

UNITED STATES DISTRICT COURT
 EASTERN DISTRICT OF MISSOURI
 EASTERN DIVISION

LINDA ROBINSON)	
)	
Plaintiff,)	
)	
vs.)	Case No. 4:15CV00503 ERW
)	
J.J.B. HILLARD, W.L. LYONS, LLC)	
)	
Defendant.)	

MEMORANDUM AND ORDER

This matter comes before the Court on Defendant J.J.B. Hilliard, W.L. Lyons, LLC’s Motion for Judgment on the Pleadings [ECF No. 19].

I. BACKGROUND

Plaintiff Linda Robinson (“Plaintiff”) filed a Petition to Declare Rights, Conversion, and Unjust Enrichment in the Circuit Court of St. Charles County, Missouri on January 21, 2015 [ECF No. 4]. On March 20, 2015, Defendant J.J.B. Hillard, W.L. Lyons, LLC (“Defendant”) removed the case to the Eastern District of Missouri pursuant to 28 U.S.C. §§ 1332 and 1441 [ECF No. 1]. Defendant filed an Answer and Counter-Claim against Plaintiff on March 27, 2015 [ECF No. 9]. Plaintiff filed an Answer to Defendant’s Counter-Claim on May 11, 2015 [ECF No. 14]. On May 21, 2015, Defendant filed an Amended Counterclaim against Plaintiff and a Motion for Judgment on the Pleadings [ECF Nos. 18, 19]. Plaintiff has not filed an answer to Defendant’s Amended Counter-Claim.

II. DISCUSSION

Federal Rule of Civil Procedure 12(c) allows for a party to move for judgment on the pleadings after the pleadings are closed. Pleadings are considered closed once a complaint and

answer have been filed, or when there is a counter-claim, once a responsive pleading to the counter-claim has been filed. *State Farm Fire & Cas. Co. v. Spradling Home Inspections, LLC*, No. 4:10-CV-01887NAB, 2011 WL 4056042 at *2 (E.D.Mo. Sept. 13, 2011) (citing *Doe v. U.S.*, 419 F.3d 1058, 1061 (9th Cir. 2005), *Colapissa Prop., LLC v. Assurance Co. of Am.*, No. 06-8063, 2007 WL 2903245 at *2 (E.D.La. 2007)). Since Plaintiff has not filed an answer to Defendant's Amended Counter-Claim, the pleadings are not closed and Defendant's Motion is premature.¹

Accordingly,

IT IS HEREBY ORDERED that Defendant J.J.B. Hilliard, W.L. Lyons, LLC's Motion for Judgment on the Pleadings [ECF No. 19] is **DENIED**.

So Ordered this 23rd day of June, 2015.



E. RICHARD WEBBER
SENIOR UNITED STATES DISTRICT JUDGE

¹ Plaintiff's answer to Defendant's Amended Counter-Claim was due June 7, 2015, pursuant to FRCP 15(a)(3). Should Plaintiff file an answer, Plaintiff will need to seek leave to file an answer out of time. The Court will decide whether allowing the filing is appropriate at that time should such a situation arise.