

Perfect 10 Inc v. George Dranichak et al

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

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CIVIL MINUTES - GENERAL

Case No. CV04-2581-AHM (JTLx)

Date: September 17, 2004

Title: PERFECT 10, INC. v. GEORGE DRANICHAK, et al.

PRESENT: THE HONORABLE A. HOWARD MATZ, U. S. DISTRICT JUDGE

Stephen Montes
Courtroom Clerk

Not Reported
Court Reporter

ATTORNEYS PRESENT FOR PLAINTIFFS: ATTORNEYS PRESENT FOR DEFENDANTS:

No Appearance No Appearance

PROCEEDING: Further Order to Show Cause re Dismissal for Lack of Prosecution

This Order is issued pursuant to FRCP 4(m), which requires that plaintiff serve the summons and complaint upon all defendants within 120 days after filing the complaint. The Court may dismiss the action prior to the 120 days, however, if plaintiff has not diligently prosecuted the action.

It is the responsibility of plaintiff to respond promptly to all Orders and to prosecute the action diligently, including filing proofs of service and stipulations extending time to respond. **If necessary, plaintiff must also pursue Rule 55 remedies promptly upon default of any defendant.** All stipulations affecting the progress of the case must be approved by the Court, Local Rule 7-1.

On July 9, 2004, the Court issued an order to show cause re dismissal for lack of prosecution. On July 15, 2004, plaintiff filed its proof of service of the summons and complaint as to defendant George Dranichak. On July 15, 2004, the Court discharged the OSC and further advised counsel to "pursue Rule 55 remedies promptly upon default of any defendant." To date, plaintiff has not sought default against defendant Dranichak. The Court, on its own motion, now orders plaintiff to show cause in writing no later than September 29, 2004 why this action should not be dismissed for lack of prosecution.

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As an alternative to a written response by plaintiff, the Court will accept a motion for default judgment or request for clerk to enter default judgment, if it is filed on or before the above date. No oral argument of this matter will be heard unless ordered by the Court. The Order will stand submitted upon the filing of a responsive pleading or motion on or before the date upon which a response by plaintiff is due.