

**Disclosure:** The author has no positions in any securities mentioned in this report. Prior to the public release of this report, the author submitted a formal whistle-blower report to the US Securities and Exchange Commission.

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## **Behind the Scenes with Vuzix, Sichenzia and IRTH**

**About this report.** The events described in this report necessarily revolve around things that are happening to me, but please do not read this report as being just about Richard Pearson. This report shows in great detail just how easily and effectively a company or individual can strategically weaponize the legal system to silence its critics. For anyone who may ever feel tempted to publicly voice some negative opinion online, it is important that you read and understand the events and activities that I have laid out below. These actions against me have certainly been extremely unpleasant, expensive and time consuming. However, these events now also provide me with an opportunity to give you front row seats as to how this stuff works in practice. I hope you will all find this analysis informative and useful.

So let's begin.

**My name is Richard Pearson.** I am a private investor in Los Angeles and I publish my research here at [Moxreports.com](http://Moxreports.com). Over the years, many of my reports have been warnings about fraudulent stock promotions. My warnings have (unfortunately) been very accurate predictors of subsequent real world outcomes. Subsequent to my reports, many of the companies I had warned about ended up being delisted and/or became the subject of federal investigations or indictments over securities fraud. Across my many reports it is also easy to see that when I uncover indications of fraud that it is my standard practice to file whistle-blower reports to the SEC prior to publicly releasing these reports.

Link: [Moxreports.com - Past Reports](http://Moxreports.com - Past Reports)

Details about me and my background can be found at [Moxreports.com/About](http://Moxreports.com/About), and on my [LinkedIn page](#), and on my [Twitter page](#) and on [SeekingAlpha.com](http://SeekingAlpha.com).

A few of the subsequent outcomes which followed my past reports can be found at [Moxreports.com/outcomes](http://Moxreports.com/outcomes). Many more can be found via Google.

In 2017 and 2018, I wrote bearish reports about two publicly listed companies based in New York where I had observed signs of securities fraud. Following my reports, the share prices of those companies declined sharply and each of them filed lawsuits alleging that statements in my reports were false and defamatory.

The total damages supposedly being sought by these two lawsuits was stated as a quarter of a billion dollars. Not surprisingly, these large lawsuits made a few headlines and the share prices of both companies rebounded briefly after the suits were announced.

However, when both of these companies filed their lawsuits, they did not actually file against me (Richard Pearson in Los Angeles). Instead, both companies filed their lawsuits against someone named "Ricardo Antonio Pearson". They claimed that my name (Richard Pearson) was just a pseudonym.

After filing their lawsuits against the wrong person, both companies then stated to the courts that they were entirely unable to locate that supposed author of those supposedly defamatory reports, despite their claims that they had made significant efforts to do so.

The law firm which is behind the current "Ricardo" campaign is Sichenzia, Ross, Ference (the "Sichenzia" law firm). As I have already stated in my [court filings](#), I am more than confident that they they know exactly who I am and where I am. Up until September 2018, this law firm was known as Sichenzia, Ross, Ference, Kesner and I provide more details on this firm below.

***Weaponizing the legal system to silence critics.*** This “Ricardo” tactic against me started in 2017, so it has now been going on for more than two years. Some people might assume that a lawsuit filed against the wrong person and in the wrong state would be quickly and easily thrown out by the court. However, I will illustrate below how this assumption is entirely wrong.

As you will see below, this is not small claims court. The state and federal courts have extensive rules and procedures in place in an effort to provide both plaintiffs and defendants with an adequate process to hear all sides of various grievances, which in some cases can get quite complex. Overall, such legal mechanisms are a good thing and their purpose is to ensure a fair process for all parties who are seeking a legitimate resolution to a legitimate dispute.

But when a plaintiff's goal is simply to prolong litigation with no intention of winning it, such rules and procedures can be tactically exploited just to create a deep legal quagmire against a defendant. As part of my analysis below, I have mapped out a series of filings across these two “Ricardo” suits so that readers can see how each new filing by a plaintiff can add significant incremental time and expense for the defendant while having (in my opinion) little apparent impact on the ultimate odds of winning the lawsuit itself. As I will show, such things can go on to an extent that most people would not believe to be possible.

***The damage to the defendant extends to well outside of the courtroom.*** When people Google my name (“Richard Pearson”) or my website, they will end up seeing a slew of articles and court filings saying that the name “Richard Pearson” is nothing more than a pseudonym and that I am actually some guy named “Ricardo” who lives in New York and defrauds the public. The people who regularly see such things include friends, neighbors, former classmates and colleagues, new social acquaintances, banks, potential business partners and property agents.

From a practical standpoint, putting out a few blog posts denying that I am some guy named “Ricardo”, denying that I live in New York and denying that I am committing fraud would not really resolve these issues. And even though this stuff gets comically absurd, getting it resolved in the court system is far more time consuming and expensive than most people could ever imagine. This report will help you all understand those issues in greater detail.

***Important note regarding the actual Ricardo Antonio Pearson.*** I am pretty sure that the material you read in this report is going to shock you. Really. It is seriously going to shock you. But as you read this material, please remember that there really is a guy out there with the name Ricardo Antonio Pearson. Wherever he may be, the improper use of his name is just as unfair to him as all of this is to me. Please be aware that when I make references to “Ricardo” in this article these are not references to any real person named “Ricardo Antonio Pearson”. My references to the name “Ricardo” are to that name as it erroneously appears in the lawsuits which I describe.

The contents of this report are organized as follows:

**Section I: The Sichenzia law firm – a bit of background**

**Section II: How did this “Ricardo” stuff ever begin in the first place ?**

**Section III: Sichenzia and Vuzix (Why did “Ricardo” suddenly move from CA to NY ?)**

**Section IV: Was the goal to win litigation (or just to prolong it ?)**

**Section V: Conclusion: “Implausible Deniability”**

**\*\*\* SECTION I: SICHENZIA LAW FIRM – A BIT OF BACKGROUND**

**Greg Sichenzia and Three Card Monte.** In the book “*Small Stocks, Big Gains*”, an investor relations professional named Dave Gentry wrote profiles about a handful of individuals who he described as “Microcap Superstars”, including Phil Frost and Barry Honig. This book dedicated an entire chapter (Chapter 13) to Greg Sichenzia, whose namesake law firm has been one of the most prolific advisers to cash-hungry and volatile microcap companies. Gentry’s book includes a quote from Mr. Sichenzia which has now become prophetic:

“Microcaps are a three-card-Monte play. If you don't know how to play, stay away.”

—*Greg Sichenzia, founding partner, Sichenzia  
Ross Friedman Ference LLP, Microcap Superstar*

Link: [Small Stocks, Big Money: Interviews With Microcap Superstars](#)

Let’s be clear on two things here. Three card monte is a very [well known con game](#). It is a fraud. And Greg Sichenzia is warning people that if they don’t know how to “play” this microcap con game, then they should simply “stay away”. This warning from Greg Sichenzia is entirely consistent with the warnings that I have personally expressed in multiple past reports about companies which were clients of Sichenzia, which were later delisted amid high profile fraud indictments or investigations by the SEC.

Up until September 2018, Mr. Sichenzia’s law firm was known as Sichenzia, Ross, Ference, Kesner. Partner Harvey Kesner left the firm just days ahead of sweeping securities fraud charges by the SEC involving numerous clients of Sichenzia. Shortly after these SEC fraud charges, one of Sichenzia’s clients (Mabvax Therapeutics) filed a lawsuit in California against the Sichenzia firm and its current and former partners including Kesner. And now in April 2019, Mabvax filed a second suit against a group of investors and IR firms which has also been involved, including Santa Monica based IRTH Communications and its two founders, brothers Andrew and Robert Haag in Los Angeles. Below are the links to the complaints in these cases which include relevant data and information.

Link: [Securities and Exchange Commission vs. Honig et al.](#)

Link: [Mabvax vs. Honig \(including IRTH and the Haag brothers\)](#)

Link: [Mabvax vs. Sichenzia](#)

**The “Ricardo” lawsuit filed by Vuzix.** In March 2018, I wrote a report about a micro cap client of Sichenzia called Vuzix Corp. (VUZI), which is based in Rochester, New York. My conclusion about microcap Vuzix was pretty much in line with the quote from Greg Sichenzia shown above. I said that Vuzix showed obvious signs of securities fraud such that I expected the share price to decline significantly. The signs of fraud that I referred to at Vuzix were six signs which had been explicitly identified and defined by the SEC on its website. And Vuzix met not just “any” but rather all of those six signs of fraud that the SEC had warned about. In my opinion, this was a stock that investors should certainly “stay away” from. At the time, I was short Vuzix, which I clearly disclosed in my report. My report includes dozens of exhibits and screen shots of documents to substantiate my concerns about signs of securities fraud.

Link: [Updated Investor Alert: Fraudulent Stock Promotions](#) (sec.gov, 29-Mar-16)

Shortly after I published my report, Vuzix (represented by Sichenzia) filed a defamation lawsuit over a very small number of statements that they had plucked out of the report. However, these statements were taken in isolation and it is deeply notable that when Vuzix filed its lawsuit, they did not even attach my report to the complaint !

