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UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

MYMEDICALRECORDS, INC.,

Plaintiff,

v.

QUEST DIAGNOSTICS, INC.,

Defendant.

Case No. 2:13-cv-02538-ODW(SHx)

ORDER STRIKING FIRST AMENDED COMPLAINT [13]; ORDER TO SHOW CAUSE RE. LACK OF PROSECUTION

On September 12, 2013, Plaintiff MyMedicalRecords, Inc. filed a First Amended Complaint against Defendant Quest Diagnostics, Inc., adding an additional patent-infringement claim—more than 21 days after MyMedicalRecords served Quest Diagnostics on July 24, 2013. (ECF No. 13.) MyMedicalRecords thus needed either Quest Diagnostics's written consent or leave of court in order to amend its Complaint. Fed. R. Civ. P. 15(a)(2). MyMedicalRecords obtained neither. The Court accordingly **STRIKES** Plaintiff's First Amended Complaint (ECF No. 13).

Since MyMedicalRecords served Quest Diagnostics on July 24, 2013, Quest's answer was due on August 14, 2013. The parties initially stipulated to extend the time Quest had to file its answer to September 13, 2013. (ECF No. 10.) On September 11, 2013, the parties attempted to file another stipulation to extend Quest's time to answer. (ECF No. 11.) But the Court denied that stipulation. (ECF No. 12.) Despite its answer being due on September 13, 2013, Quest has not yet answered.

And neither has MyMedicalRecords moved for entry of default. The Court therefore **ORDERS** MyMedicalRecords to **SHOW CAUSE** by **Monday, September 23, 2013**, why this case should not be dismissed for lack of prosecution. No hearing will be held. The Court will discharge the Order to Show Cause upon either the filing of Quest's answer or a request for entry of default filed with the Clerk of Court.

IT IS SO ORDERED.

September 16, 2013

OTIS D. WRIGHT, II
UNITED STATES DISTRICT JUDGE