

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Joshua Rothstein,

Civil No. 09-3387 (JMR/SRN)

Plaintiff,

ORDER

v.

Kemps, LLC

Defendant.

Joni M. Thome & Matthew S. Nolan, Halunen & Associates, 1650 IDS Center, 80 South Eighth Street, Minneapolis, Minnesota 55402

Lee A. Lastovich & Brian T. Benkstein, Felhaber, Larson, Fenlon & Vogt, PA, 220 South Sixth Street, Suite 2200, Minneapolis, Minnesota 55402.

This matter is before the Court on the Report and Recommendation of United States Magistrate Judge Susan Richard Nelson. No objections to the Report and Recommendation were filed within the requisite time period. Accordingly, **IT IS HEREBY ORDERED** that Defendant's Motion to Dismiss Counts I, III and IV of the Complaint (Doc. No. 2) is **GRANTED** and Count II of the Complaint is **DISMISSED WITHOUT PREJUDICE** for reassertion of this state law claim in state court.

Dated: May 18, 2010

s/James M. Rosenbaum
JAMES M. ROSENBAUM
United States District Judge