Not attaching my report to the complaint was very telling. Even more telling was the fact that Vuzix and Sichenzia did not file their lawsuit against me (Richard Pearson, the author in Los Angeles who wrote the Vuzix report), but instead they filed it against some guy named "Ricardo Antonio" who Vuzix and Sichenzia say lives in New York, not Los Angeles.

Below is a link to my report as well as a link to the complaint filed by Vuzix against "Ricardo Antonio". Please read my Vuzix report and then form your own conclusion.

Link: [Short VUZI. Fraud](#) (Moxreports.com, 16-Mar-2018)

Link: [Vuzix Corp vs. "Ricardo Antonio Pearson"](#) - lawsuit complaint (05-Apr-2018)

**\*\*\* SECTION II: HOW DID THIS RICARDO STUFF EVER BEGIN IN THE FIRST PLACE**

This "Ricardo tactic" began in 2017 with a lawsuit filed by New York based Cemtrex Inc. (CETX), following a bearish report I had written on that company which I had also published here at Moxreports.com. That lawsuit back in 2017 said that some guy named "Ricardo Antonio Pearson" had written an untrue report about Cemtrex so that he could profit from short selling Cemtrex's stock. That lawsuit asserted that the name on the report "Richard Pearson" was just a pseudonym being used by "Ricardo Antonio". But the suit was abruptly dropped without Cemtrex ever serving me. As a result, my view is that the point of that first suit was simply to make indirect allegations against me (in court and in the press) so as to discredit my report, without Cemtrex running any risk of having to respond to my concerns in court. Here is a link to my Cemtrex report from 2017 which I encourage you to read.

Link: [Short CETX. Documents and Photos, All Signs Point to Fraud](#) (Moxreports.com, 22-Feb-17)

Link: [Complaint. Cemtrex vs. "Ricardo Antonio Pearson"](#) (06-Mar-17)

**Why that specific name "Ricardo"?** Back in 2017, I still had a private Facebook page on which a very small number of friends would jokingly refer to me by nicknames like "[Ricardo](#)", "[Uncle Rico](#)" or "[Rico Suave](#)". The term "Uncle Rico" is an overly excessive insult (referring to the washed up uncle in the movie Napoleon Dynamite) and the term "Rico Suave" is an overly gratuitous compliment (referring to 1990's Latino sex symbol pop star Gerardo). *Click the links below for the meanings of these nicknames, which I think you may find amusing, even if I do not.*

Link: [Urban Dictionary. Ricardo.](#)

Link: [Urban Dictionary. Uncle Rico.](#)

Link: [Urban Dictionary. Rico Suave.](#)

Link: [Buy an Uncle Rico Costume](#)

Link: [Rico Suave – the must watch video that made Rico Suave famous](#)

Because I had the account settings for this Facebook page set to very high privacy, it was not publicly displayed and it could not be found by searching for it by my name, email or phone number. As far as I know, the only way for someone to find it would be if they had already figured out who my personal friends or neighbors were and then they successfully added one or more of my Facebook friends as their own. Only by becoming "friends of my friends" could someone see some of the details on my private Facebook page. Thus, the naming of "Ricardo" in 2017 sent a message to me that was far more powerful than the filing of the lawsuit itself. And that, I believe, was the entire point of this "Ricardo tactic" back in 2017.

My biographical details as Richard "Rick" Pearson in Los Angeles and China are consistent across various social media sites. And in sharp contrast to my Facebook page, my biographical details are very easily found by searching for my name next to things like: Moxreports, Los Angeles, China, Deutsche Bank, convertible bonds, private investor, short seller, undisclosed stock promotions and so on.

My web site and social media accounts all include ways to reach me via email or direct message, as is visible at [moxreports.com](#), Twitter [@Moxreports](#), Seeking Alpha ([Richard Pearson](#)) and LinkedIn ([Rick Pearson](#))

In addition, well before the Cemtrex suit had been filed in 2017, mainstream financial media had already been making regular mention of my work on exposing fraudulent stock promotions. Yet Cemtrex's lawsuit would have us believe that they missed all of these very public references to me (Richard Pearson) when they identified some fellow named "Ricardo Antonio Pearson". Below are a few of the articles which mention me by name for my work exposing stock promotions and which were readily available during Cemtrex's lawsuit against "Ricardo".

- [Surprise! People weren't analyzing biotech penny stocks just for kicks](#) (FT.com, 2017)
- [Northwest Bio: Biotech Accused in Stock-Pump Scheme](#) (Barron's, 2014)
- [Special report: The "shorts" who popped a China bubble](#) (Reuters, 2011)
- [An Insider's Tale of a Stock Promotion Plan](#) (Barron's, 2014)

Cemtrex's attorney for this lawsuit was [Thomas Fleming](#), a partner in the [Activist Group at Olshan Frome](#) and they had 90 days to serve their named defendant "Ricardo Antonio Pearson". That 90 day deadline is the rule in New York federal court and it came out to June 5, 2017.

On May 31, 2017, just days before that deadline, a law clerk from Olshan named Jake Noone emailed me at my office in Los Angeles saying he was looking for work. He emailed me at the same email address which uses my name and which I have been publicly displaying for many years ([rick.pearson@pearsoninvestment.com](mailto:rick.pearson@pearsoninvestment.com)). Mr. Noone's pitch to me on May 31, 2017 was this:

*"I am looking to work for an activist fund and I thought I would reach out to you since you have been extremely influential in the space"*

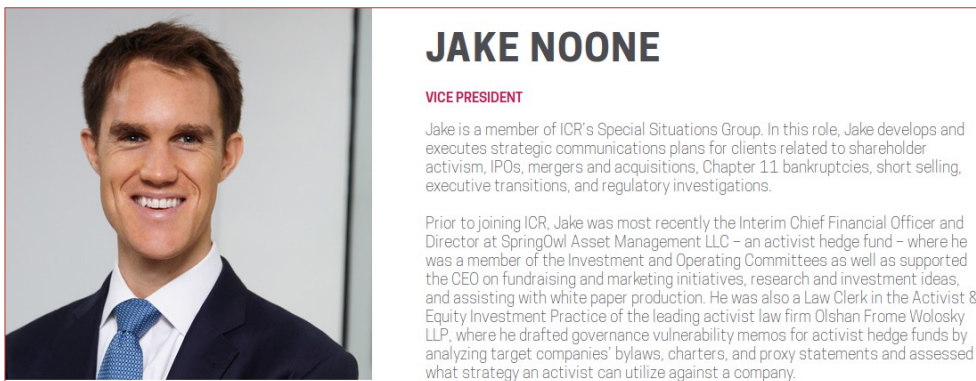
Mr. Noone and I exchanged numbers and then had a cordial phone call for maybe 30 minutes or so, still from my LA office, and then we hung up. As part of this supposed employment discussion, Jake Noone and I talked about where I am in LA and where my office is. During this time, Noone never mentioned any lawsuit. Just a few days later, on June 5, 2017, Cemtrex and Olshan Frome (Thomas Fleming) voluntarily dismissed the "Ricardo" lawsuit saying that:

*"Despite making seven attempts, Cemtrex has been unable to serve defendant Ricardo Antonio Pearson a/k/a/Richard Pearson ("Pearson"), within the 90-day time limit set forth in Rule 4(m)."*

A copy of Mr. Noone's email to me and Cemtrex's dismissal filing are included in the Declarations section of my Motion to Dismiss as Exhibits H and I which I submitted to the federal court. Screenshots are included below.

Link: [Richard Pearson Motion to Dismiss Files](#) (including exhibits and attachments)

Jake Noone now works for "investor relations" firm ICR Inc. which has offices in New York and in [Santa Monica](#). Among other things, Noone is responsible for drafting so-called "strategic communications plans" for his clients when they have issues related to short selling. [Mr. Noone's bio](#) shows clearly that he was a law clerk at Olshan in the same Activist group where Mr. Fleming is a partner.



**After the Cemtrex suit was filed, web-based news outlets disseminated the "Ricardo" narrative out from just court filings into the mainstream media.** When Cemtrex put out their initial press release on March 6<sup>th</sup>, 2017 they did not use the name "Ricardo" in the title. Instead, in the title of their press release they stated that they had filed a lawsuit against "Richard Pearson". As a result, when people view results for my name (Richard Pearson) in search engines, the most prominent thing they see is the name Richard Pearson in connection with this suit, even though the real law suit was actually filed against someone else entirely. Here is a link to that press release by Cemtrex.

Link: [Cemtrex Files \\$170 Million Lawsuit against Richard Pearson, Seeking Alpha author, and Others for Trade Libel](#) (Cemtrex PR, 06-Mar-17)

After Cemtrex put out this press release, there were a number of small online media sites which then published their own articles to get the story around into mainstream circulation. Most of these articles were visibly very cautious in their choice of words and simply quoted language directly from the suit itself. As a result, in most cases there would be much less risk (for them) that these articles could be argued as being defamatory against me.



