

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

RUSSELL EVANS, <i>et al.</i> ,)	
)	
Plaintiffs,)	
)	
v.)	CASE NO. 2:16-CV-159-WKW
)	
THOMAS SLEZAK, <i>et al.</i> ,)	
)	
Defendants.)	

ORDER

On July 26, 2017, the Magistrate Judge filed a Recommendation (Doc. # 45) that Defendant Thomas Slezak’s motion to dismiss (Doc. # 37) and motion to quash service (Doc. # 39) be denied. Mr. Slezak timely objected (Doc. # 48). Upon an independent and *de novo* review of the record and Recommendation, Mr. Slezak’s objections are due to be overruled, and the Recommendation is due to be adopted.

Mr. Slezak makes two points in his objections: (1) Mr. Slezak did not waive service; and (2) Plaintiffs failed to produce evidence of “good cause” for why they did not timely serve process upon Mr. Slezak. Neither point, even when assumed for the sake of argument, compels the court to grant Mr. Slezak’s motions.

The Eleventh Circuit has made clear that Rule 4(m) of the Federal Rules of Civil Procedure, which requires plaintiffs to perfect service “within 90 days after the complaint is filed,” Fed. R. Civ. P. 4(m), gives the district court “discretion . . . to

extend the time for service, even in the absence of good cause.” *Horenkamp v. Van Winkle & Co.*, 402 F.3d 1129, 1131 (11th Cir. 2005). As the Magistrate Judge pointed out in the Recommendation, Plaintiffs appear to have acted diligently in attempting to serve Mr. Slezak. (Doc. # 45, at 3.) However, even if they had not, this court could (and does) extend the time for service in its discretion.

Accordingly, it is ORDERED as follows:

1. The Magistrate Judge’s Recommendation (Doc. # 45) is ADOPTED;
2. Defendant Thomas Slezak’s objections (Doc. # 48) are OVERRULED;
3. The time for Plaintiffs to serve Mr. Slezak with the Complaint is extended to May 19, 2017; and
4. Defendant Thomas Slezak’s Motion to Dismiss (Doc. # 37) and Motion to Quash Service (Doc. # 39) are DENIED.

DONE this 19th day of September, 2017.

/s/ W. Keith Watkins
CHIEF UNITED STATES DISTRICT JUDGE