

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF CALIFORNIA

3
4 SHAWN D. PAGE; and KRISTIN E.
PAGE,

5 Plaintiffs,

6 v.

7 PERFORMANCE DEBT RESOLUTION; LAW
8 OFFICES OF HERBERT DAVIS; and
9 HERBERT DAVIS, ESQ.,

10 Defendants.

No. C 12-4029 CW

ORDER ADDRESSING
SERVICE UPON
DEFENDANT
PERFORMANCE DEBT
RESOLUTION

11 _____/

12 On July 31, 2012, Plaintiffs Shawn D. Page and Kristin E.

13 Page initiated this action against Defendants Performance Debt
14 Resolution, the Law Offices of Herbert Davis and Herbert Davis,
15 Esq. Docket No. 1. Plaintiffs filed proof of timely service upon
16 Davis and the Law Offices of Herbert Davis and, after these
17 Defendants failed to answer, default was entered against them.
18 Docket Nos. 5, 6, 11. Plaintiffs have moved for default judgment
19 against these Defendants; their motion remains pending. Docket
20 No. 17.

21 Plaintiffs have not filed proof of timely service as to
22 Performance Debt Resolution and it appears that this Defendant has
23 not yet been served. See Docket No. 9 (process server's return of
24 unexecuted summons). Pursuant to Federal Rule of Civil Procedure
25 4(m), service of process should have been perfected by November
26 28, 2012.

27 Within three days of the date of this Order, Plaintiffs shall
28 file proof of timely service on Performance Debt Resolution or a

1 motion to extend time for service, so long as Plaintiffs can
2 demonstrate good cause for an extension. Plaintiffs' failure to
3 comply with this Order will result in the dismissal of their
4 claims against this Defendant for failure to prosecute.
5 Alternatively, Plaintiffs may voluntarily dismiss their claims
6 against this Defendant pursuant to Federal Rule of Civil Procedure
7 41(a)(1)(A).

8 The Court notes that, if Plaintiffs request and receive
9 additional time to serve Performance Debt Resolution, judgment may
10 not enter in this action until their claims against all
11 Defendants, including Performance Debt Resolution, are resolved.
12 See Fed. R. Civ. P. 54(b).

13 IT IS SO ORDERED.

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15 Dated: 1/31/2013

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18 CLAUDIA WILKEN
19 United States District Judge
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