

United States District Court  
For the Northern District of California

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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

ELMO SHROPSHIRE, D/B/A ELMO PUBLISHING,	)	Case No.: 10-CV-01941-LHK
	)	
Plaintiff,	)	ORDER GRANTING JOINT
v.	)	STIPULATION TO RULE ON
	)	DEFENDANT’S MOTION TO DISMISS
AUBREY CANNING, JR.,	)	IN ADVANCE OF RULING ON ANY
	)	MOTION FOR SUMMARY JUDGMENT
Defendant.	)	
	)	

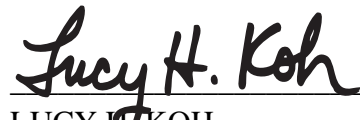
The Court’s October 6, 2010 Case Management Order set a dispositive motion briefing schedule and set a hearing for January 13, 2011. Prior to that Order, both parties submitted multiple voluminous and improperly filed motions. Since the October 6, 2010 Order, Plaintiff has filed a purported amended complaint (October 18, 2010), an improperly noticed motion for summary judgment (October 26, 2010), an appendix to the motion for summary judgment (October 27, 2010), and an appendix to the purported amended complaint (November 2, 2010). Defendant has filed a first set of request for admissions (October 25, 2010), a motion to dismiss the purported amended complaint (October 27, 2010), and a “corrected” motion to dismiss the purported amended complaint (November 1, 2010). In addition, on November 8, 2010, notice was given that Mount & Stoekler, PC, is now appearing as counsel of record for Plaintiff. Previously, both Plaintiff and Defendant appeared *pro se*.

1           The parties have agreed to the Court's ruling on Defendant's motion to dismiss the first  
2 amended complaint prior to ruling on any motion for summary judgment. *See* Dkt. 45. In order to  
3 streamline this litigation, the Court GRANTS the parties' joint stipulation to rule on Defendant's  
4 motion to dismiss [Dkt. #42] in advance of ruling upon any motion for summary judgment.  
5 Defendant filed his corrected motion to dismiss on November 1, 2010, and Plaintiff, via counsel,  
6 filed an Opposition on November 17, 2010. Defendant has yet to file a Reply.

7           Accordingly, the Court shall set a hearing on Defendant's motion to dismiss Plaintiff's  
8 amended complaint for Thursday, January 13, 2011 at 1:30 p.m. Defendant's Reply to Plaintiff's  
9 Opposition, if any, is due by Thursday, December 16, 2010. All other motions are denied without  
10 prejudice. A Case Management Conference is set for January 13, 2011 to follow the hearing.

11 **IT IS SO ORDERED.**

12  
13 Dated: November 23, 2010



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LUCY H. KOH  
United States District Judge