

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO**

Civil Action No. 11-CV-02022-WYD-MEH

CORY ROTH,  
PLAINTIFF

V.

EASYSTREETSPORTS.COM,  
THERX.COM aka THERXFORUM.COM,  
MARTY JANSEN,  
MR. ALEX POWERS,  
WILHEIM DOE (FAMILY NAME UNKNOWN),

DEFENDANTS

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**MOTION TO VACATE SCHEDULING ORDER  
AND CONVERT TO STATUS CONFERENCE**

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Now comes the Plaintiff, Mr. Cory Roth, by and through his Attorney, Warren R. Markowitz, Esq, requesting this Honorable Court to Vacate the Scheduling Order issued on the 15<sup>th</sup> day of August 2011, by the Honorable Michael E. Hegarty, and to convert the associated Scheduling Conference set for the 24<sup>th</sup> of October 2011 to a Status Conference.

**1. STATEMENT OF FACTS**

Plaintiff Roth is a citizen of the State of Florida and the United States of America

Defendants are citizens and residents of various foreign jurisdictions; including but not limited to, based on reasonable assumptions, Costa Rica and British Columbia, Canada.

Defendant EasySteetSports.com has acknowledged publicly that an obligation exists to Plaintiff Roth.

Defendant TheRXForum aka TheRX.com willfully interjected itself into the conflict between EasySteetSports.com and Plaintiff; their willful involvement resulted in substantial reputational and

financial harm to the Plaintiff.

Both Defendant's and their associated persons, Marty Jensen, Wilhelm Doe (last name unknown) and Alex Powers, wilfully and openly used disparaging language and actions to smear and undermine the credibiliy of the Plaintiff through the use of their resources and the Internet.

TheRXForum aka TheRX.com and their associated Defendants, willfully induced EasySteetSports.com to withhold the funds owed to Plaintiff, thereby causing actual harm to the Plaintiff.

Due to the harm caused to the Plaintiff, Plaintiff was forced to retain counsel.

Jurisdiction is proper under 28 USC 1332, Diversity of Citizenship, due to the international nature of the Defendants and claims exceeding \$75,000.00.

Prior to commencing litigation, on May 19<sup>th</sup> 2011, Counsel for the Plaintiff, Warren R. Markowitz, Esq, forwarded a demand letter via e-mail to the Defendants in an attempt to resolve this matter without further costs and time. The Defedants did not reply to the demand.

Attorney for Plaintiff later contacted EasySteetSports.com via telephone, and spoke with Mr. Alex Powers. Counsel was informed by Defendant Powers that he would be contacted by Defense Counsel. No such contact has occurred as of today, October 20<sup>th</sup> 2011.

Plaintiff's Counsel thereafter commenced the action against the Defendants.

Due to the international nature of the Defendants; Plaintiff's Counsel investigated and located mailing addresses and locations that were associated with the several Defendants.

Upon filing the complaint, Plaintiff's Counsel used First Class Registered Mail to notify the Defendants of the pending action.

Plaintiff's Counsel used available Social Networking, whereby the Defendant's were reasonably assured to receive notice of the pending action.

Plaintiff's Counsel used the published and open email addresses posted on the Defendant's own websites, and the same ones that were included in the original demand letter, to send e-mail to the Defendant's containing links to a downloadable file containing the Summons and Complaint and other documents.

As of today, the 20<sup>th</sup> of October 2011, none of the Defendants have chosen to contact the Plaintiff's Counsel, have identified Defense Counsel or replied in anyway to the pending action.

## **2. STATEMENTS AND ACTIONS IN SUPPORT OF FACTS**

Plaintiff has taken all steps to comply with the orders of this court.

Plaintiff has taken all reasonable steps to comply with the Federal Rules of Civil Procedure, relating to service of process

The actions of the Defendants, acknowledging the demand letter on the telephone, having been sent by email to Defendants Jensen and EasySteetSports.com, stating that Defense Counsel will reply establishes a presumption that the documents have been received without delay.

E-mail is assumed to be delivered if the receiving computer server does not reject the received e-mail and provides notice to the sender that the e-mail address was invalid. Plaintiff's Counsel believes that the documents have been received by the International Defendant at their posted E-Mail addresses, due to the lack of rejection by the servers.

In support of the Defendants' awareness of the action pending against them, the Defendants have changed or removed the pages from the respective websites that included and identified the Defendants and their respective e-mail addresses.

Plaintiff has reason to believe that the Defendants received notice through Facebook, a social networking site, on which they maintain one or more pages relating to their operations, as the Defendants have taken action to remove the postings and to block Plaintiff's Counsel from access to the page.

The actions of the Defendants indicate that they are working in concert to deny the Plaintiff his rightful property.

### **3. REQUEST FOR RELIEF**

After considering the above noted facts, Plaintiff's by and through his Counsel requests that this Honorable Court vacate the scheduling order and in its place put a Status Conference.

RESPECTFULLY SUBMITTED this 20<sup>th</sup> day of October, 2011

By: /s/ Warren R. Markowitz, Esq  
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Attorney for Plaintiff Cory Roth

## CERTIFICATE OF SERVICE

I hereby certify that on the 20<sup>th</sup> day of October 2011, I electronically filed with foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following email addresses:

THE LAW OFFICE OF WARREN R. MARKOWITZ, ESQ  
Warren R. Markowitz, Esq  
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Las Vegas, NV 89130  
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Attorney for Plaintiff Cory Roth,

and I hereby certify that I have mailed or served the document or paper to the following non CM/ECF participants in the manner (mail, hand-delivery, etc) indicated by the non-participants name:

### Via First Class Postage Paid and Electronic Mail

<b>EASYSTREETSPORTS.COM,</b> <a href="mailto:cs@easystreetsports.com">cs@easystreetsports.com</a> Fabricio Ruiz, Cosei SRL San Jose San Jose, San Jose 1289-1011 Costa Rica Via Email and First Class Postage	<b>THERX.COM aka THERXFORUM.COM,</b> <a href="mailto:rig@irigua.com">rig@irigua.com</a> The RX Forum/TheRX.com 10500 Sceptre Crescent Richmond, British Columbia V7E 2A7 Canada Via Email and First Class Postage
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	<b>WILHEIM DOE (FAMILY NAME UNKNOWN)</b> <a href="mailto:wilheim@therx.com">wilheim@therx.com</a> The RX Forum/TheRX.com 10500 Sceptre Crescent Richmond, British Columbia V7E 2A7 Canada Via Email and First Class Postage