

David P. Morales, Esq., SBN 191229  
 THE MORALES LAW FIRM  
 1414 Soquel Avenue, Suite 212  
 Santa Cruz, CA 95062  
 Telephone: (831) 429-7900  
 Facsimile: (831) 688-8883  
 E-Mail: dmorales@moraleslawfirm.com

Attorney for Defendants Derrick O'Neal  
 and O'Neal Publishing

UNITED STATES DISTRICT COURT  
 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
 SAN FRANCISCO DIVISION

YVETTE SIMMONS,

Plaintiff,

vs.

DERRICK O'NEAL, et al.,

Defendants.

Civil Action No.: CV-08-2976 VRW

**JOINT STIPULATION TO SET ASIDE  
 DEFAULT AND ~~PROPOSED~~ ORDER  
 [FRCP 55(c)]**

Hon. Chief Judge Vaughn R. Walker

**JOINT STIPULATION**

Plaintiff YVETTE SIMMONS ("Plaintiff"), by and through her attorneys of record, and Defendants DERRICK O'NEAL and O'NEAL PUBLISHING (collectively, "Defendants"), by and through their attorney, David P. Morales, Esq., (Plaintiff and Defendants, collectively, the "Parties") HEREBY JOINTLY STIPULATE AS FOLLOWS:

WHEREAS, the Court Clerk entered a default in this matter on December 10, 2008.

WHEREAS, the Parties wish to cooperate in setting aside the default and to proceed with this action.

IT IS HEREBY STIPULATED that:

1. The Parties hereby respectfully request that the Court set aside the default entered by the Clerk in this matter;
2. Defendants shall be permitted to file an Answer and Counterclaim, in Defendants' discretion, in response to the Complaint in this action, but Defendants may not file a motion;
3. That Defendants shall file their response on or before January 16, 2009;
4. That Defendants shall reimburse half of Plaintiff's substantiated service costs in an amount not to exceed \$370.40 no later than January 16, 2009. Defense counsel shall issue payment to plaintiff counsel's trust account; and
5. Except as otherwise stipulated herein, each party shall bear their own costs.

IT IS SO STIPULATED.

Dated: December 23, 2008.

/s/  
Eric J. Menhart  
*Admitted Pro Hac Vice*  
CyberLaw P.C.  
1200 G. Street, N.W., Suite 800  
Washington, D.C. 20005  
202-904-2818 (telephone)  
240-539-6235 (facsimile)  
eric.menhart@cyberlaw.pro

Bruce C. Janke  
16965 Roberts Rd., Suite A  
Los Gatos CA 95032-4556  
Tel. (408) 356-6556  
Fax (408) 356-9656

*Counsels for Plaintiff Simmons*

/s/  
David Morales  
THE MORALES LAW FIRM  
1414 Soquel Avenue, Suite 212  
Santa Cruz, CA 95062  
Tel.: (831) 429-7900  
Fax: (831) 688-8883

*Counsel for Defendants Derrick O'Neal and  
O'Neal Publishing*

**JOINT STIPULATION TO SET ASIDE DEFAULT AND [PROPOSED] ORDER  
[FRCP 55(c)]  
Case No.: CV-08-2976 VRW**

**CERTIFICATE OF SERVICE**

I hereby certify that on this day, a copy of the foregoing was electronically transmitted to all counsel of record via the court's electronic filing system.

Dated: December 23, 2008

THE MORALES LAW FIRM

By: 

\_\_\_\_\_  
DAVID MORALES, ESQ.  
Attorney for Defendants

**SIGNATURE CERTIFICATION**

I hereby attest that I have on file all holograph signatures for any signatures indicated by a "conformed" signature (/S/) within this e-filed document.

Dated: December 23, 2008

THE MORALES LAW FIRM

By: 

\_\_\_\_\_  
DAVID MORALES, ESQ.  
Attorney for Defendants

~~**PROPOSED**~~ ORDER

GOOD CAUSE APPEARING, IT IS HEREBY ORDERED that the default entered by the clerk in this matter be set aside. IT IS FURTHER ORDERED that Defendants shall file their response to the Complaint on or before January 16, 2009, but Defendants may not file a motion. IT IS FURTHER ORDERED that Defendants shall reimburse half of Plaintiff's substantiated service costs in an amount not to exceed \$370.40 no later than January 16, 2009. IT IS FURTHER ORDERED that each party shall bear their own costs.

IT IS SO ORDERED.

Dated: December 29, 2008

