

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

ANTHONY COLES, : Case No. 3:13-cv-353
 :
 Plaintiff, : Judge Timothy S. Black
 : Magistrate Judge Michael J. Newman
vs. :
 :
 NATIONAL LABOR RELATIONS :
 BOARD, *et al.*, :
 :
 Defendants. :

**ORDER DENYING PLAINTIFF’S REQUEST FOR AN ENTRY OF DEFAULT
AGAINST DEFENDANT MANCOR INDUSTRIES (Doc. 19)**

This case is before the Court on Plaintiff’s application for an entry of default against Defendant Mancor Industries (“Mancor”). (Doc. 19). For the reasons set forth herein, Plaintiff’s request is **DENIED**.

Plaintiff served Defendant Mancor on November 12, 2013. (Doc. 10). A defendant must serve an answer within 21 days after being served with the summons and the complaint. *See* FED. R. CIV. P. 12(a)(1)(A). On November 5, 2013, before expiration of the 21 days in which Mancor was required to answer, Mancor timely requested an extension of time up to and including December 24, 2013, to answer or otherwise respond to Plaintiff’s Complaint. (Doc. 5). For good cause shown, the Court granted Mancor’s requested extension. (Doc. 6).

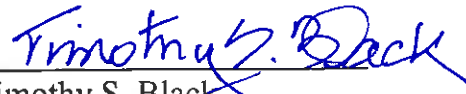
On December 23, 2013, Defendant Mancor filed a Motion to Dismiss (Doc. 16) pursuant to FED. R. CIV. P. 12(b)(1) and 12(b)(6). A defendant’s service of a motion

under FED. R. CIV. P. 12 alters the time in which that defendant must file an answer. *See* FED. R. CIV. P. 12(a)(4). Mancor's answer, if necessary, would be due within 14 days following the Court's disposition of the pending Motion to Dismiss. *See* FED. R. CIV. P. 12(a)(4)(A).¹

At this time, Mancor's Motion to Dismiss remains pending, and therefore, Mancor is not in default. Accordingly, Plaintiff's request for an entry of default against Defendant Mancor (Doc. 19) must be **DENIED**.

IT IS SO ORDERED.

Date: 12/31/13


Timothy S. Black
United States District Judge

¹ FED. R. CIV. P. 12(a)(4)(A) states that "if the court denies the [Rule 12] motion or postpones its disposition until trial, the responsive pleading must be served within 14 days after notice of the court's action[.]"