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E-filed: October 15, 2012

NOT FOR CITATION
IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

ED SUMMERFIELD, et al.,
Plaintiffs,

No. C09-02609 HRL

**ORDER TO SHOW CAUSE RE:
FAILURE TO PROSECUTE**

v.

STRATEGIC LENDING CORP., et al.,
Defendants.

Plaintiffs Ed, Arthur, and Rita Summerfield (collectively, "Plaintiffs") sued defendants Strategic Lending Corporation ("SLC"), Leonardo Agustin, Eric Swensen, and Ali Weichler for violation of the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. §§ 1961-68. SLC was never served with the complaint and summons. Agustin was served, and default was entered against him. Swensen is subject to a bankruptcy stay. And Weichler moved to dismiss the claims against him.

On March 8, 2011, this Court dismissed with prejudice Plaintiffs' claims against Weichler. Dkt. 99. Thereafter, all parties failed to appear at a case management conference, so the Court issued an order requiring Plaintiffs to show cause why the case should not be dismissed for failure to prosecute. Dkts. 100, 101. In both their response to the order to show cause and at the April 26, 2011 show cause hearing, Plaintiffs represented that they wanted time to file a motion for default judgment against Agustin. Dkt Nos. 102, 103. On this basis, the Court discharged the order to show cause, and instructed Plaintiffs to file their motion within two months. Dkt. 103.

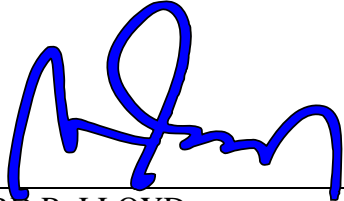
United States District Court
For the Northern District of California

1 Over two months later, no action having been made by Plaintiffs, this Court issued another
2 order to show cause why the case should not be dismissed for failure to prosecute. On August 2,
3 2011, counsel of Plaintiffs appeared at the hearing but explained that Plaintiffs had terminated his
4 representation. Counsel subsequently filed a motion for leave to withdraw. The Court granted it
5 and continued the show cause hearing. Dkt. 107. The Court then continued the show cause hearing
6 a number of times in order to allow Plaintiffs adequate time to obtain new counsel. Dkts. 110, 114,
7 116. Plaintiffs eventually retained new counsel and he appeared at the show cause hearing held on
8 January 17, 2012. The Court discharged the order to show cause and set a status conference for
9 February 14, 2012. Dkt. 119.

10 Counsel for Plaintiffs appeared at the February 14, 2012 conference but now eight months
11 have passed without any action on the case. Accordingly, Plaintiff are ORDERED to appear on
12 **November 6, 2012 at 10:00 a.m.** in Courtroom 2, Fifth Floor, United States District Court, 280 S.
13 First Street, San Jose, California, 95113 to show cause why this case should not be dismissed for
14 failure to prosecute. If a voluntary dismissal is filed, the show cause hearing will be automatically
15 vacated.

16 **IT IS SO ORDERED.**

17 Dated: October 15, 2012

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19 _____
20 HOWARD R. LLOYD
21 UNITED STATES MAGISTRATE JUDGE
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1 **C09-02609 HRL Notice will be electronically mailed to:**

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6 **Counsel are responsible for distributing copies of this document to co-counsel who have not**
7 **registered for e-filing under the court's CM/ECF program.**

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