UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

TIMOTHY GENS, Plaintiff, v. VELLO CORPORATION, et al., Defendants.	Case No.: C 10-3220 PVT **ORDER RE PLAINTIFF'S DEFECTIVE VOLUNTARY DISMISSAL**

On October 25, 2010, Plaintiff filed a document entitled "Voluntary Dismissal Without Prejudice." Based on said document and the file herein,

IT IS HEREBY ORDERED that, no later than November 2, 2010, all parties who have filed an answer herein shall file a notice indicating whether or not they join in Plaintiff's dismissal of this action. Pursuant to Federal Rules of Civil Procedure 41(a), a plaintiff may unilaterally dismiss an action without a court order only if no opposing has served either an answer or a motion for summary judgment. In the present case, two Defendants have already filed answers. Thus, this case may only be dismissed by either the stipulation of the parties or order of the court. *See*, Fed.R.Civ.Pro. 41(a).

Dated: *10/26/10*

Patricia V. Trumbull
PATRICIA V. TRUMBULL
United States Magistrate Judge

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