

1 DANIEL F. BLACKERT, ESQ., CSB No. 255021
LISA J. BORODKIN, ESQ. CSB No. 196412

2 **Asia Economic Institute**
11766 Wilshire Blvd., Suite 260
3 Los Angeles, CA 90025
Telephone (310) 806-3000
4 Facsimile (310) 826-4448
Daniel@asiaecon.org
5 Blackertesq@yahoo.com
lisa@asiaecon.org
6 lisa_borodkin@post.harvard.edu

7 Attorneys for Plaintiffs,
Asia Economic Institute LLC
8 Raymond Mobrez, and
Iliana Llaneras

9
10 **UNITED STATES DISTRICT COURT**
11 **CENTRAL DISTRICT OF CALIFORNIA**

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

15 Plaintiffs,

16 vs.

17 XCENTRIC VENTURES, LLC, an
18 Arizona LLC, d/b/a as BADBUSINESS
BUREAU and/or
19 BADBUSINESSBUREAU.COM
and/or RIP OFF REPORT and/or
20 RIPOFFREPORT.COM; BAD
BUSINESS BUREAU, LLC, organized
21 and existing under the laws of St.
Kitts/Nevis, West Indies; XCENTRIC
22 an individual, and DOES 1 through 100,
inclusive,

23 Defendants.
24
25
26
27
28

Case No.: 2:10-cv-01360-SVW-PJW
**SUPPLEMENTAL DECLARATION
OF DANIEL F. BLACKERT IN
FURTHER SUPPORT OF
PLAINTIFFS' MOTION FOR
LEAVE TO FILE SECOND
AMENDED COMPLAINT**

1 I, Daniel F. Blackert, declare under penalty of perjury as follows:

2 1. My name is Daniel Blackert. I am a United States Citizen, a
3 resident of the State of California, am over 18 years of age, and if called to
4 testify in 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 attorney licensed to practice law in the State of California.
8 I am an active member, in good standing, of the State Bar of California and also
9 admitted to practice in this Honorable Court.

10 3. Since December 2009, I have been employed by Asia Economic
11 Institute as its attorney for this matter. My co-counsel in this case is Lisa J.
12 Borodkin. I have been involved in the litigation since its inception. I have
13 possession of Plaintiffs' files with respect to this case, and I am personally
14 familiar with its contents.

15 4. I make this Declaration to clarify a point made in Defendants'
16 Response to Plaintiffs' Motion to File a Second Amended Complaint [DN-129],
17 contending that Plaintiffs did not make efforts to comply with Local Rule 7-3
18 regarding this motion.

19 5. On July 30, 2010, in an email correspondence to me and Ms.
20 Borodkin, Defense counsel Ms. Maria Crimi Speth (Attorney Speth) instructed
21 us not to speak with Defense counsel Mr. David Gingras any more; but to speak
22 directly to her and not Attorney Gingras. In her email which is attached hereto
23 as **EXHIBIT "A,"** Ms. Speth states, "I am once again asking that you direct
24 your communications to me. If you attempt again to speak with David about
25 such matters, he will simply refer you to me."

26 6. Further, on July 20, 2010, while at the Law Offices of Jaburg &
27 Wilk, Ms. Speth went into a long detailed discussion that if we amended the
28 case in such as way that Attorney Gingras became a fact witness, when she sued

1 me and Ms. Borodkin the attorneys' fees necessary to settle the case would
2 increase because Attorney Gingras was no longer working on the case. Attorney
3 Speth was making the point that her hourly rate is more than Attorney Gingras'
4 hourly rate. It appeared that she was threatening us with this price increase. In
5 summary, she told us not to deal with Attorney Gingras anymore as she advised
6 us he had no authority and that she was taking over.

7 7. On August 14, 2010, I sent Attorney Speth an email with the
8 subject line "meet and confer." My email was very clear, it stated that I was
9 attempting to meet and confer with her regarding the issues that she now claims
10 I did not properly meet and confer on. I outlined the seven (7) issues that I
11 wished to discuss with her. I advised her that I was available at her convenience
12 during the next few days. A true and correct copy of my email is attached
13 hereto as **EXHIBIT B**. I then called her office but decided not to leave a
14 message because I know Attorney Speth has responded to past emails on
15 weekends and uses a cell phone. For example, during the Deposition of Mr.
16 Magedson, Attorney Speth actually stood in the room while the deposition was
17 being conducted and talked on her cell phone during the deposition.

