

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

STEVEN M. DENENBERG, )  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
 BORKO B. DJORDJEVIC, )  
 )  
 Defendant. )  
 \_\_\_\_\_ )

8:07CV150

MEMORANDUM AND ORDER

This matter is before the court on the findings and recommendation of the magistrate judge that the third-party complaint in this case, Filing No. [59](#), be dismissed as to Doctors Surgery Center, without prejudice. Filing No. [113](#). The magistrate judge also recommended that Mr. Borko Djordjevic’s answer, Filing No. [21](#), be stricken and default entered against him. No objections have been filed to the findings and recommendation. A district court reviews de novo those portions of a magistrate’s order that are objected to by a party. [Grinder v. Gammon, 73 F.3d 793, 792 \(8th Cir. 1996\)](#). “A judge of the court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. The judge may also receive further evidence or recommit the matter to the magistrate judge with instructions.” 28 U.S.C. § 636(b)(1). A district court may reconsider a magistrate judge's ruling where it has been shown that the ruling is clearly erroneous or contrary to law. [Ferguson v. United States, 484 F.3d 1068, 1076 \(8th Cir. 2007\)](#) (citing [28 U.S.C. § 636\(b\)\(1\)\(A\)](#)).

The magistrate judge has made numerous attempts to order Mr. Djordjevic to comply with court orders and to participate in telephone conferences. See Filing Nos. [100](#), [105](#), and [110](#). Previously, the magistrate judge recommended that his court dismiss the case against Doctors Surgery Center and enter default. Filing No. [106](#). Mr. Djordjevic filed an objection stating that he had been ill and did not receive all the Court filings. Filing No.

[109](#). The magistrate judge then rescheduled the telephone planning conference, but Mr. Djordjevic again did not participate or contact the court. The court agrees with the magistrate judge that Mr. Djordjevic has been given ample opportunities to comply with court orders and has failed to do so. The court likewise agrees with the magistrate judge that Mr. Djordjevic's answer, Filing No. [21](#), be stricken and default entered against him, with entry of default to be set aside, upon written notice, if Mr. Djordjevic cures his deficiencies prior to entry of default judgment.

The court has carefully reviewed the record and finds that the magistrate judge's findings and recommendation should be adopted in all respects.

THEREFORE, IT IS ORDERED that:

1. The findings and recommendation of the magistrate judge, Filing No. [113](#), is adopted in its entirety.
2. Mr. Djordjevic's third-party complaint, Filing No. [59](#), is dismissed as to Doctors Surgery Center, without prejudice.
3. The Clerk of Court is directed to amend the caption in this case by terminating Mr. Djordjevic's third-party complaint against Doctors Surgery Center.
4. Mr. Djordjevic's answer, Filing No. [21](#), is stricken and default is entered against him, with entry of default to be set aside, upon written notice, if Mr. Djordjevic cures his deficiencies prior to entry of default judgment.

DATED this 12<sup>th</sup> day of November, 2010.

BY THE COURT:

s/ Joseph F. Bataillon  
Chief United States District Judge

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