



Lisa Borodkin <lborodkin@gmail.com>

AEI et al. v. Xcentric (C.D. Cal. 10-cv-1360) Draft Rule 26f Report

David Gingras <david@ripoffreport.com>

Sun, May 2, 2010 at 1:53 PM

Reply-To: david@ripoffreport.com

To: Lisa Borodkin <lisa_borodkin@post.harvard.edu>, Maria Crimi Speth <mcs@jaburgwilk.com>

Cc: Daniel Blackert <blackertesq@yahoo.com>

Lisa,

Thanks; we will review this and get you our input on Monday.

Some unrelated housekeeping issues:

1.) I still have received no disclosure whatsoever from AEI or Mr. Mobrez or Ms. Llaneras regarding a computation of damages as required by Rule 26(a)(1)(A)(iii). As this disclosure is already overdue, I will repeat our position as stated to Dan – given the expedited nature of this case which occurred entirely at plaintiffs' request, there is simply no excuse for the plaintiffs to miss deadlines on crucial issues. You told the court two weeks ago that you were ready to take this case to trial immediately, so disclosure on basic matters such as damages should be a non-issue.

Normally, when important discovery is missing as is the case here, I would meet and confer with opposing counsel in anticipation of bring a Motion to Compel under Rule 37. Here, there is simply not enough time to go that route given our impending trial date.

As such and as I already indicated to Dan, Xcentric plans to bring a Motion for Summary Judgment as soon as possible; hopefully within no more than 2 weeks. If plaintiffs have still not complied with their disclosure obligations on or before the date that motion is filed, I will ask the court to refuse to consider any non-disclosed evidence as required under Rule 37(c)(1). Because damages are a mandatory element of your RICO claims, the continued failure to disclose evidence of damages will require the court to enter summary judgment in favor of Xcentric as to those claims. If this is acceptable to you, then I agree no further disclosure of damages is needed.

2.) I was looking at the docket recently and I do not believe that plaintiffs have filed a corporate disclosure statement as required by Rule 7.1. This is a minor but important point, so please comply with your obligations under the rule.

3.) I have not received any substantive response from you or Dan regarding my email last Thursday which included a draft protective order and which asked for assurances from you that the date/time/place of Mr. Magedson's deposition has not been disclosed to any third parties. As I stated before, the protective order itself is not urgent insofar as it relates to the production of documents since we don't yet know what documents plaintiffs are seeking.

However, the protective order is crucial as it relates to the confidentiality of Mr. Magedson's deposition. This is a serious security concern for Mr. Magedson, so we need to address this prior to his deposition. Please let me know where you stand on that issue, and just so we're clear – if you agree to keep all information about the date/time /location of the deposition confidential, and if you agree to keep the contents confidential until such time as a protective order is actually entered, then I believe our concerns will be resolved. On the other hand, if you are not willing to agree to these terms, then the deposition will not take place until an appropriate protective order has been entered.

I looking forward to hearing from you re: the above points.

David Gingras, Esq.

General Counsel

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Ripoff Report

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From: lborodkin@gmail.com [mailto:lborodkin@gmail.com] **On Behalf Of** Lisa Borodkin

Sent: Saturday, May 01, 2010 5:05 PM

To: david@ripoffreport.com; Maria Crimi Speth

Cc: Daniel Blackert; alexandra@asiaecon.org; Kristi Jahnke

Subject: AEI et al. v. Xcentric (C.D. Cal. 10-cv-1360) Draft Rule 26f Report

David,

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