Yes, a lawsuit was indeed filed. And yes, that lawsuit did in fact name some guy named “Ricardo”. And yes, that lawsuit did indeed say that “Ricardo” uses the pseudonym Richard. And so on. A number of these media outlets were based not far from Cemtrex, in or around Long Island.

**Link:** [Cemtrex files \\$170M libel suit against financial blogger](#) (Newsday.com, March 6, 2017)

*“Cemtrex Inc. Monday filed a \$170 million libel lawsuit against financial blogger Ricardo Antonio Pearson, whose posting on a financial website last month was blamed for sending the company’s stock sharply lower.”*

*“The lawsuit also says that Pearson, whom it asserts wrote the blog under the name “Richard Pearson,” made “false and defamatory statements” about Cemtrex’s outside accountants and auditors.”*

**Decide for yourself:** Please look at the facts and circumstances presented here and make your own decision as to whether or not Cemtrex and Olshan – including Thomas Fleming and Jake Noone - knew who and where I was when they filed this suit against “Ricardo” as well as when they dismissed that suit in June 2017, just after I received that email and phone call.

The screenshots below have been taken from my filings to the federal court which show the initial email sent to me by Olshan Frome clerk Jake Noone on May 31, 2017 as well as the notice of dismissal of the suit by Cemtrex just a few days later, filed and signed by Olshan partner Thomas Fleming where Fleming stated that he had been unable to find the defendant “despite making seven attempts”.

1/6/2019

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Richard Pearson &lt;rick.pearson@pearsoninvestment.com&gt;

**Activist Investing**

10 messages

**Jake Noone** <jnoone1@law.villanova.edu>

Wed, May 31, 2017 at 5:01 AM

To: "rick.pearson@pearsoninvestment.com" &lt;rick.pearson@pearsoninvestment.com&gt;

Dear Rick:

I hope this message finds you well. My name is Jake Noone and I am currently a Law Clerk at the leading law firm in representing activist investors, Olshan Frome Wolosky LLP

To provide some background about myself, I graduated from Villanova Law last year and I decided to go straight into investment banking because I found it to be far more interesting than law. I somehow landed an off-cycle internship at Houlihan Lokey during my last semester of law school through cold-calling Villanova Law alum. I commuted back and forth from Villanova (outside of Philly) to New York every week for that semester. I worked in the M&A Group, focused on activism and activist defense. However, as you might know, the activist group took a significant hit with several key members leaving the firm. I waited around for quite some time to see if HL would rebuild the group, but things weren't moving very quickly and I began to doubt whether it would ever happen.

I accepted an offer from Olshan in February, partially because I knew that they represented the most activist investors on the street and partially because I was in a difficult position at HL. While things are going smoothly at Olshan, my instincts during law school seem to have been correct as I am not enjoying the legal side of activism as much as the investing side. Many people ask me why I even went to law school, and while there are numerous reasons, the one that trumps all is that it is a useful degree to have and the skills learned in law school cannot simply be taught elsewhere.

To make a long story short, I am looking to work for an activist fund and I thought I would reach out to you since you have been extremely influential in the space. I am not the best at selling myself, but I do think I can significantly contribute to your firm as I have been in the space for over a year and I have had exposure to many different roles. I can build white papers, create in-depth governance vulnerability analyses, screen for various targets, and help with business development.

My apologies for the lengthy note, but I always try to be sincere when reaching out to people. If you know of any opportunities or of anyone I could contact, I would greatly appreciate it.

I am free for a call or meeting at your convenience.

Thank you,  
 Jake



UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

CEMTREX, INC.,

2:17-cv-01258-JS-AKT

Plaintiff,

v.

RICARDO ANTONIO PEARSON, a/k/a  
RICHARD PEARSON and JOHN DOES No. 1-  
10,

Defendants.

**NOTICE OF VOLUNTARY DISMISSAL PURSUANT TO F.R.C.P. 41(a)(1)(A)(i)**


Plaintiff Cemtrex, Inc., by its counsel hereby voluntarily dismisses this action, without prejudice, pursuant to Federal Rule of Civil Procedure 41(a)(1).

Despite making seven attempts, Cemtrex has been unable to serve defendant Ricardo Antonio Pearson, a/k/a Richard Pearson ("Pearson"), within the 90-day time limit set forth in Rule 4(m). Given the uncertainty of successful service and the significant expenditure of time and money additional attempts at service will involve, Cemtrex wishes to focus its resources on defending the related putative securities class action litigation resulting from Pearson's false accusations. Cemtrex anticipates that it will prevail in the securities litigation, and reserves the right to re-file its claims against Pearson at that time.

Dated: New York, New York  
June 5, 2017

OLSHAN FROME WOLOSKY LLP

By:

  
Thomas J. Fleming  
Attorneys for Plaintiff  
1325 Avenue of the Americas, 15<sup>th</sup> Floor  
New York, New York 10019  
(212) 451-2213

*Note: Harvey Kesner was a partner at Olshan Frome until 2006, a partner at Hayes Boone until 2009 and then from 2009 a partner at Sichenzia. Mr. Kesner left Sichenzia just days before the SEC announced federal fraud charges in September 2018 against 10 individuals and 10 associated entities in connection with fraudulent activities around multiple Sichenzia clients who had worked directly with Kesner. Mr. Kesner was not named in that SEC action, but was named in subsequent civil litigation by Mabvax alleging fraud. Details are provided in the links below, including the complaints filed by Mabvax.*

Link: [Harvey Kesner \(LinkedIn.com\)](#)

Link: [Haynes and Boone New York Helps Long Island Renewable Energy Company Clear Skies Group](#) (Prweb.com, 08-Apr-08)

Link: [Removal of Haynes and Boone N.Y. Partner Spawns Dueling Lawsuits](#) (New York Law Journal, 01-Jun-10)

Link: [Sichenzia Ross Ference Kesner LLP Announces Change of Name](#) (Marketwired.com, 17-Oct-16)

Link: [The Lawyer at the Center of SEC Pump-and-Dump Case](#) (04-Oct-18)

Link: [SEC Charges Microcap Fraudsters for Roles in Lucrative Market Manipulation Schemes](#) (SEC.gov, 07-Sep-19)

Link: [Mabvax vs. Honig](#)

Link: [Mabvax vs. Sichenzia](#)

**\*\*\* SECTION III: SICHENZIA AND VUZIX. ( WHY DID "RICARDO" SUDDENLY MOVE FROM CA TO NY ?)**

**Vuzix Corp. vs. Ricardo Antonio Pearson.** Apparently the sequel is always worse than the original. In March of 2018, I wrote a bearish report about Vuzix Corp (VUZI) here at Moxreports.com where I again expressed my concerns about signs of fraudulent stock promotion. The concerns I expressed in my Vuzix report were very similar to the concerns I had expressed in my Centrex report, which I had also written here at Moxreports.com. And throughout my Vuzix report I had explicitly referred to the activity behind Centrex, including making numerous explicit references to my earlier Centrex report.

Not only were Vuzix and Centrex using very similar promotion tactics, but both companies had also made significant use of the same tiny IR firm: *IRTH Communications*. Below is a link to my 27 page Vuzix report which contains dozens of exhibits and screenshots including documents used by IRTH Communications.

Link: [Short VUZI. Fraud](#) (Moxreports.com, 16-Mar-18)

Shortly after I published this Vuzix report, Vuzix filed a lawsuit regarding the statements I had made. And in a redux of the Centrex tactic, they also named the same "Ricardo Antonio" fellow that Centrex had named the year before.

***And this is where things devolved even further.***

*IRTH Communications* is a tiny little "investor relations" firm located on Wilshire Blvd. in Santa Monica which specializes in gaining favorable investor attention for microcap companies. The microcaps who use IRTH (including both Vuzix and Centrex) have consistently been very frequent attendees of the LD Micro investor conference, which is held just a few miles away on Sunset Blvd. Not far from both of these, also on Wilshire Blvd, are the Santa Monica offices of ICR Inc, the "investor relations" firm which employs Jake Noone.

**Got it ?**

OK.....sooooo.....

I live just a few miles from Santa Monica and I have been attending that LD Micro conference for a number of years. This conference is not a big conference like the Roth conference in Orange County. Instead, LD Micro is held in the atrium of the smallish [Luxe Hotel](#) on Sunset Blvd, West of the 405. The public conference area is in the atrium of this "boutique hotel" hotel and there are only a small handful of meeting rooms which sit adjacent to this atrium where the presenting companies give their presentations. For context about the size of the conference, here is the [website for the Luxe Hotel](#).

My attendance at LD Micro is widely known and I am easily recognized when I walk around, especially because I wear an official LD name badge that says "Rick Pearson" in big letters. Over the years, I have written some pretty scathing bear articles about microcaps, including many companies who have attended this same conference. But instead of being rude to me, many of the corporate attendees at LD Micro go visibly out of their way to be overly polite to me. This occasionally gets a bit comical.

In any event it is very well known among conference attendees that I live in LA, close to Santa Monica and that I attend this LA conference where I am very easily recognized as a result of the reports that I publish here at Moxreports.com.

