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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

MICHAEL KANTOR, et al.,  
Plaintiffs,

v.

BIGTIP, INC., et al.,  
Defendants.

CASE NO. C15-1871 MJP  
ORDER ON MOTIONS IN LIMINE

The above-entitled Court, having received and reviewed:

1. Defendants BigTip, Inc., WhoToo Inc., Demandbase, Inc., and Matt Rowlen’s Joint Motions in Limine (Dkt. No. 208) and Plaintiffs’ Opposition to Defendants’ Motions in Limine (Dkt. No. 214);
2. Plaintiffs’ Motions in Limine (Dkt. No. 210) and Defendants BigTip, Inc., WhoToo Inc., Demandbase, Inc., and Matt Rowlen’s Joint Response in Opposition to Plaintiffs’ Motions in Limine (Dkt. No. 212);

all attached declarations and exhibits, and relevant portions of the record, rules as follows:

1 Plaintiffs' Motions in Limine:

2 A. Issue adverse jury instruction as a sanction for failure to produce email database:

3 DENIED.

4 B. Exclude non-party lay witnesses from courtroom until they have testified: DENIED.

5 C. Exclude evidence about the Plaintiffs' finances and "accredited investor" status:

6 DENIED.

7 D. Exclude evidence about dismissed claims: GRANTED.

8 E. Exclude evidence suggesting SLM was responsible for failure of BigTip: RESERVED

9 FOR TRIAL.

10 F. Exclude evidence about why SLM did not invest more than \$400,000 in BigTip:

11 GRANTED.

12 G. Exclude witnesses disclosed in last two days of discovery, or not at all: RESERVED

13 FOR TRIAL.

14 H. Any ruling excluding testimony of Plaintiffs' expert should be applied to Defendants'

15 expert also: DENIED.

16 Defendants' Motions in Limine:

17 1. Exclude argument that BigTip ran out of money because of BigTip's management:

18 DENIED.

19 2. Exclude testimony and evidence beyond those plead by Plaintiffs: DENIED.

20 3. Exclude testimony of Plaintiffs' expert Ms. Barrick: DENIED.

21 4. Exclude speculative testimony about the disposition of any of BigTip's assets: DENIED.

22 5. Exclude hearsay testimony about the operation, employees, or management of BigTip or

23 WhoToo: DENIED.

- 1 6. Exclude testimony from Elisha Gilboa (SLM) or any other Plaintiff that Rowlen forged  
2 or otherwise improperly created or post-dated documents: DENIED.
- 3 7. Exclude any reference to Defendant Rowlen as a crook or a fraud: DENIED.
- 4 8. Exclude testimony/evidence about prior claims against BigTip, WhoToo, or Rowlen that  
5 were voluntarily resolved or are pending, including the Shannon employment matter and  
6 the Dun & Bradstreet contract dispute: GRANTED.
- 7 9. Exclude any references by Shannon to the web crawler program as “source code”:  
8 DENIED.
- 9 10. No argument that Rowlen was motivated by fraud to start WhoToo: DENIED.
- 10 11. Exclude all references to insurance coverage for any entity: RESERVED FOR TRIAL.

11  
12 The clerk is ordered to provide copies of this order to all counsel.

13 Dated: April 16, 2018.

14 

15 The Honorable Marsha J. Pechman  
16 United States Senior District Court Judge