

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

**Daniel R. Castro
Plaintiff**

v.

**ENTREPRENEUR MEDIA, INC.
Defendant**

§
§
§
§
§
§
§
§
§
§

CIVIL ACTION NO: 10CA695

UNOPPOSED MOTION FOR LEAVE TO SUBSTITUTE EXHIBIT

Now Comes Daniel R. Castro, and files this Motion For Leave to Substitute Exhibit, and would show unto the Court as follows:

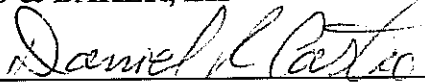
On May 25, 2011, Castro filed a Motion For Leave to File Second Amended Complaint. The proposed Second Amended Complaint was attached to the motion as Exhibit 1.

Since that time, some material facts have changed that require Castro to keep the Court's records updated. For example, on June 29, 2011, Castro withdrew two applications for trademark registration by submitting an Express Abandonment of those applications. A few other facts have changed as well. The updated Second Amended Complaint withdraws all causes of action related to Castro's previously pending applications for registration of two trademarks because these claims are now moot. All of EMI's allegations and causes of action related to those two applications are also now moot.

Castro is simply seeking to fulfill his duty of candor before the court to make sure the Court is fully apprised of the current state of the facts and to inform it of which claims are now moot.

WHEREFORE, Castro respectfully requests that the Court issue an order to the Clerk of the Court instructing it to take the Exhibit 1 (with all related exhibits) and file it in place of the old Exhibit 1 that was attached to the Motion For Leave to File Second Amended Complaint.

Respectfully submitted,
CASTRO & BAKER, LIP

By: 

Daniel R. Castro
State Bar No. 03997390
7800 Shoal Creek Blvd.
Suite 100N
Austin, Texas 78757
phone: (512) 732-0111
fax: (512) 732-0115


CERTIFICATE OF CONFERENCE

Opposing counsel does not oppose this motion.

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of this pleading was filed with the Clerk of the Court using CM/ECF system, which will send a notification of a Notice of Electronic Filing to the following counsel of record on June 30 2011:

William G. Barber
Pirkey Barber, LLP
600 Congress Avenue, Suite 2120
Austin, Texas 78701


Daniel R. Castro

6-30-11
Date

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

**Daniel R. Castro
Plaintiff**

v.

**ENTREPRENEUR MEDIA, INC.
Defendant**

§
§
§
§
§
§
§
§
§
§

**CIVIL ACTION NO:
A:10-CA-695-LY**

ORDER GRANTING MOTION TO SUBSTITUTE EXHIBIT

Before the Court is Plaintiff's Motion To Substitute Exhibit. The Court having considered the motion, and the fact that it is unopposed, is of the opinion that the Motion should be granted.

ACCORDINGLY, IT IS ORDERED that the clerk of the court take the Exhibit 1 (with all related exhibits) attached to Castro's Motion For Leave to Substitute Exhibit dated June 30, 2011, and file it in place the old Exhibit 1 to Castro's Motion For Leave to File Second Amended Complaint.

Signed and executed this ____ day of June 2011.

The Honorable Lee Yeakel