***Playing a game of "Where's Ricardo" (the important significance of NY state court vs federal court)***

If either Centrex or Vuzix actually felt that they had a claim against me, they should have filed their lawsuits against me (Richard Pearson) instead of filing them against some guy named "Ricardo Antonio". That part is obvious. But the next part is likely not so obvious to most outside observers. And this is where this all gets much more interesting.

Depending on the legal tactics being used at any given moment, the assumed location of this "Ricardo Antonio" fellow was moved from city to city and from state to state. And here is how this worked.

**Phase I. Centrex and Thomas Fleming initially stated that “Ricardo” was living in Santa Monica, CA.** When Centrex announced their lawsuit, their counsel (Olshan attorney Thomas Fleming) gave an interview to Newsday.com, which was referenced in an article published on March 6, 2017. Towards the bottom of that article, Olshan’s Thomas Fleming is quoted by Newsday as follows:

*“Thomas Fleming, an attorney at Olshan Frome Wolosky LLP, the Manhattan law firm that filed the lawsuit on behalf of Centrex, said that **Pearson is believed to be in Santa Monica, California.**”*

Link: [Centrex files \\$170M libel suit against financial blogger](#) (Newsday.com, March 6, 2017)

It is not even remotely surprising that Thomas Fleming and Centrex immediately knew that I live near Santa Monica. As I said above, I have found that this is generally well known among the many attendees of LD Micro, including IRTH Communications and its clients.

**Phase II. But when Centrex and Olshan filed the actual lawsuit in court, Thomas Fleming stated to the court that defendant “Ricardo” lived 300 miles away in Alameda, CA.** When Centrex and Olshan filed the actual lawsuit in New York federal court, the lawsuit again asserted that Richard Pearson was just a pseudonym used by an author whose real name was “Ricardo Antonio”. But under the section titled “Factual Allegations” Centrex and Thomas Fleming no longer said that “Ricardo” lived in Santa Monica as they had told Newsday. Instead, they now stated that “Ricardo” lived in [Alameda, CA](#), as shown below from Centrex’s initial complaint in federal court.

Link: [Complaint. Centrex vs. “Ricardo Antonio Pearson” \(06-Mar-17\)](#)

1. Defendant Ricardo Antonio Pearson, who uses the pseudonym “Richard Pearson” and is a veteran short seller and market manipulator, recently has published a “report” on plaintiff Centrex, Inc., a public company headquartered in Farmingdale, New York. Centrex is a growing, profitable, and well run business whose sales exceed \$90 million per year. But

6. Defendant Pearson is an individual residing in Alameda, California and China.

In this federal complaint, Centrex’s reference to China is entirely consistent with my very easy-to-find biographical details across my website and social media accounts. However, [Alameda, CA](#) is located more than 300 miles north of Santa Monica, somewhere near Oakland. But in any event, in their filing to the court at least Centrex and Thomas Fleming did place “Ricardo’s” location in in my correct state of California.

**Understanding the reason for Alameda, CA.** It is certainly true that if anyone used the people-search site Intelius.com to run a search for the name “Ricardo Pearson” while also specifying the state as “California” then they would indeed end up finding someone by the name of “Ricardo Pearson” who at some time did have an address listed in Alameda. This is not surprising. California is a big state and these are all very common names, so there was almost certain to be someone with this name somewhere in the state of California.

But there is nothing to explain why Thomas Fleming and Centrex were ever searching for that name “Ricardo” in the first place. The insults and sarcastic compliments about “Ricardo”, “[Uncle Rico](#)” and “Rico Suave” on my private Facebook page were not publicly searchable in any way and these very satirical comments had never been publicly associated with me. So there should never have been any reason for Thomas Fleming or Centrex to search for the name “Ricardo” or “Uncle Rico” or “Rico Suave”.

Link: [Meaning of Ricardo](#)

Link: [Top Five Uncle Rico Quotes from Napoleon Dynamite](#)

Link: [Rico Suave – the must watch video that made Rico Suave famous](#)

*Click those links above and decide for yourself. Please analyze the facts and circumstances for yourself and then decide for yourself if there was ever any reason why Thomas Fleming and Centrex should have ever searched for or named some fellow called "Ricardo" in the first place, as opposed to naming Richard Pearson. Ask yourself if this was an honest mistake or was it just the pretense of an honest mistake? Form your own opinion.*

**Phase III. But then in 2018, when Vuzix filed its lawsuit they suddenly stated that this elusive author "Ricardo" was now believed to be living in New York rather than in California.** This newly assumed migration from California was very important because by saying that they believed that the author was in New York, Vuzix and Sichenzia could then justify filing and keeping the lawsuit against "Ricardo" in New York state court rather than in New York federal court. And that is exactly what they did. And here is why this little nuance of state court instead of federal court becomes very, very important....

**Link:** [Vuzix complaint against "Ricardo" - April 5, 2018](#)

Over the past few years, New York state court has started becoming a preferred venue for public companies or financiers who wish to file defamation lawsuits against outspoken public critics (such as short sellers and journalists). Looking at these suits in New York state court reveals some common threads that are worth understanding.

Based on my observations, the defamation suits themselves often did not win. They were often either voluntarily dropped by the companies or they were dismissed by the court in favor of the defendant. But (in my opinion) the process to get to those ultimate dismissals was unusually time consuming, expensive or complicated for the defendants, largely as a result of specific rulings or procedural challenges that occurred in New York state court which I believe would likely never have happened in New York federal court.

*(Note: I am not an attorney and these observations by me are my opinions based on the facts I have disclosed, so perform your own analysis and form your own opinion. If you need legal advice, call a lawyer.)*

For example, according to the [Reporters Committee for Freedom of the Press](#), in a defamation case against writer Teri Buhl, the judge in New York state court ordered the case to be sealed such that Ms. Buhl could not publicly disclose who was suing her or even for what she was being sued. This case against Ms. Buhl was filed only eight months after Vuzix and Sichenzia had filed their suit in New York state court against "Ricardo". The plaintiff suing Buhl is a microcap financier who filed the suit against her after she had alleged his involvement in securities fraud. But because the case had been sealed, it was listed on the docket in New York state court merely as Anonymous vs. Anonymous. The plaintiff was seeking discovery into who had acted as sources to Ms. Buhl in her negative story about him.

**Link:** [Completely sealed New York Supreme Court case challenges public's right of access](#) (rcfp.org, Feb 12, 2019)

The New York Daily News said the following about this ruling:

*"The **bizarre secrecy** surrounding the apparent effort to compel journalist Teri Buhl to reveal her source attracted the attention of media outlets who contend that the sealing violates the public's constitutional right of access."*

**Link:** [In unusual move, judge orders fight over independent journalist's source be kept secret](#) (Mar 01, 2019)

Following attention from the media, the court ruled that the case be unsealed, and this development has been widely celebrated as a "favorable ruling". However, it is worth noting that the case had already proceeded under seal for nearly five months. So even though the appropriate outcome was obtained eventually, it was only obtained after significant outside pressure had been applied and only after costing the defendant significant time and money. And this is the precisely the recurring theme in New York state court which seems to work well for the plaintiffs.

*(Note: Teri Buhl frequently writes articles about signs of securities fraud involving microcap companies and their financiers, however I have never had any interaction with Ms. Buhl. Just FYI.)*

**Link:** [Court fight over journalist's source yields favorable ruling for freelance reporters](#) (NY Daily News, Mar 5, 2019)

In a separate case in New York state court, Eros International filed a lawsuit against a number of different short sellers as part of a single lawsuit where it alleged defamation and manipulation. That suit was dismissed by the judge in March of 2019. I find it very odd that many people seem to view this dismissal as some sort of “victory” for the short sellers. If Eros’ initial goal was not to win this lawsuit in the first place but instead was to cause the defendants to expend resources defending the case, then this lengthy and expensive process over the course of 17 months should be viewed as a decisive and rewarding victory by Eros over its critics. Numerous critics of Eros were tied up for nearly a year and a half in New York state court and would have collectively spent well into seven figures on legal bills. If this ultimate dismissal was a foregone conclusion, then I see zero “victory” here by anyone other than Eros. In my opinion.

In general, the ability of well funded companies and individuals to weaponize the legal system with impunity sends a deeply chilling message to the public that even the simple act of tweeting or retweeting a negative opinion on Twitter can carry crippling consequences for people without the necessary means for a necessary means for a legal defense to lengthy and expensive lawsuits.

So even though Eros “lost” this suit on paper, it is inevitable that going forward many small voices on many topics far removed from Eros will now keep their concerns silent simply out of fear that an outspoken tweet may subject them to a frivolously filed lawsuit that could last for months or years.

My view is that this if the Eros lawsuit had been in federal court, then it would never have dragged on for as long as it did, and that it would not have cost the defendants nearly as much money and that it would have never been able to drag in such a large number of additional defendants who had seemingly (in my opinion) been added in bulk fashion.

