



COPYRIGHT CLAIMS BOARD

Docket number: 24-CCB-0002

March 11, 2025

Kelly R Eberle

CLAIMANT

v.

Eric Anusewicz and The Custom press

RESPONDENTS

ORDER DISMISSING CLAIM WITH PREJUDICE

This claim was initially filed with the Copyright Claims Board (Board) on January 4, 2024. Eberle (Claimant) submitted the operative Amended Claim on February 16, 2024. A valid proof of service was filed on May 23, 2024.

Following the expiration of the opt-out period, a Scheduling Order was issued, which, among other things, scheduled a Pre-Discovery Conference for September 24, 2024. Despite receiving both the Scheduling Order and a Zoom invitation, Claimant failed to appear at the conference. Consequently, the Board issued an Amended Scheduling Order the same day, rescheduling the Pre-Discovery Conference.

On October 22, 2024, all parties attended the rescheduled Pre-Discovery Conference, where they were instructed on the discovery exchange process. A Status Conference was scheduled for December 11, 2024. However, despite receiving the Amended Scheduling Order and a Zoom invitation, Claimant again failed to appear, while Respondents attended as scheduled. That same day, the Board issued a First Failure to Prosecute Notice, setting a deadline for the Claimant to contact the Board and reschedule the conference. The Claimant reengaged in the proceedings, and a docket note was issued rescheduling the Status Conference for January 21, 2025.

Despite the docket note and another Zoom invitation, Claimant once again failed to appear for the rescheduled Status Conference. Respondents, who were in attendance, reported that no discovery had been exchanged despite the Discovery Order issued on December 11, 2024. As a result, the Board issued another First Failure to Prosecute Notice on January 21, 2025, giving the Claimant until February 20, 2025, to reengage in proceedings. The order stated that if Claimant failed to contact the Board by the deadline, the claim would be dismissed with prejudice.

On February 20, 2025, the Board issued a Second Failure to Prosecute Notice, extending the deadline to March 7, 2025, on the Board's own initiative. This notice reiterated that failure to contact the Board would result in dismissal with prejudice. The Claimant did not contact the Board by the deadline. Accordingly, the Board hereby dismisses this claim with prejudice. Dismissal with prejudice means the claim cannot be refiled. 37 CFR § 228.2(d).