

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

FILED
2011 JUL -5 PM 12:04
CLERK US DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY _____ DEPUTY

DANIEL R. CASTRO,
PLAINTIFF,

V.

ENTREPRENEUR MEDIA, INC.,
DEFENDANT.

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CAUSE NO. 1-10-CV-000695-LY

ORDER

Before the Court in the above styled and numbered cause is Plaintiff Daniel R. Castro's Motion For Leave To Amend Complaint filed May 25, 2011 (Clerk's Document No. 37), Defendant Entrepreneur Media, Inc.'s ("EMI") Opposition To Plaintiff's Motion For Leave To Amend Complaint filed June 6, 2011 (Clerk's Document No. 41), EMI's Defendant's Unopposed Motion For Leave To File Opposition In Excess of Page Limit filed June 23, 2011 (Clerk's Document No. 53), Castro's Plaintiff's Unopposed Motion To Extend Page Limit filed June 20, 2011 (Clerk's Document No. 51), Castro's Rule 12(b)(6) Motion To Dismiss For Failure To State A Claim filed June 9, 2011 (Clerk's Document No. 43), and Castro's Rule 12(b)(1) Motion To Dismiss EMI's Declaratory Judgment Act Claims filed June 10, 2011 (Clerk's Document No. 45). Having considered the motions and the file,

IT IS ORDERED that Plaintiff Castro's Motion For Leave To Amend Complaint filed May 25, 2011 (Clerk's Document No. 37), EMI's Defendant's Unopposed Motion For Leave To File Opposition In Excess of Page Limit filed June 23, 2011 (Clerk's Document No. 53), and Castro's Plaintiff's Unopposed Motion To Extend Page Limit filed June 20, 2011 (Clerk's Document No. 51) are **GRANTED**. The Clerk of Court shall file Castro's Second Amended Complaint.

IT IS FURTHER ORDERED that as there is a newly filed live complaint, the Court **GRANTS** EMI leave to file a response to Castro's Second Amended Complaint and leave to raise any counterclaims to Castro's allegations in the Second Amended Complaint EMI believes appropriate.

IT IS FURTHER ORDERED that in light of the Second Amended Complaint and the Court granting EMI leave to respond, Castro's Rule 12(b)(6) Motion To Dismiss For Failure To State A Claim filed June 9, 2011 (Clerk's Document No. 43) and Castro's Rule 12(b)(1) Motion To Dismiss EMI's Declaratory Judgment Act Claims filed June 10, 2011 (Clerk's Document No. 45) are **DISMISSED WITHOUT PREJUDICE** to refiling after EMI responds to the Second Amended Complaint should Castro desire to do so.

SIGNED this 31st day of July, 2011.



LEE YEAKEL
UNITED STATES DISTRICT JUDGE