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 14 Edward Magedson

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

19 **ASIA ECONOMIC INSTITUTE, LLC, *et al.*,**

20 **Plaintiffs,**

21 **vs.**

22 **XCENTRIC VENTURES, LLC, *et al.*,**

23 **Defendants.**

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

**AFFIDAVIT OF BEN SMITH  
 IN SUPPORT OF DEFENDANTS'  
 REPLY RE: MOTION FOR  
 SUMMARY JUDGMENT**

Hearing Date: June 28, 2010  
 Time: 1:30 PM  
 Courtroom: 6 (Hon. Stephen Wilson)

1 I, BEN SMITH, declare as follows:

2 1. My name is Ben Smith. I am a resident of the State of Arizona, am over the  
3 age of 18 years, and if called to testify in court I could and would truthfully testify to the  
4 following information based upon my own personal knowledge.

5 2. As an independent contractor I provide computer information technology  
6 services to Xcentric Ventures, LLC relating to the operation of the Ripoff Report website.  
7 I have provided such services to Xcentric and the previous operator of the Ripoff Report  
8 for over seven years. As part of the services I provide to the Ripoff Report site, I am  
9 extremely familiar with the technical aspects of the site's operations including the manner  
10 in which reports, rebuttals, updates, and similar submissions to the site are created. I am  
11 also extremely familiar with the meta tags, HTML, and other coding used on the site.

12 3. I have personally reviewed the pleading entitled "Plaintiffs' Statement of  
13 Genuine Issues In Opposition To Defendants' Motion For Summary Judgment", and I  
14 have reviewed the statement of additional facts offered by Plaintiffs beginning on page  
15 16 of that pleading.

16 4. I am aware that ¶ 20 of Plaintiffs' additional facts alleges the following:

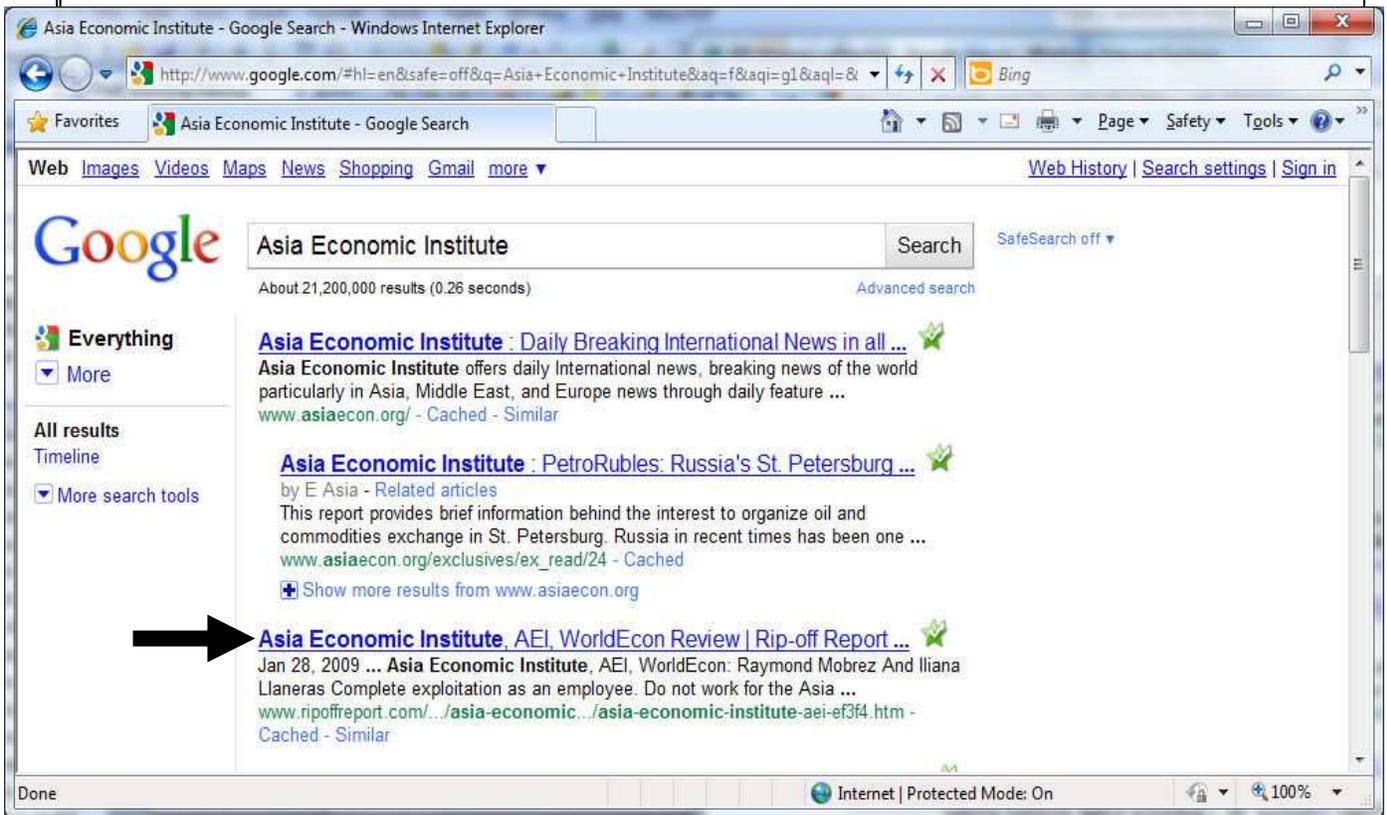
17 After there had been no response, AEI filed a "Rebuttal" on April 3, 2009  
18 for each report listed on the Ripoff Report Web site at that time. These  
19 "rebuttals," however, do not appear as "results" on Internet search engines  
20 such as Google and Yahoo.