Link: [Eros International Plc Commences Legal Action Against Market Manipulation](#) (Eros Press Release, Oct 2017)

Link: [Short & distort? The ugly war between CEOs and activist critics](#) (Reuters, Mar 20, 2019)

Other plaintiffs who filed suits against short sellers in New York state court have included Nanoviricides, Deer Consumer Products and Silvercorp.

**\*\*\* SECTION IV: WAS THE GOAL TO WIN LITIGATION (OR JUST TO PROLONG IT) ?**

OK. So let's get back to "Ricardo".

The reason I am writing this report today is that for years I have frequently heard various writers express the view that they are not worried about litigation risk because they feel that they are meticulous with their facts, their wording and their substantiation.

Below I will illustrate why such writers may wish to rethink their complacency.

When Vuzix filed its lawsuit over my report, they named the wrong person in the wrong state. In addition, when they filed the lawsuit alleging defamation, they did not even attach my allegedly defamatory report to their complaint !!

Despite these overwhelming deficiencies, this "Ricardo" lawsuit is still meandering through the court system over a year later. At every turn, various unexpected filings have been submitted to delay, distract or amend whenever there has been any procedural excuse to do so. Such subsequent arguments raised by Vuzix and Sichenzia have been just as bizarre as the filing of this suit against "Ricardo" who was said to live in "New York".

And this bizarre-ness is precisely the point. There is nothing inherently formidable about overcoming bizarre arguments and pretenses. But it does consume a lot of time for the defendant as well as very considerable amounts of money.

Common sense tells us that absurd lawsuits should be promptly identified as such by the courts and then quickly thrown out. But in this case, common sense is entirely wrong. As another polite reminder, lawsuits seeking tens or hundred of millions in damages are not handled like small claims court. There are processes, rules and procedures which can quickly become extremely complicated.

The information I present below goes through a sequence of actions and decisions by Vuzix and Sichenzia beginning in April 2018 which illustrate how the "Ricardo" case is still dragging on more than 13 months after I published my Vuzix report.

**Important:** For anyone who might feel an urge to publicly express negative opinions about some public company or individual, each and every one of the points below is extremely important to understand. For each of the 10 decisions shown below, please stop and ask yourself the following two (2) very important questions. And then form your own opinion.

**First**, was this decision the result of an honest mistake by Vuzix and Sichenzia, or was the decision a deliberate tactic simply disguised as a mistake ?

**Second**, did this decision actually increase the odds of Vuzix winning against the author (me) in court or did it just prolong the litigation without improving Vuzix's ultimate odds of ever winning ?

For completeness, I start from the very beginning of the Vuzix suit against "Ricardo".

**Plaintiff Decision #1. (April 2018)**

Sichenzia and Vuzix filed this suit against some guy named "Ricardo Anontio" instead of naming me, the author of the report.

**Plaintiff Decision #2. (April 2018)**

Sichenzia and Vuzix said that the author of my Vuzix report lived in New York state rather than in California and as such they filed this suit in New York *state court*, even though the amount was for far more than \$75 thousand such that it could be promptly removed to *federal court*.



**Plaintiff Decision #3. (April 2018)**

In filing their suit, Sichenzia and Vuzix identified a handful of statements in isolation which they said were false and defamatory. However they did not actually attach my 27 page report to their complaint when they filed this suit with the court. As a result, the court could not see the extensive references, links, and screenshots I had included to substantiate my statements, including substantiation for those statements which Sichenzia and Vuzix said alleged were false and defamatory.

**Plaintiff Decision #4. (August 2018)**

***Sichenzia and Vuzix made no entries whatsoever into the docket at any time before the 120 day deadline to serve “Ricardo” in August of 2018.*** Unlike federal court which has a 90 day deadline, the deadline in state court is 120 days. If Vuzix or Sichenzia had made any attempt to locate or contact “Ricardo”, they did not inform the court of these efforts or of any difficulty they had had prior to that deadline at day 120. They simply made no entries into the docket at all.

*(Note: Prior to that deadline in August 2018, I was never contacted by Sichenzia or anyone claiming a connection to this case. But in the week leading up to that August deadline, I received a number conspicuous emails from people seeking employment or trying to bait me into writing a new article. This was very similar to what I had experienced ahead of Cemtrex’s deadline to serve “Ricardo” in 2017. )*

**Plaintiff Decision #5. (November 2018)**

***After missing the August deadline at day 120, Sichenzia continued to let the case linger on the docket with no activity until November 30, 2018.*** Because Sichenzia and Vuzix filed this case in state court instead of federal court, it was not automatically dismissed in August 2018 even though no one was served and no explanation had been made to the court. Rather than dismiss the case at the August deadline (as Cemtrex had done in federal court in 2017) Sichenzia simply left this legal threat open to linger in state court without resolution.

**Plaintiff Decision #6. (November 30, 2018)**

***OK. So this one is a bit long. But it is worth understanding.***

***On November 30, 2018, Vuzix’s counsel Sichenzia’s Irwin Weltz suddenly updated the docket, and now requested an extension of time to serve “Ricardo” out until April 2019. Weltz also requested the very unusual right to serve “Ricardo” simply by sending an email.*** The requests made by Irwin Weltz on behalf of Vuzix in November 2018 are highly unusual and in order to justify them, Weltz stated to the assigned New York State Court Judge Peter Sherwood that these unusual exceptions were necessary because “Ricardo” is “*seemingly elusive outside of his online presence*” such that Vuzix’s past efforts to locate “Ricardo” simply would not work.

There are many bizarre aspects of this November 30 filing.

***First, the timing of this sudden and belated request is conspicuous. After 239 days with no entries whatsoever into the “Ricardo” docket,*** Weltz suddenly decided to file this new request to the court on Thursday, November 30, 2018. This happened to be the same day that Vuzix publicly announced that it would be presenting at the 11<sup>th</sup> Annual LD Micro conference in Los Angeles, which was set to begin a few days later on December 4<sup>th</sup>, 2018.

Not only was Irwin Weltz granted his request to serve me by email, but the New York state court granted the request with remarkable speed. Mr. Weltz had submitted his request on a Thursday and the state court quickly turned this around over the weekend, approving it on December 4, the first day of the LD Micro conference.

**Link:** [Judge Peter Sherwood – Order Directing Manner of Service and Extending Time to Serve \(New York state court\)](#)

***Authors note:*** Typically, courts, including New York state courts, have strict rules governing service of process that require process to be delivered in person to the defendant to ensure that the initial court filings are received. Under these rules, 120 days is considered more than ample time to physically locate and serve someone, while at the same time not allowing a case to linger on indefinitely without serving a defendant. But, in this case, the New York state court allowed service by email, based on Irwin Weltz’s representations that the the author could not be found to be personally served. Additionally, the Court allowed Vuzix an additional 120 days to serve by email – despite the fact that an email could be sent within minutes of receiving the Court’s approval for service by email. This meant that Vuzix

now had up to a full year after the complaint was filed in April 2018 to send a simple email. These things are unusual. In my opinion.

Below is a screenshot of the announcement made by Vuzix on November 30, announcing that it would be attending LD Micro in Los Angeles on December 4.



**Link:** [Vuzix to Present at LD Micro 11th Annual Main Event Conference \(vuzix.com, 30-Nov-18\)](https://www.vuzix.com/30-Nov-18)

As shown previously, I live in Los Angeles and it is well known that I attend this conference. As I have done in the past, I had registered for LD Micro two (2) months in advance using my usual public email address [rick.pearson@pearsoninvestment.com](mailto:rick.pearson@pearsoninvestment.com). My attendance at LD Micro was no secret and while attending the conference, I display my name badge that identifies me as "Rick Pearson". It is for these reasons that I state that Weltz's filing to the court on the same day as this announcement by Vuzix appears conspicuous to me.

Below is a screenshot of my name badge from the 11<sup>th</sup> annual LD Micro conference in Los Angeles which which I attended in person at the same time as Vuzix and which began on the same date (December 4, 2018) that the order directing service was granted by court.



*(The link below is a 126 page pdf file containing my Motion to Dismiss which I filed in March of 2019. The pdf also contains my Declarations and the attached exhibits. Page 50 includes a screenshot of my LD Micro badge which I submitted to the federal court.)*

**Link:** [Richard Pearson Combined Motion to Dismiss Files](#) (including exhibits and attachments)

**Signed Affirmation and Affidavits submitted by Irwin Weltz.** In his November 30, 2018 request for that Order to extend time to serve, Irwin Weltz submitted to Judge Peter Sherwood a signed Affirmation detailing Weltz's inability to locate or serve the author of the Vuzix report. As part of this, Weltz also submitted a series of signed Affidavits from a process server called Metro Attorney Service ("Metro").

There are some things about these documents that I have difficulty understanding. The Affidavits from Metro indicate that they had been signed in June and July of 2018 (prior to the August deadline to serve Ricardo) but the Affidavits also say that Metro had made its efforts to serve "Ricardo" as far back as May 1, 2018. Yet, when the Court Order was approved on December 4<sup>th</sup>, the court record makes no mention of why Weltz never submitted those Affidavits into the docket prior to that August deadline. It also offers no explanation as to why Weltz had suddenly decided to now submit them at this very particular time on November 30, 2018.

