UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No.	CV 10-1360-SVW (PJWx)	Date	June 24, 2010
Title	*Asia Economic Institute, et al. v. Xcentric Ventures, LLC, et al.*		

Present: The Honorable	Patrick J. Walsh, Magistrate Judge	
Celia Anglon-Reed	None	CS 06/24/2010
Deputy Clerk	Court Reporter / Recorder	Tape No.

Attorneys Present for Plaintiffs:	Attorneys Present for Defendants:
Lisa Borodkin Daniel Blackert	David Gingras Maria Speth

Proceedings: Plaintiffs' Motion to Bifurcate Discovery, etc.

Before the Court is Plaintiffs' motion to bifurcate discovery, compel the deposition of Defendant Edward Magedson, allow the deposition of Defendant Magedson to go forward without a protective order, and to have the Court enter an order regarding the conduct of counsel at the depositions. (Docket No. 52.) For the following reasons, Plaintiffs' requests are granted in part and denied in part.

This case centers on a dispute over comments posted on the website www.ripoffreport.com, operated by Defendant Xcentric Ventures, LLC (Xcentric) and founded by Defendant Magedson. Plaintiffs Asia Economic Institute, LLC and its principals, Raymond Mobrez and Iliana Llaneras assert several claims against Xcentric arising out of these posts (and Defendants' conduct related thereto), including defamation, unfair business practices, intentional and negligent interference with prospective economic advantage, and RICO. In an April 19, 2010 hearing, the district judge bifurcated the case, ruling that the case will go to trial (or be decided on motion) on the extortion portion of the RICO claim only. (Docket No. 26.)

Plaintiffs want discovery to be bifurcated as well. They do not want to have to respond to any of Defendants' discovery requests regarding the truth or falsity of their claims or to the damages they are claiming because these issues are not part of the initial phase of the case. Defendants argue that these subjects are relevant to the initial trial because the truth and falsity of the claims go to Plaintiffs' credibility and whether Plaintiffs were damaged is a necessary element to their RICO claim. The Court sides with Plaintiffs. The only issue which will be tried during the first phase of this case is the substance of the extortion claim, i.e., did Defendants attempt to extort money from Plaintiffs. (April 19, 2010

Transcript of Proceedings, pp. 21-22.) The Court made clear at that hearing that no testimony regarding the truth or falsity of any statement will be admitted nor will the issue of damages be tried during the first phase. For this reason, there is no need for discovery on any other issue. Accordingly, the Court orders that discovery is bifurcated consistent with the district judge's previous order.

Plaintiffs ask for a court order permitting them to depose Defendant Magedson without a protective order. This request is denied. Defendants have presented sufficient cause to support the issuance of a protective order and the Court hereby enters one:

> The discovery produced to date in this case and which will be produced in the future is subject to a protective order. The parties and their counsel are prohibited from disseminating this information absent court order. This order does not restrict the use of the information for court proceedings, subject to federal, state, and local laws and rules governing the disclosure of private information in public records.

Plaintiffs ask the Court to compel the deposition of Defendant Magedson. Plaintiffs may continue the deposition of Defendant Magedson, as discussed at the hearing.

Plaintiffs ask the Court to enter an order governing the conduct of the parties and their attorneys at Defendant Magedson's deposition. The Court declines this request, but makes the following observations. Counsels' conduct in this case, on both sides, has been deplorable. Counsel have acted unprofessionally, uncivilly, and, in fact, down right rude to each other. Somehow counsel seem to think that this behavior is something to be proud of, i.e., a demonstration of how tough and aggressive they are. Counsel have threatened to have opposing counsel removed from a deposition by building security, have refused to grant opposing counsel's request to take a break during a deposition on the ground that the witness is in charge of when the breaks occur, and have tag-teamed in the deposition, i.e., having more than one lawyer raise objections during the deposition. Were the Court to sanction counsel in this case, equity would demand that it sanction both sides. The Court is not inclined to do that at this stage, however. Instead, the Court will, if requested, review the videos of the depositions that have and will be taken in this case at an appropriate time and mete out sanctions accordingly. The Court would prefer not to be tasked with supervising what has turned out to

be a barnyard brawl. Counsel are admonished to raise the bar in this case and work with each other to accomplish their respective goals. If counsel are unable to do so in a civil manner the Court will intervene and sanction the attorneys for their conduct.

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