

E-Filed 6/24/2010

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION**

JOHN A. ROMAYOR,

Plaintiff,

v.

DEBORAH HOLLAND, EXECUTIVE VICE
PRESIDENT AT PUBLISHERS
CLEARINGHOUSE,

Defendants.

Case Number C 10-0091 JF (PVT)

ORDER¹ DENYING MOTION FOR
SUMMARY JUDGMENT AND
EXTENDING TIME FOR FILING
AMENDED COMPLAINT

[RE: Doc. Nos. 9, 12]

On April 13, 2010, the Court adopted the Report and Recommendation of Magistrate Judge Patricia V. Trumbull and pursuant thereto dismissed the instant action with leave to amend. The Court directed Plaintiff to file any amended pleading within thirty days. Instead of filing an amended complaint within the allotted time, Plaintiff filed a motion for summary judgment on June 3, 2010. Because there is no operative complaint, Plaintiff's motion is premature and will be denied.

Ordinarily, a plaintiff's failure to file an amended complaint within the time permitted by the Court results in dismissal for failure to prosecute. However, given Plaintiff's *pro se* status and his evident desire to pursue the action, the Court will grant Plaintiff additional time within which to file an amended complaint setting forth with specificity his claims against Defendants. Plaintiff must file any amended complaint on or before July 27, 2010. If Plaintiff fails to file an

¹ This disposition is not designated for publication and may not be cited.

1 amended complaint on or before that date, the Court will dismiss the action for failure to
2 prosecute.

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IT IS SO ORDERED.

DATED: 6/24/2010



JEREMY FOGEL
United States District Judge

1 Copies of Order served on:

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3 Mr. John Romayor
4 2032 Southwest Expressway Apt. 49
5 San Jose, CA, 95126

6 Ms. Deborah Holland
7 101 Winners Circle
8 Port Washington, NY 11050

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