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10 UNITED STATES DISTRICT COURT  
11 NORTHERN DISTRICT OF CALIFORNIA  
12 SAN FRANCISCO DIVISION

12	<b>ROBERT JACOBSEN,</b>	)	<b>Case No. C 06 1905 JSW</b>
13	<b>Plaintiff,</b>	)	<b>[PROPOSED] ORDER RE:</b>
14	<b>vs.</b>	)	<b>DEFENDANTS' MOTION TO</b>
15	<b>MATTHEW KATZER, KAMIND</b>	)	<b>DISMISS COUNTS 1, 2, AND 3 OF</b>
16	<b>ASSOCIATES, INC., and KEVIN</b>	)	<b>PLAINTIFFS' AMENDED</b>
17	<b>RUSSELL,</b>	)	<b>COMPLAINT AND ADDITIONAL</b>
	<b>Defendants.</b>	)	<b>MATTERS RAISED IN</b>
		)	<b>PLAINTIFF'S OPPOSITION AND</b>
		)	<b>SECOND SUR-REPLY</b>

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19 The motion of defendants Matthew Katzer and KAMIND Associates, Inc. to  
20 dismiss Counts 1, 2, and 3 of plaintiffs' second amended complaint as moot came on  
21 regularly for hearing on December 19, 2008 at 9:00 a.m., Honorable Jeffrey S. White,  
22 Federal District Court Judge. Scott Jerger appeared for defendants and moving parties  
23 Matthew Katzer and KAMIND Associates, Inc. David M. Zeff appeared for defendant  
24 Kevin Russell. Victoria K. Hall appeared for plaintiff Robert Jacobsen.

25 Having reviewed the points and authorities submitted by the parties, and for good  
26 cause shown, IT IS ORDERED THAT:

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1. Defendants motion to dismiss is *granted* in all respects, without leave to amend.

2. It appearing that the plaintiff's second sur-reply and opposition memorandum and points and authorities are in their effect an unauthorized motion for reconsideration of this Court's order granting defendants' special motions to strike (Cal. Civ. Proc. Code § 425.16), defendant Kevin Russell shall recover his reasonable costs and fees incurred in preparing a reply to the second sur-reply and opposition.

Dated: \_\_\_\_\_

\_\_\_\_\_  
United States District Court Judge