18 8. I made it very clear in my August 14, 2010 email that I was
19 available almost any time. I assumed that she would have the courtesy to meet
20 and confer with me; instead she did not. Attorney Speth must have received my
21 email and can not now claim any kind of prejudice. Previously, in our dealings
22 with Mr. Gingras he has refused to meet and confer upon written request.

23 9. It is true that I misspoke in my August 16, 2010 Declaration at
24 Paragraph 5 [DN-114] when I said I had met and conferred with Defendants on
25 this motion. I promptly corrected that misstatement in the actual Notice of
26 Motion filed with this Motion for Leave to Amend to state truthfully that I had
27 made a written request for a conference on August 14, 2010, to which
28 Defendants did not respond. DN-116 at 3:11-13.

1 10. In fact, Defendants did not contact Plaintiffs in any way whatsoever
2 until August 18, 2010, when Ms. Speth telephoned my co-counsel, Ms.
3 Borodkin to request a meet and confer for Defendants' proposed Motion to
4 Strike. We attempted at that time to meet and confer with Ms. Speth on this
5 Motion for Leave to Amend in the hope of taking it off calendar, but she stated
6 it was "too late." True and correct copies of the confirming correspondence I
7 sent to Defendants' counsel regarding the August 18, 2010 Local Rule 7-3
8 teleconference are attached hereto as **Exhibit "C."**

9 11. Defendants have previously stalled and refused to conduct meet and
10 confer conferences under Local Rule 7-3 to Plaintiffs' prejudice. Defendants'
11 unreasonable refusal to conduct conferences under Local Rule 7-3 in the past
12 without imposing written preconditions is the subject of a pending motion,
13 which has been referred to the Magistrate assigned to this case.

14 12. Moreover, it should be noted that Defendants' Motion to Dismiss
15 [DN-110] complied with even fewer formalities under Local Rule 7-3 than any
16 motion of Plaintiffs. Defendants did not meet and confer with Plaintiffs in an
17 attempt to eliminate issues prior to filing the Motion to Dismiss; in fact did not
18 file a Notice of Motion at all with the Motion to Dismiss; and did not include
19 any version of the statement required by Local Rule 7-3.

20 13. While Plaintiffs have extended and continue to extend every civility
21 to Defendants -- preferring to focus on the merits -- Defendants'
22 characterizations of Plaintiffs' conduct do merit this response and clarification.
23 Defendants have demanded that Plaintiffs withdraw certain allegations under
24 pain of a request for Rule 11 sanctions, yet refuse to stipulate to an amendment
25 that would permit Plaintiffs to accommodate Defendants' demand.

26 **Pursuant to 28 U.S.C. Section 1746, I declare under penalty of perjury**
27 **under the laws of the United States of America that the foregoing is true**
28 **and correct.**

1 EXECUTED ON: August 31, 2010

2
3 /s/Daniel F. Blackert
4 Daniel F. Blackert, Esq.
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

CERTIFICATE OF SERVICE

I certify that on August 31, 2010 I electronically transmitted the attached document as well as the document "Plaintiffs' Opposition to Defendant's Motion to Strike" to the **Clerk's Office using the CM/ECF** system for filing, and for transmittal of a **Notice of Electronic Filing, to the following CM/ECF registrants:**

David S. Gingras
Gingras Law Office, PLLC
4072 E. Mountain Vista Drive
Phoenix, AZ 85048
Attorney for Defendants

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

Paul S. Berra
Law Offices of Paul S. Berra
1404 3rd Street Promenade
Suite 205
Santa Monica, CA 90401

With chambers' copies to

Honorable Stephen V. Wilson
U.S. District Judge
United States District Court,
Central District of California Western District
312 N. Spring Street
Los Angeles, CA 90012

/s/Lisa J. Borodkin