*(Note: In January 2019, I removed this case from NY state court into NY federal court, as part of my removal notice I included as exhibits the scans of these earlier filings that Irwin Weltz had submitted into state court in November 2018. The pdf of these documents is 157 pages long, with the exhibits of Weltz's earlier filings beginning around page 35.)*

**Link:** [Richard Pearson's Notice of Removal into Federal Court](#)

Furthermore, you can see from Irwin Weltz's filings that when requesting this permission to serve "Ricardo" by email, he now (November 2018) gave the court the correct emails for the real me (Richard Pearson, the author in LA).

Weltz provided to the court my email [info@moxreports.com](mailto:info@moxreports.com), which has been shown on my website since 2012 and which was also shown at the bottom of every page of the Vuzix report which was the basis for this lawsuit. As a reminder, Weltz did not actually attach my Vuzix report to the complaint which was filed over the statements I had made in that report.

When requesting permission to serve "Ricardo" by email, Weltz also provided the state court with my email [rick.pearson@pearsoninvestment.com](mailto:rick.pearson@pearsoninvestment.com), which I have publicly displayed since 2009, and which I always use to register for LD Micro and other conferences.

Also, just FYI, please keep in mind that I have displayed these same email addresses in connection with multiple past reports which warned specifically about similar signs of fraud at other companies with close ties to Sichenzia, including companies which were later delisted amid SEC fraud investigations or indictments following my reports.

For example, after I published my report about Forcefield Energy, the chairman of that company was arrested by the FBI just a few days later, the stock was immediately halted and nine people were ultimately indicted on federal fraud charges. As shown below, Greg Sichenzia and his partner Jay Yamamoto were close enough to the chairman of Forcefield Energy that they even rang the Nasdaq bell with him.

In my Vuzix report, I included a full page exhibit detailing my past work on Forcefield Energy as well as my past work on multiple other companies who happened to have been Sichenzia clients. That exhibit is included in my filings with the federal court.

And again, as a reminder, when filing the \$80 million lawsuit against some guy named “Ricardo” Mr. Weltz did not actually attach my report to that complaint.

Link: [Short FNRG. Undisclosed Promotions And Management Connections To Past Frauds](https://moxreports.com/short-fnrg-undisclosed-promotions-and-management-connections-to-past-frauds) (Moxreports.com, 15-Apr-2015)

Link: [DOJ: Chairman Of The Board Of Forcefield Energy Inc. Arrested For Securities Fraud Conspiracy](http://www.justice.gov/doj-chairman-of-the-board-of-forcefield-energy-inc-arrested-for-securities-fraud-conspiracy) (www.justice.gov, 20-Apr-2015)

Link: [Gregory Sichenzia and Jay Yamamoto attend Forcefield Energy, Inc closing bell ringing ceremony on December 23, 2013](https://www.srf.law/gregory-sichenzia-and-jay-yamamoto-attend-forcefield-energy-inc-closing-bell-ringing-ceremony-on-december-23-2013) (www.srf.law)



Below I include two screenshots from the Affirmation by Irwin Weltz (signed under penalty of perjury). On the first page, Mr. Weltz makes his request to serve the defendant by email and demonstrates that he did indeed have my correct email addresses. Later in the document (at paragraph 19) Weltz states to the court that:

*“Pearson is seemingly elusive outside of his online presence and his connection to SeekingAlpha and Moxreports”.*

Please click the link below to read the full text of Irwin Weltz's Affirmation to the court.

**Link:** [Affirmation of Irwin Weltz \(of Sichenzia\) requesting extension of deadline to serve and right to serve by email](#)

<b>FILED: NEW YORK COUNTY CLERK 11/30/2018 05:08 PM</b>		INDEX NO. 153125/2018
NYSCEF DOC. NO. 3		RECEIVED NYSCEF: 11/30/2018
SUPREME COURT OF THE STATE OF NEW YORK COUNTY OF NEW YORK		
-----X		
VUZIX CORPORATION,		
	Plaintiff,	Index No.: 153125/2018
	-against-	<b>AFFIRMATION IN SUPPORT</b>
RICARDO ANTONIO PEARSON a/k/a RICHARD PEARSON,		
	Defendant.	
-----X		
IRWIN WELTZ, an attorney duly admitted to practice law before the Courts of the State of New York affirms the truth of the following under the penalties of perjury:		
1. I am a partner at Sichenzia Ross Ference LLP, attorneys for the Plaintiff Vuzix Corporation ("Plaintiff" or "Vuzix") in the above-captioned case. As such, I am fully familiar with the facts and circumstances set forth herein.		
2. This affirmation is submitted in support of Plaintiff's Ex-Parte Application for an Order of this Court: (i) pursuant to CPLR §§ 2004 and 306-b, extending the time to effectuate service of the Summons and Verified Complaint and the Notice of Commencement of Action Subject to Mandatory Electronic Filing upon the Defendant Ricardo Antonio Pearson a/k/a Richard Pearson ("Defendant" or "Pearson"), <i>nunc pro tunc</i> , to and including one hundred twenty (120) days from the date of the Court's execution of the Ex-Parte Order; (ii) pursuant to CPLR § 308(5), permitting Plaintiff to serve Defendant via Pearson's known email addresses <a href="mailto:rick.pearson@pearsoninvestment.com">rick.pearson@pearsoninvestment.com</a> and <a href="mailto:info@moxreports.com">info@moxreports.com</a> and at the address of c/o Seeking Alpha Inc., 52 Vanderbilt Ave, Floor 13, New York, N.Y. 10017-3837; and (iii) for such and other further relief in Plaintiff Vuzix Corporation's favor as the Court deems just and proper.		
3. This is an action by Vuzix to recover damages against Pearson caused by his		

19. Based on the foregoing, Pearson is seemingly elusive outside of his online presence and his connection to *Seeking Alpha* and *MOXReports*. In fact, in *Cemtrex, Inc. v. Ricardo Antonio Pearson a/k/a Richard Pearson and John Does No. 1-10*, Index No. 2:17-cv-01258-JS-AKT in the United States District Court, Eastern District of New York (the "Cemtrex Case"), the plaintiff therein specifically set forth that it was unable to locate Pearson for service. A true and correct copy of the So Ordered Notice of Voluntary Dismissal Pursuant to F.R.C.P. 41(a)(1)(A)(i) in the Cemtrex Case is attached hereto as Exhibit N.

**Plaintiff Decision #7. (January 3, 2019)**

After receiving the right to serve “Ricardo” by email as of December 4, 2018, and after demonstrating that they did indeed have my real email addresses, Vuzix and Sichenzia still waited for almost a full month to hit that send button on a simple email. And once again, the timing of that decision to send the email appears to be very, very conspicuous. In my opinion. As I see it. In my view.

On January 3, 2019, Sichenzia finally hit the send button and served me (Richard Pearson) with the complaint (against “Ricardo”) from nine months earlier. This email was therefore sent to me just a few days ahead of the CES conference in Las Vegas which I would be attending in person at the same time as both Vuzix and Cemtrex, and which I would be attending with the benefit of a full media pass.

My Vuzix report in March 2018 had focused heavily on Vuzix’s use of the CES conference January 2018 as a staging ground to run a massive fraudulent stock promotion. So, in my opinion, CES is very important.

Here are the links showing where both Vuzix and Cemtrex had announced that they would be attending CES in January of 2019. And below that is a picture of my media pass for CES 2019 which shows my name as Richard Pearson, Industry Analyst for Moxreports in Marina del Rey, CA. (A screenshot of my CES media pass is also included in my filings to the federal court.)

Link: [Cemtrex to Showcase SmartDesk at Consumer Electronics Show \(CES\) 2019](#)

Link: [Vuzix Blade Smartglasses Display AR Weather At CES 2019](#)

**Plaintiff Decision #8. (February 1, 2019)**

In January 2019, another Sichenzia partner Todd Manister entered an appearance as counsel in the Vuzix v. Ricardo litigation. And Manister then began presenting bizarre arguments in a determined attempt to keep “Ricardo” in state court instead of federal court.

So here is how that came about.

Up until January 3, 2019, I had never been served in either of the “Ricardo” lawsuits which together had now been going on for almost two years. As soon as I finally received service by email on January 3, 2019, I notified my attorney and she began drafting the filings which we promptly submitted to the court.



But because Sichenzia had filed this lawsuit in *state court*, it meant that I had to first remove the lawsuit to New York *federal court*. As a result, this first filing from me was just a procedural filing and was still not an opportunity for me to address the supposedly defamatory statements I had made in my Vuzix report. But in any event, I was certainly glad that after nearly two years of “Ricardo” allegations against me, I finally had a chance to state in a formal legal document a few mindbogglingly simple facts such as: *“Richard Pearson’s name is Richard Pearson”*.

Below is a screenshot taken from my Notice of Removal documents.