21 5. I am also aware that ¶ 21 of Plaintiffs' additional facts alleges: "A business  
22 or individual may file a rebuttal for free. However, as Magedson admits, these rebuttals  
23 do not appear as Internet search results."

24 6. Both of these statements are partially true but also partially false. It is true  
25 that depending on the search terms used, rebuttals posted on Ripoff Report might not  
26 always appear as results on search engines such as Google. However, like all text on  
27 Ripoff Report rebuttals are indexed by Google and rebuttals do show up as search results  
28 in Google depending on the actual search terms entered by the person doing the search.

1 7. Insofar as Plaintiffs claim that their rebuttals never appear as results on  
2 Google, this statement is not true. In fact, this can easily be demonstrated by comparing  
3 the results returned by Google when different search terms are used.

4 8. For instance, below is a screenshot of a search performed on Google on  
5 June 23, 2010 for the terms “Asia Economic Institute”. The third result shown relates to  
6 report #417493 which is a report about AEI on the Ripoff Report. The result includes a  
7 short snippet of text taken from the title of that report, not from any of the rebuttals:



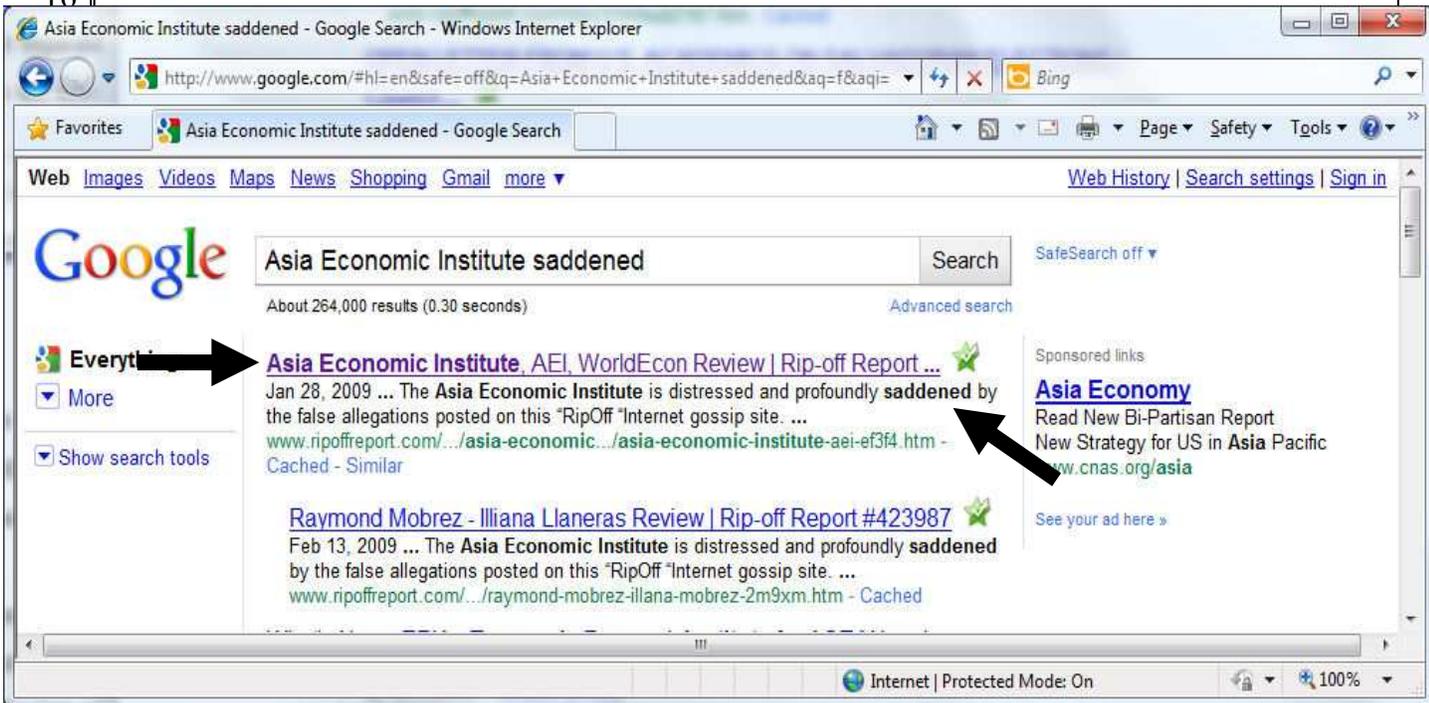
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21 9. I have personally reviewed report #417493 (located here:  
22 <http://www.ripoffreport.com/employers/asia-economic-instit/asia-economic-institute-aei-ef3f4.htm>) and I am aware that as of June 23, 2010, this report contains eight separate  
23 rebuttals. One of the rebuttals (#6) was posted on April 3, 2009 and it bears the title:  
24 “Asia Economic Institute is saddened by the false allegations posted on this RipOff  
25 Internet gossip site”. I am informed that rebuttal #6 was posted by Plaintiffs, and I am  
26 informed that the same or similar rebuttals were posted by Plaintiffs to each of the other  
27 reports about them on RipoffReport.com.  
28

