

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

DANIEL R. CASTRO,)	
Plaintiff,)	Cause No. 1-10-CV-000695-LY
)	Hon. Lee Yeakel
v.)	
)	
ENTREPRENEUR MEDIA, INC.,)	
Defendant.)	
-----)	
)	
ENTREPRENEUR MEDIA, INC.,)	
Counterclaimant,)	
)	
v.)	
)	
DANIEL R. CASTRO,)	
Counterdefendant.)	

DEFENDANT ENTREPRENEUR MEDIA, INC.’S OPPOSITION TO
PLAINTIFF’S ADR REPORT REQUESTS

Plaintiff Daniel R. Castro (“Castro”) filed an ADR Report on June 15, 2011 (Dkt #48), in which he made numerous unsupported factual statements, and requested that the Court (i) permit Castro to file under seal the last version of the settlement agreement discussed at the mediation held on June 13, 2011, and (ii) order the Chairman/CEO of Entrepreneur Media, Inc. (“EMI”), Peter Shea, to attend the upcoming Initial Pretrial Conference so that the Court can “ask [Mr. Shea] personally what the remaining ‘significant’ issues are that would prevent the settlement from being finalized.” Castro’s ADR Report at 4.

Other than to state that Castro’s representations regarding what transpired and what was said at the mediation and in subsequent conversations are inaccurate and misleading, as well as confidential settlement communications, EMI will not respond to the substance of those

statements in a public filing such as this, but would be happy to respond substantively if the Court so requests.

EMI opposes Castro's two requests. First, per the Court's Scheduling Order, "[a]ll offers of settlement are to be private, not filed, and the Court is not to be advised of the same." Similarly, the parties' settlement negotiations and marked-up proposals should be private and should not be filed or shared with the Court. In addition, there is no reason for the Court to review the draft proposals, as they are unsigned drafts, and not binding. The parties did not reach an agreement at the mediation.

Second, it is inappropriate for Castro to seek to force the appearance of Mr. Shea at the Initial Pretrial Conference and elicit testimony from him, particularly as to what occurred during a private mediation. If the Court should require any information from EMI regarding the mediation, it can be provided through EMI's counsel at the Conference. Mr. Shea should not have to spend the time and expense of flying to Austin to provide information that can be presented much more efficiently through other means.

EMI therefore requests that the Court deny Castro's ADR Report requests.

Respectfully submitted,

Dated: June 20, 2011

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CERTIFICATE OF SERVICE

I hereby certify that on June 20, 2011, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following:

Daniel R. Castro
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/s/ Jennifer L. Barry
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