To correct the record, Richard J. Pearson (“Richard Pearson” or “Richard”) submits a declaration addressing these issues, which is attached as Exhibit B (the “Richard Pearson Declaration”). As set forth in more detail in the Richard Pearson Declaration:

- Richard Pearson’s name is Richard Pearson—as noted on his website *Moxreports.com* and in his byline on *Seeking Alpha*. This is not an alias, and his name is not—and never has been—Ricardo Antonio Pearson. Richard Pearson does not know anyone named Ricardo Antonio Pearson.<sup>1</sup> Richard Pearson Declaration, ¶¶ 11-12.

This removal from New York *state court* to New York *federal court* was effectively automatic simply upon my filing notice to the court. This is due to the fact that a) this suit involved parties from multiple states and b) the amount in question is greater than *\$75 thousand*.

As a reminder, Vuzix is incorporated in Delaware, it claims its operations in New York and I (the author of the Vuzix report) am located in California. Furthermore, the amount Vuzix is seeking is \$80 million, which happens to be more than 1,000 times greater the \$75 thousand minimum that allows a federal court to hear the case.

Once the case had been removed into federal court, the next step would be for me to file a Motion to Dismiss. But under the rules of the court, before I could file this Motion to Dismiss, I was first required to submit a letter to the judge requesting a pre-motion conference during which my attorney would then present the merits of such a motion prior to actually submitting it. This sounds complicated, but in fact it is not an unreasonable rule. Motions to Dismiss tend to be long and complicated. Having a pre-motion conference in advance of such a filing is a sensible way to prevent parties from later clogging up the legal system with lengthy motions which would have never stood a chance in the first place.

In any event, to comply with this very sensible rule, after I removed the case into federal court, my attorney sent a letter to the judge requesting a pre-motion conference call so that she could present to the judge the merits of the Motion to Dismiss that I intended to file.

Links to my Notice of Removal and my letter to the judge are shown here.

**Link:** [Notice of Removal filed including exhibits](#) – 157 pages (23-Jan-2019)

**Link:** [Pearson Letter to Request a Pre-motion Conference with Judge](#) (29-Jan-2019)

My initial statements to the judge were pretty much what you might expect, including the very obvious facts that my name is Richard Pearson (not “Ricardo”) and that I am a resident of California (where I live and pay taxes, and so on) and not of New York.

I was genuinely surprised with Vuzix’s counsel’s response to my letter to the judge. Manister informed the court that any Motion to Dismiss from me was *“not likely to succeed”* and that my Declarations stating who I am and where I live were *“nuanced and cagey at best”*. To substantiate his assertion, Todd Manister described to the court my *“elusiveness”*, and my *“tactical”* reference to my *“residence”* in California, but that as I had not used the words *“domiciled in”* or *“citizen of”* California. Mr. Manister also informed the court that my references to my California tax returns were a *“red herring”* being used by me to *“distract”* the court. In addition, Mr. Manister stated to the court that I

was attempting to create a “*sideshow*” over the fact that Vuzix had sued the wrong person, and he evidenced this by the fact that I myself had admitted in that Notice of Removal that third parties had at some point referred to me as “*Uncle Rico*” or “*Rico Suave*”.

Link: [Todd Manister letter to NY Federal Court Judge](#) (01-Feb-2019)

Link: [Dress Like Uncle Rico Costume Guide](#) (Costumewall.com)

Link: [Rico Suave Video](#) (youtube.com)

Below are some screenshots from Todd Manister's letter to Judge Buchwald.

Dear Judge Buchwald:

We represent Plaintiff Vuzix Corporation (“Vuzix” or “Plaintiff”) in the above-referenced action. We respectfully submit this letter in response to Defendant Ricardo Antonio Pearson a/k/a Richard Pearson’s (“Defendant” or “Pearson”) letter request, dated January 29, 2019, seeking a pre-motion conference in connection with his anticipated motion to dismiss. (Dckt. No. 4). As described in more detail below, Defendant’s anticipated motion to dismiss is not likely to succeed.

At the outset, the letter and the Declaration of Richard Pearson, dated January 23, 2019 (Dckt. No. 1-2) (“Declaration” or “Decl.”), are emblematic of the defamatory article that is at the center of this lawsuit, in that it is full of sensationalism, light on facts, and improperly assails Vuzix, our firm, and others. Putting aside Pearson’s thirty-two (32) paragraphs of self-adulation, Defendant’s papers tactically gloss over the essential elements for removal – his *domicile* at the time the action was commenced *and* his *domicile* at the time he filed the notice of removal. Indeed, the Declaration is replete with self-serving *ad hominem* attacks, but when it comes to domicile, the thirty-two (32) paragraph Declaration is nuanced and cagey, at best. Under the circumstances, it is not surprising that Pearson resorts to further defamation of Vuzix and others, and this case’s connection to California is remote, at best.

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Initially, Defendant attempts to create a sideshow over the fact that “Vuzix did not file suit against Richard Pearson” because “Ricardo Antonio Pearson” is not the same person as Defendant. These assertions are wholly contradicted by the caption in this case which denotes “Ricardo Antonio Pearson a/k/a Richard Pearson.” Also, the veracity of Pearson’s proclamation is further undermined by the fact that Defendant himself admits in the Declaration that third-parties have referred to him as “Ricardo,” “Rico Suave” and “Uncle Rico.” (Decl., at ¶ 12).

The remainder of Defendant’s letter fares no better as it further illustrates Pearson’s elusiveness. Indeed, the letter and the Declaration repeatedly emphasize that Pearson allegedly “resides” in California, yet, in the face of the Complaint, tactically avoid affirmatively representing: (i) that Pearson was “domiciled” or a “citizen” of California when the initial Complaint was filed and when Defendant filed his notice of removal; and/or (ii) that Pearson was not “domiciled” or a “citizen” of New York during the same period of time. *Wojcik v. 42nd St. Dev. Project, Inc.*, 2005 U.S. Dist. LEXIS 4018, at \*3 (S.D.N.Y. Mar. 14, 2005) (“Even though a party may have several places of residence, he or she may have only one domicile at a given time.... Allegations of residence are insufficient to establish diversity jurisdiction.”). Instead, Pearson uses carefully crafted and measured words stating that he: is “based” in Los Angeles, California and has “spent the majority of [his] time between Los Angeles and China” since 2005 (Decl., at ¶1); has “not lived in New York since 2005” (*Id.*); “currently live[s] in Los Angeles, California” (*Id.*, at ¶2); is a “resident” of California and “file[s] California tax returns accordingly” and has “continuously maintained the same *mailing* address” in Los Angeles since 2008 (*Id.*); is a “tax resident” of California and has “continuously maintained a mailing address in Los Angeles, and treat[s] California as [his] home” (*Id.*, at ¶4); and does not “currently reside in New York and [has] not resided in New York since 2005” (*Id.*, at ¶ 5). Simply put, these “facts” concerning Pearson’s “residence” are a red herring and are patently insufficient to establish diversity jurisdiction. See *Vanderhorst v. Heitner*, 2015 U.S. Dist. LEXIS 89937, at

**Plaintiff Decision #8. (February 21, 2019)**

In response to my letter from January 29<sup>th</sup> 2019, Judge Buchwald scheduled a conference call with counsel for both parties (me and Vuzix). That call was scheduled to be held a month later on February 27, 2019 and the purpose was for both sides to present to the judge their arguments regarding the prospects for the Motion to Dismiss which I was hoping to submit.

But before that call with the judge could take place, on February 22, 2019, Vuzix now submitted a new filing into federal court attempting to formally remand this case out of federal court and back into state court.

To me, the arguments raised by Todd Manister on behalf of Vuzix on February 1 and February 22 were transparently ludicrous. As a result, his arguments were not difficult to respond to. But again, they required a surge of time from me and my counsel to again state seemingly obvious things such as:

*"Vuzix, its counsel, and its IR firm all know that Richard Pearson is a widely recognized public author who lives in Los Angeles, California. To be clear, Richard Pearson is both a resident of and a citizen of California: He is domiciled in California and in no other state."*

Link: [Vuzix Motion to Remand "Ricardo" back into NY state court](#) (26-Feb-19)

Link: [Pearson Memorandum in Opposition to Vuzix Motion to Remand](#) (26-Feb-19)

Manister's timing was conspicuous. Under the federal court rules, requests to remand have to be made within 30 days of the date that the case had entered federal court. In this case, Vuzix's lawsuit had been removed into federal court on January 23, 2019. So by filing this remand on February 22, Manister had waited until the last possible day to do so.

Perhaps of greater interest (in my opinion) was the departure of Irwin Weltz from Sichenzia just shortly ahead of this bizarre attempt by Manister on February 22, 2019. You see, just one day before Manister's remand filing (on February 21, 2019), we can see that Irwin Weltz had suddenly filed to start his own firm, Weltz Law PC.

Weltz's formation of his own law firm appears to have come quite abruptly. In my opinion. Rather than wait to get office space or even a PO Box, Irwin Weltz registered his new law firm to a residential address in Merrick, NY on Long Island.

