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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO

FREDERIC H. MARTINI, INC., a Hawaii  
Corporation,  
Plaintiff,  
vs.  
PEARSON EDUCATION, INC., a Delaware  
Corporation, dba Benjamin Cummings,  
Defendant.

Case No.: No. CV 04-04187 SI  
CERTIFICATION BY PLAINTIFF THAT  
CASE NOT SETTLED, REQUEST TO  
VACATE DISMISSAL AND PROPOSED ORDER

**OVERVIEW**

Pursuant to stipulation of the parties, the Court entered an Order  
Concerning Extension of Order of Dismissal Upon Settlement on December 28,  
2005 extending the date of dismissal from December 30, 2005 to March 15,  
2006. Paragraph 13 of the Court's Order provides in relevant part:

*However, if any party hereto certifies to this Court, with*

CERTIFICATION CASE NOT SETTLED, REQUEST TO VACATE DISMISSAL AND PROPOSED  
ORDER

1 proof of service of a copy thereon on opposing counsel, on  
2 or before March 15, 2006, that settlement has not in fact  
3 occurred, the Order of Dismissal Upon Settlement will be  
4 vacated and this cause shall be restored forthwith to the  
5 calendar for further proceedings.

7 **CERTIFICATION of PARTY**

8  
9 Michael R. Lennie, on behalf of plaintiff Frederic H. Martini, Inc.,  
10 hereby certifies that complete settlement has not in fact occurred.

11  
12 Dated: March 14, 2006

s/ Michael R. Lennie

13 MICHAEL R. LENNIE SBN 048191 (CA)  
14 Law Offices of Michael R. Lennie APC  
15 Attorney for Plaintiff Frederic H.  
16 Martini, Inc.

17 **PURSUANT TO COUNSEL'S CERTIFICATION, IT IS SO ORDERED.**

18  
19 Dated: March \_\_, 2006



20  
21 SUSAN ILLSTON  
22 United States District Court Judge