UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

O'M AND ASSOCIATES, LLC, an
Illinois limited liability company, d/b/a
O'Malley and Associates; PRESERVE
CAPITAL, LLC, an Illinois limited
liability company; and MBM
SETTLEMENTS, LLC, an Illinois limited
liability company,

Plaintiffs,

vs.

BRENDAN K. OZANNE, BRIAN C.
DAWSON, AND DAWSON &
OZANNE, a California general
partnership, as escrow agent; MATTHEW
STOEN, individually and as manager and
agent for KODIAK FAMILY, LLC, a
Nevada limited liability company;
KODIAK FAMILY, LLC, individually
and as agent for XYZ CORPORATION,

Defendants.

CASE NO. 10-CV-2130 H (RBB)

**ORDER DENYING
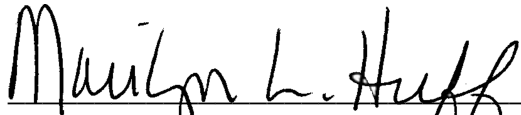DEFENDANT MATTHEW
STOEN'S MOTION TO
DISMISS WITHOUT
PREJUDICE**

[Doc. No. 104]

On January 31, 2011, Defendant Matthew Stoen ("Stoen") filed a motion to dismiss Counts I, III, IV, V, VI, VIII, and IX of Plaintiffs' complaint. (Doc. No. 104.) On February 23, 2011, Plaintiffs filed a motion for leave to amend complaint in lieu of response to the motion to dismiss. (Doc. No. 23.) On February 25, 2011, the Court, recognizing that leave to amend is freely granted, issued a tentative order stating it was inclined to grant the motion

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1 for leave to amend the complaint, which would render Defendant Stoen's motion to dismiss

2 as moot. (Doc. No. 113.) The Court directed Defendants to file any opposition to the tentative

3 order by March 4, 2011. (Id.) Defendants did not file any opposition. On March 8, 2011, the

4 Court adopted its tentative order and granted Plaintiff's motion for leave to amend the

5 complaint. (Doc. No. 121.) In light of granting leave to file an amended complaint, the Court

6 DENIES WITHOUT PREJUDICE Defendant Stoen's motion to dismiss the original

7 complaint.

8 **IT IS SO ORDERED**.

9 Dated: March 15, 2011

10 _____
   MARILYN L. HUFF, District Judge
11 UNITED STATES DISTRICT COURT