring after the time of such decision, and the manifest showing of
16 a failure to consider material facts presented to the Court pursuant to Local Rule
17 7-18.

18 The manifest showing of a failure to consider material facts presented
19 to this Court are:

- 20 • The failure to consider evidence identified at Paragraph 39 of Plaintiffs’
21 Statement of Genuine Issues in Opposition to Defendants’ Motion for
22 Summary Judgment (“PSGI”) that the May 5, 2010 email sent by
23 Defendant Edward Magedson to Plaintiff Raymond Mobrez, as referenced
24 in the May 3, 2010 Declaration of Raymond Mobrez at Paragraph 11,
25 4:20-5:2, and Exhibit G at 6 (expressly promising that the Corporate
26 Advocacy Program “changes the negative listings on search engines into a
27 positive along with all the Reports on Rip-off report”) in making the
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1 findings that Mobrez does not dispute the fact that Magedson “never told
2 Mobrez that the payment of a fee to Xcentric would result in negative
3 information being changed into a positive,” Order of July 19, 2010 at
4 36:5-10, and that “none of the communications Defendants sent to
5 Plaintiffs contain any suggestion that the CAP Program (or the payment of
6 fees) would result in . . . that such reports would no longer be featured in
7 search results.” Order of July 19, 2010 at 38:9-12.

- 8 • The failure to consider Defendants’ own evidence that Defendants add
9 the keywords “rip-off,” “ripoff” and “rip off” into the meta tags of every
10 page on the website, See Order of July 19, 2010 at 7:13-15 (Ben Smith
11 Declaration at 15) in making the finding that Plaintiffs do not offer any
12 evidence that Defendants added the term “Ripoff Report” to user-
13 generated reports at the times relevant to this action, see Order of July 19,
14 2010 at 6:27-28, fn.3, which is a material fact, given that the meta tags
15 influence the appearance of search results and are a significant part pf the
16 harm caused by Reports.
- 17 • The failure to consider and make separate findings on Plaintiffs’ claim for
18 conspiracy to violate RICO through a pattern of racketeering and
19 attempted extortion, as Plaintiffs submitted evidence of the pattern of
20 racketeering, attempts to commit the inchoate offense and acts taken with
21 knowledge of the purpose of the conspiracy that had the effect of
22 damaging Plaintiffs.

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24 The newly discovered material difference in fact or law or the new
25 material facts that could not have been known to Plaintiffs at the time of the Order
26 of July 19, 2010 are:
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- 1 • Evidence that Defendants expressly offered on July 20, 2010 to redact
2 Plaintiffs' names from the Rip-off Reports about them in exchange for a
3 payment demanded of \$35,000 or \$50,000 and withdrawing their claims
- 4 • The "Second Questionnaire" provided by Defendants to Plaintiffs for the
5 first time on July 13, 2010 expressly promising to alter Google search
6 results to be positive about CAP members and pointing to a retraction of an
7 example CAP member;
- 8 • Evidence that Defendants have on at least two occasions in October 2009
9 and December 2009 taken down or deactivated "Rip-off Reports" in
10 compliance with a global settlement including counter-claims by the
11 subject of Rip-off Reports and which included payment of \$100,000
12 because the Reports were erroneously posted without verification;
- 13 • Evidence that Defendants used fear and threats to coerce Plaintiffs into
14 paying money by posting a "wall of shame" Rip-off Report about a witness
15 in this case attacking the witness' character and qualifications as an
16 attorney, although the witness gave percipient testimony and issued a press
17 release, neither of which involve the practice of law;
- 18 • Evidence that Defendants used fear and threats to coerce Plaintiffs into
19 paying money by telling Plaintiffs' counsel that a Rip-off Report "will
20 happen to you," and that they would be on the cover of a book about bad
21 lawyers, and by offering a release of future affirmative claims of malicious
22 prosecution against Plaintiffs' counsel personally if Plaintiff would pay
23 either \$35,000 or \$50,000 and drop this case.
- 24 • A new highly-publicized decision in United States v. Sypher, 09-CR-85
25 (W.D. Ky. August 6, 2010) convicting the defendant, Karen Sypher, of a
26 violation of an alternative federal extortion statute, 18 U.S.C. § 875(d), and
27 which used jury instructions clarifying the elements of 18 U.S.C. § 875(d),
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1 “which makes it a federal crime for anyone to knowingly and willfully
2 transmit in interstate commerce a threat to injure another person’s
3 reputation or a threat to accuse another person of a crime.”

4 This Motion is based on the Memorandum of Points and Authorities,
5 request for Judicial Notice, Declarations of Raymond Mobrez, Kenton Hutcherson,
6 Lisa J. Borodkin and attached exhibits, all pleadings, papers and proceedings in
7 this action, and such other matters as the Court deems proper.

8 This motion is made following the conference of counsel pursuant to
9 L.R. 7-3, which took place on July 20, 2010.

10 DATED: August 16, 2010

Respectfully submitted,

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12 By: /s/ Daniel F. Blackert
13 Daniel F. Blackert
14 Lisa J. Borodkin
15 Attorneys for Plaintiffs,
16 Asia Economic Institute LLC,
17 Raymond Mobrez, and Iliana
18 Llaneras
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