

IN THE IOWA DISTRICT COURT FOR SAC COUNTY

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STATE OF IOWA,	:	CVCV019540
Plaintiff,	:	
vs.	:	
XCENTRIC VENTURES LLC. (DBA WWW.RIPOFFREPORT.COM),	:	MOTION TO DISQUALIFY PROSECUTOR (Brief to follow)
Defendant.	:	

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COMES NOW the Defendant, by attorneys, Peter W. Berger and Maria Crimi Speth, and in support of Motion to Disqualify Prosecutor states the following:

1. Significant and numerous appearances of conflict of interest, and impropriety, have arisen between the prosecutor herein, and the Defendant, and its founder, Mr. Ed Magedson, which require hearing on the merits of same.
2. As will be set out in detail in Defendant's Brief in support of this Motion, it is clear that the prosecutor has aligned himself with at least two, possibly more persons, who have inside-information about the above captioned case; and who are using it against the Defendant in a manner consistent with the prosecutor's personal interest and personal motives, and inconsistent with the needs of his constituents, and ethical protocol.
3. The above referenced persons are in opposition, vigorously, aggressively, and often, in internet forums, to the designed, and actual detriment of the Defendant herein, and its founder, Mr. Ed Magedson. The opposition has taken the form of regularly posted harassment and threats about Defendant that have included advance

knowledge of the Meade Trial Information, and information leaked from the Sac County Attorney's Office (unless some other credible explanation can be advanced), including privileged and confidential information which appears to have be obtained by County Attorney Subpoena, and/or by other means, in furtherance of its "investigation".

4. The above-referenced opposition is consistent with the prosecutor's release of libelous criminal accusations against Mr. Magedson, in the unsealed 120 page Richter search warrant affidavit; consistent with the accusations lodged in the State's 915 Application herein; and consistent with the appearance of the prosecutor's personal interest in retaliating against the Defendant, and its founder Mr. Ed Magedson for allowing a public discourse on its website, that strongly criticizes the prosecutor, Sac County Attorney, Mr. Ben Smith, along with the posting of his photo on thousands of pages therein.

5. The prosecutor has a vested personal interest in trying to shut down, damage, or otherwise impede the Ripoff Report website. By pursuing the Application in this case, he is seeking to cause removal of content from the Ripoff Report website in contravention of the Communications Decency Act, 48 U.S.C. §230, the First Amendment, and due process of law. He has acted in this manner not because of the best interests of the State of Iowa, or in furtherance of a legitimate public purpose, but instead with the appearance of, or in actual fact, to hide public criticism about himself and persons he is aligned with.

WHEREFORE, the Defendant, by counsel moves the Court, at hearing, to

disqualify the prosecutor of record herein, for the reasons stated above, and as further described in Defendant's Brief.

BERGER LAW FIRM, P.C.

/s/ Peter W. Berger

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CERTIFICATE OF SERVICE

I hereby certify that on September 19, 2014, I electronically filed this document with the Clerk of Court using the Electronic Filing system which will serve it on the appropriate parties.

Signature: /s/ Peter W. Berger