UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

ROESLEIN & ASSOCIATES, INC. and ROESLEIN ALTERNATIVE ENERGY, LLL,	)	
Plaintiffs,	)	
v.	)	No. 4:17 CV 1351 JMB
THOMAS ELGIN, ELGIN MEYER BIOENERGY CO. and J.S. MEYER ENGINEERING, P.C.,	)	
Defendants.	)	

MEMORANDUM AND ORDER

This matter is before the Court on Defendant Thomas Elgin's ("Elgin") Second Motion for Extension of Time to Answer or Otherwise Respond to Plaintiff's Complaint (ECF No. 21).

Plaintiffs Roeslein & Associates, Inc. and Roeslein Alternative Energy, LLC ("Plaintiffs") filed this case on April 18, 2017. Summons issued, and Plaintiffs served Elgin on April 19, 2017. Elgin's responsive pleading was originally due May 9, 2017, but on April 26, 2017, Elgin filed his first request for additional time, seeking up to and including May 23, 2017, within which to answer or otherwise respond to Plaintiff's Complaint. Elgin represented in the motion that he had Plaintiffs' consent. On April 27, 2017, the Court granted Elgin's motion for extension of time.

On May 4, 2017, Defendants Elgin Meyer Bioenergy Co. and J.S. Meyer Engineering, P.C. (collectively, "Meyer Defendants") filed a Motion for Extension of Time to Answer or Otherwise Respond to Plaintiff's Complaint (ECF No. 19), requesting an additional thirty days to answer or otherwise respond due to the complex nature of Plaintiffs' claims. In that motion, Meyer Defendants noted that Plaintiffs' counsel of record had agreed to the requested thirty day

extension. On May 5, 2017, the Court granted the motion and extended the time up to and including June 15, 2017.

On May 18, 2017, Elgin filed a Second Motion for Extension of Time to Answer or Otherwise Respond to Plaintiffs' Complaint (ECF No. 21), requesting up to and including June 15, 2017. Elgin represented in the motion that he had the consent of Plaintiffs' counsel. On May 19, 2017, Plaintiffs filed an opposition to Elgin's Second Motion for Extension of Time, noting that Plaintiffs neither consented to the first motion for extension of time nor had counsel been contacted seeking his consent to the second extension. Plaintiffs contend that inasmuch as the claims in this case concern Elgin's actions, he is familiar with the factual allegations and is in possession of facts that would allow him to file a responsive pleading without another extension of time being granted. Plaintiffs argue granting Elgin's extension of time would reward a party who misrepresented facts to the Court and would also unnecessarily delay the instant matter. Within hours, Elgin filed a Reply to Plaintiff's opposition wherein Elgin's counsel noted that she inadvertently incorporated consent language in the preamble of the two motions for extension of time, acknowledged that Plaintiffs did not consent to either motion, and apologized to the Court and Plaintiffs' counsel for "this gross oversight." (ECF No. 23) Citing the complex nature of the issues each of Plaintiffs' claims present, Elgin reiterated his request for an extension of time up to and including June 15, 2017, within which to file his answer or otherwise respond to Plaintiffs' Complaint.

Rule 6(b)(1)(A) gives this Court wide discretion to grant a request for additional time that is made prior to the expiration of the period originally prescribed or prior to the expiration of the period as extended by a previous order. Fed.R.Civ.P. 6(b)(1)(A). Here, Elgin sought the second extension of time before the May 23, 2017, deadline had expired, thus giving him the benefit of

the more lenient standard for extensions and relieving him of the obligation to show excusable neglect. Id. "[A]n application for extension of time under Rule (b)(1)(A) normally will be granted in the absence of bad faith on the part of the party seeking relief or prejudice to the adverse party." 4 B Wright, Miller & Steinman, Federal Practice and Procedure § 1165 (3d ed.).

Plaintiffs have not demonstrated how they would be prejudiced by the granting of the second extension of time especially in light of the responsive pleading deadline of June 15, 2017, for Meyer Defendants.

Accordingly,

IT IS HEREBY ORDERED that Defendant Thomas Elgin's Second Motion for Extension of Time to Answer or Otherwise Respond to Plaintiff's Complaint (ECF No. 21) is GRANTED.

/s/ ***John M. Bodenhausen***
UNITED STATES MAGISTRATE JUDGE

Dated this 19th day of May, 2017.