

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

SHANE BOWMAN, et al.,)
individually and on behalf of all)
others similarly situated,)

Plaintiffs,)

vs.)

Case No. 4:13 CV 2519 CDP

THE DOE RUN RESOURCES)
CORP., et al.,)

Defendants.)

MEMORANDUM AND ORDER

This matter is before me on plaintiffs' motion to amend. Plaintiffs seek to revise the notice and consent forms to reflect the current attorneys representing the opt-in class in this case, which is fine with defendants and the Court.

However, the problem is that plaintiffs have not bothered to send out the notices and consent forms yet, even though I approved them and directed that they be sent out August 12, 2014. Although that Memorandum and Order did not so specify, plaintiffs were expected to send out the notices within a reasonable time period, which certainly expired before now. Instead of promptly bringing this issue to the Court's attention, though, Doe Run now complains of the Court's alleged *sua sponte* indefinite tolling of the limitations period and requests that it


be lifted. The Court's ruling was not *sua sponte*, as plaintiffs actually requested a brief tolling of the limitations period while the motion was pending, nor was it indefinite – it was clearly intended only to apply to the brief period of time during which the motion was pending. This would never have been an issue if the plaintiffs had promptly complied with my August 12, 2014, Memorandum and Order. To avoid any further unfairness occasioned by plaintiffs' failure to promptly notify potential class members, I will grant plaintiffs' motion to amend and require that the notices be sent out by **noon on Friday, September 12, 2014.** However, as plaintiffs have wasted nearly 30 days before sending out the notices, I find that the opt-in period should accordingly be reduced by 30 days out of fairness to the defendants. Therefore, the notices and consent to join forms previously approved by the Court shall also be amended where necessary to reflect a 60 day opt-in period, rather than the previously ordered 90 day period. I believe this adequately ameliorates any potential prejudice to the defendants while still providing potential opt-in members with an adequate opportunity to participate in this lawsuit.

Accordingly,

IT IS HEREBY ORDERED that plaintiffs' motion to amend [#85] is granted as set out above, and the notice and consent to join forms shall be

amended as set out above and sent out by plaintiffs no later than **noon on**
September 12, 2014.

All other Memoranda and Orders of this Court, including those
pertaining to mediation, remain in full force and effect.



CATHERINE D. PERRY
UNITED STATES DISTRICT JUDGE

Dated this 10th day of September, 2014.