Several weeks later, Mr. Weltz did eventually put up a web site that now shows his office address at a co-working space at 34 Willis Ave. in Mineola, NY. That co-working space is called "The Benchspace" and is a few miles from the residential address in Merrick that Irwin Weltz had listed on his February 21 filing registering Weltz Law PC.

*(Also, just as an FYI, both of these addresses used by Irwin Weltz are just a few miles from Cemtrex's historical address listed in Farmingdale, NY. Just as an FYI.)*

Link: [Website for Weltz Law PC](#) ([www.weltz.law](http://www.weltz.law))

Link: Google Maps [Image of 34 Willis Ave](#) ("The Benchspace")

Link: [NY Department of State filing for Weltz Law PC](#) (21-Feb-2019)

Link: [Distance between Merrick and Farmingdale](#) on Long Island

**Plaintiff Decision #9. (February 27)**

After almost one year since filing against "Ricardo", on the February 27 call with the federal court judge, Vuzix counsel (Todd Manister) now requested permission to amend the complaint against "Ricardo" so that Vuzix could add additional allegations.

On this February 27 call, the judge did not approve Vuzix's request to remand the case back to state court. But Manister was granted extra time to amend Vuzix's complaint. The judge instructed the attorneys for both sides to agree a schedule for Vuzix to amend its complaint and then for me to respond to that amended complaint.

It was then agreed by both attorneys and then ordered by the court that Vuzix would have until March 13 to amend its complaint and then I would have until March 27<sup>th</sup> (two weeks after the amended complaint was filed) to respond to that amended complaint.

But when March 13 arrived, Manister surprised us again. Instead of filing the amended complaint into [federal court](#), Todd Manister filed the amended complaint into [state court](#).

So here is how that came about. Judge Buchwald (the federal court judge assigned to this case) had told Manister that he could amend his complaint. We presumed that the filing would be made in federal court—as that is where the case is pending. But instead Manister filed the amended complaint in [state court](#) and sent a letter to the [federal court](#) informing it of the filing.

Not surprisingly, this new development caused significant confusion and once again required immediate attention from me and my attorney. We drafted a last-minute letter to the federal judge explaining that Manister had filed his amendment in the wrong court. An excerpt of this is shown below, as well as a link to a pdf of my full letter to the court.

This deliberate filing into the wrong court system is just the latest example of Vuzix's tactics designed to draw out the litigation, to waste Richard Pearson's time, to increase his legal expenses, and to delay the ultimate resolution of this case, which Vuzix knows full well that it cannot win on merit. Further specifics of these ongoing abusive tactics were laid out in detail in Richard Pearson's filing with this court in opposition to Vuzix's Motion to Remand, which Richard filed on February 26, 2019. (Dkt. 13.)

**Link:** [Pearson letter to court opposing improper filing by Vuzix \(14-Mar-19\)](#)

After I submitted my letter to the court, Manister then responded with a new letter to the court, stating that his filing into [state court](#) had been made in "good faith" because the federal court had never specifically told him to do otherwise, and still insisting that New York [state court](#) should have jurisdiction over the "[Ricardo](#)" defendant.

Below are links to the two letters that Todd Manister submitted to the federal court on March 14, 2019.

For your reference, I have also included a link to the website of the NY Unified Court System which shows that Todd Manister has been licensed to practice law in the state of New York since 1984. To me, seeing such alleged misunderstandings from someone who has been practicing law in New York for 35 years was noteworthy.

**Link:** [Vuzix letter notifying federal court of filing into state court \(14-Mar-19\)](#)

**Link:** [Vuzix letter to court opposing Pearson's letter opposing Vuzix's improper filing \(14-Mar-19\)](#)

**Link:** [Todd Manister Licensed in NY since 1984](#) (NY State Unified Court System web site)

As a result of this bizarre back and forth, Judge Buchwald scheduled a conference call on March 14 to discuss the filings with the parties.

As part of this call on March 14, Judge Buchwald now instructed Mr. Manister to re-file the Amended Complaint in [federal court](#) where it belonged and to withdraw the amended complaint from [state court](#).

[March 14](#) was a Thursday, so by the time Manister got around to doing all of this, it was well into the following week and it can be seen that when Manister's amended complaint finally entered federal court, it is date-stamped March 20, 2019. This was now three weeks since the February 27 conference call where Manister had asked for permission to amend and it was now one week past his March 13 deadline which had been ordered by the Court.

**Link:** [Signed Court order specifying March 13 deadline for Vuzix to amend complaint](#)

**Link:** [Vuzix amended complaint into federal court stamped March 20 \(20-Mar-19\)](#)



So after all of this back and forth effort, additional time and confusion, what did Manister end up adding to that original complaint ? I included a link to Manister's amended complaint so that you can read it and decide for yourself. But in my opinion, Todd Manister's "amended complaint" made very few changes from the original complaint from April 2018 and the small changes he did make do not appear to add anything significant. In my opinion.

In my view, my opinion and my perspective, this frenzied back and forth confusion did nothing to improve the prospects of Vuzix ever winning a defamation suit against some guy named "Ricardo Antonio". But the repeated confusion did cost me three additional three weeks of my time, which I spent busily discussing and reviewing the issues and material with my attorney at considerable expense.

In addition, even though Manister was a week late in filing his amended complaint into federal court, my March 27 deadline to respond to this amended complaint did not change. So now instead of having two weeks remaining, there was only one week remaining before my Motion to Dismiss was due.

### **Plaintiff Decision #10 (April 2019)**

On March 27, 2019, more than a year after I had written the Vuzix report and more than two years since the first "Ricardo" suit by Centrex, I finally had a genuine opportunity to address in federal court the allegations raised in Vuzix's complaint from April 2018.

My Motion to Dismiss, my Declarations and my Exhibits take up 126 pages and I think they do a reasonable job of summarizing some of the things that have transpired over the past two years. I encourage you all to pour a cup of coffee and have a read. There are some real nuggets in there.

**Link:** [Richard Pearson Motion to Dismiss Filings pdf](#) (including exhibits and attachments) (27-Mar-19)

But alas the game was not over then and it is still not over now.

Back in March, the federal judge had instructed Manister to re-file his improperly filed amended complaint into the proper court (ie. federal court instead of state court). The judge also instructed Manister to withdraw his improper filing from the state court. However, as of April 2, that amended complaint was still sitting on the state court docket even though it had been removed into federal court, even after this had been explicitly clarified by the federal judge in March.

So, once again, my attorney had to evaluate this latest bizarre situation, educate me on the facts and implications and then draft the proper letters and filings into both the state court and the federal court so as to prevent or neutralize any further unexpected shenanigans. As usual, this latest red herring in April of 2019 required further incremental hours of time on my part as well as from my attorney to accomplish something which should not have been necessary in the first place.

On April 2, 2019, my attorney notified the federal court that Manister had still not withdrawn his case from state court.

And, as usual, Todd Manister then followed up with his own letter to the federal court in response to the letter that I had sent to the federal court.

**Link:** [Pearson letter notifying federal court of Manister failure to withdraw from state court](#) (02-Apr-19)

**Link:** [Manister response to Pearson letter notifying court of Manisters failure with withdraw from state court](#) (04-Apr-19)

**.....and just so that you all know, this lawsuit of "Vuzix vs. Ricardo Antonio" is still ongoing as of this writing.**

**\*\*\* CONCLUSION: “Implausible Deniability”**

The details above describe a lawsuit that has been consuming quite a bit of my time and money. But I also see a significance here which extends far beyond anything to do with just Richard Pearson.

The entire world of stock promotion can be encapsulated by one overarching tactic: ***pretending to believe.***

When issuing their filings and press releases, stock promoters, IR firms and law firms make a herculean effort to convey their deep confidence and conviction over the prospects for their companies to discover gold or oil, to cure cancer or to bring revolutionary new technologies to market.

Short sellers and journalists have often been vocal critics of such stock promotions, pointing out flaws and inconsistencies in their public statements, and demonstrating how the underlying businesses seem to ultimately fail with alarming frequency.

If you are someone who has ever considered publicly exposing some wrongdoing you have observed, you need to ask yourself if you are in a position as strong as Richard Pearson. Because if your position is not as strong as Pearson's then you could find that potential litigation against you could be more burdensome than it has been for Pearson.

As a reminder, Pearson has quite few advantages in this area.

Richard Pearson is a financially comfortable, well educated guy who lives in the state of California which has the strongest first amendment protections of any state in America. Pearson has decades of experience on Wall Street and has written hundreds of very cautious articles in past, such that he is very comfortable and experienced with the requirements and standards of this type of analysis and publishing. Pearson works with the best law firms in the country, has his own publishing platform and has been widely recognized by mainstream media for exactly this type of work.

***So my point is this:***

If you do not have those advantages that Richard Pearson has, then the litigation repercussions against you could be significantly more burdensome than they have been on him. Yes, this can be true even if your report is completely well founded and well documented.

I am not trying to discourage any of you from publicly expressing your opinions. But I am telling you that you should make your decision with completely open eyes.

Regardless of what you decide, always feel free to contact me with any analysis or opinions you may have.

I always enjoy hearing from readers.

And I am very easy to find.

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