

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

FASTXCHANGE INC., a Delaware)	
corporation,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 03-782-KAJ
)	
INVENTURE INC., a Belize corporation,)	
)	
Defendant.)	

MEMORANDUM ORDER

This matter is before me on defense counsel’s motion captioned, “Motion to Withdraw as Counsel to Defendant and Motion to Extend Time to Serve a Responsive Pleading.” (Docket Item [“D.I.”] 28; the “Motion”.) The complaint, a straightforward demand for payment on a promissory note, was filed on August 6, 2003 (D.I. 1), and the parties stipulated that the defendant could have until October 17, 2003 to file an answer or otherwise respond to the Complaint. (D.I. 3.) Rather than answer, the defendant filed a Motion to Dismiss (D.I. 4), which I denied on December 8, 2003 (D.I. 18). On December 22, 2003, the defendant sought yet an additional extension to file an Answer (D.I. 20), which was effectively granted. The January 21, 2004 extended deadline for answering has now come and gone and brought no answer but instead the first referenced Motion.

Counsel for the defendant states that the defendant has failed to cooperate in the preparation and presentation of its defenses and counterclaims and has “not expressed or demonstrated a willingness to satisfy its obligations” to pay its legal fees and expenses. (D.I.28 at ¶ 4.) Counsel also requests “a ten business day extension after

the motion to withdraw is granted to retain replacement counsel and to serve a responsive pleading" (*Id.* at ¶ 7.) By letter dated January 22, 2004, the plaintiff has opposed the motion for a further extension and has asked that, if any further extension is granted, "the order specifically provide that no further extension of time to respond to the complaint will be granted." (D.I. 29)

The defendant has indeed assiduously avoided filing a simple answer to a simple complaint for six full months. I would thus not be inclined to allow any extension at all, but for the motion to withdraw. Under the circumstances, I will allow counsel for the defendant to withdraw and will permit a very brief extension for the filing of an answer.

Accordingly, it is hereby ORDERED that the Motion (D.I. 28) is GRANTED in part, to the extent that defendant's present counsel is permitted to withdraw from representing the defendant in this action, and is DENIED in part, to the extent that a further extension of ten business days to file an answer will not be allowed. If no answer is filed by Friday, February 13, 2004, the Clerk shall file a default and, thereafter, judgment will be entered on the default against the defendant.

Kent A. Jordan
UNITED STATES DISTRICT JUDGE

February 6, 2004
Wilmington, Delaware