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**UNITED STATES DISTRICT COURT
 MIDDLE DISTRICT OF FLORIDA**

WHITNEY INFORMATION NETWORK,
 INC.; a Colorado corporation,

Plaintiffs,

v.

XCENTRIC VENTURES, LLC, an
 Arizona limited liability company;
 BADBUSINESSBUREAU.ORG, an
 Arizona limited liability company; and ED
 MAGEDSON, an individual,

Defendants.

Case No: 2:04-CV-47-ftm-29

**NOTICE OF FILING
 SUPPLEMENTAL AUTHORITY IN
 SUPPORT OF DEFENDANTS'
 MOTION FOR SUMMARY
 JUDGMENT**

Xcentric Ventures, LLC, (“Xcentric”), and Ed Magedson (“Magedson”) (collectively, the “Defendants”) respectfully submit the following Notice of Filing Supplemental Authority in support of Defendants’ Motion for Summary Judgment.

In Plaintiff’s Response (Doc. #141; 9/10/2007) to Defendants’ Motion for Summary Judgment, Plaintiff repeatedly cited to the Ninth Circuit’s decision in *Fair Housing Council of San Fernando Valley v. Roommates.com, L.L.C.*, 489 F.3d 921 (9th Cir. 2007) (“*Roommates*”). The *Roommates* decision was cited as support for Plaintiff’s position that Defendants were *not* entitled to immunity pursuant to the Communications Decency Act, 47 U.S.C. § 230(c). In fact, the *Roommates* case was virtually the sole legal basis for Plaintiff’s opposition to Defendants’ Motion for Summary Judgment.

However, notice is hereby given that on October 12, 2007 the Ninth Circuit granted rehearing *en banc* of *Roommates* and simultaneously ordered the original decision depublished: “The three-judge panel opinion shall not be cited as precedent by or to this court or any district court of the Ninth Circuit” *Fair Housing Council of San Fernando Valley v. Roommates.com, L.L.C.*, --- F.3d ----, 2007 WL 3013891 (9th Cir. Oct. 12, 2007), 07 Cal. Daily Op. Serv. 12,175 (emphasis added).

Because the *Roommates* opinion cited by Plaintiff has been depublished, it is not proper authority supporting Plaintiff’s opposition to Defendant’s motion. This Court should therefore not rely upon or consider *Roommates* in determining whether to grant summary judgment for Defendants.

DATED January 18, 2008.

JABURG & WILK, P.C.

s/Maria Crimi Speth
Maria Crimi Speth, Esq.
Attorneys for Defendants

CERTIFICATE OF SERVICE

I hereby certify that on the 18th day of January 2008, I caused the attached document to be electronically transmitted to the Clerk's Office using the CM/ECF System for filing and transmittal of a Notice of Electronic Filing to the following CM/ECF Registrants:

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