1           10. As reflected in the screenshot above, rebuttal #6 does not appear in the  
2 short “snippet” of text displayed in Google’s results. By the same token, none of the text  
3 of any of the other seven rebuttals appears in the snippet either. However, all of the text  
4 in report #417493 and all of the text in each of the rebuttals is indexed by Google and the  
5 text of rebuttal #6 will be displayed in Google’s results depending on the actual search  
6 terms entered by the user.

7           11. For instance, rebuttal #6 includes a unique word—“*saddened*”—which is  
8 not found anywhere else in the text of report #417493 or in any other rebuttals on that  
9 page. Because Google’s unique algorithms attempt to return search results based on the  
10 relevance of content in Google’s index to the terms entered by the searcher, when a  
11 search is conducted for the term “Asia Economic Institute” plus the word “saddened”, the  
12 very first result returned is a link to report #417493—the same as in the first search.

13           12. However, unlike the results returned in the first search (without the word  
14 “saddened”) which did not show any text from rebuttal #6, adding the word saddened  
15 produces a different short snippet of text taken entirely from rebuttal #6:  
16



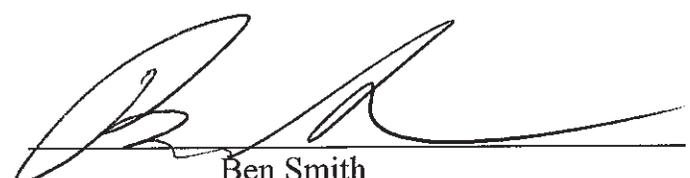
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13. This result demonstrates two things. First, contrary to Plaintiffs' assertions, rebuttals on Ripoff Report are indexed by Google and they do appear in search results depending on what specific search terms are used.

14. Second, the snippet of text displayed in Google's search results is controlled by Google, not by Ripoff Report. Although in most cases the default snippet will usually reflect text contained in the "description" meta tag (which is solely text entered by the author of a specific report), this is not always the case. As reflected in the example searches above, the actual snippet displayed by Google in response to a search depends primarily on the search terms being used and the location of any relevant text on the indexed page. In other words, if a person searches for terms which are located in a rebuttal, it is likely that Google will produce a snippet of text from that rebuttal. On the other hand, if the search terms are located elsewhere on the page, Google may change the snippet to reflect that fact.

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

EXECUTED ON: June 23, 2010.

  
Ben Smith

1 **CERTIFICATE OF SERVICE**

2  
3 I hereby certify that on June 24, 2010 I electronically transmitted the attached document  
4 to the Clerk’s Office using the CM/ECF System for filing, and for transmittal of a Notice  
5 of Electronic Filing to the following CM/ECF registrants:  
6

7 Mr. Daniel F. Blackert, Esq.  
8 Ms. Lisa J. Borodkin, Esq.  
9 Asia Economic Institute  
10 11766 Wilshire Blvd., Suite 260  
11 Los Angeles, CA 90025  
12 Attorneys for Plaintiffs

13 And a courtesy copy of the foregoing delivered to:  
14 Honorable Stephen V. Wilson  
15 U.S. District Judge

16 /s/David S. Gingras  
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