

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 1:16-CV-21199-CMA

ANDREA ROSSI, *et al.*,

Plaintiffs,

v.

THOMAS DARDEN, *et al.*,

Defendants.

**Plaintiffs' Motion for Extension of Time to File
Answer and Affirmative Defenses to Defendants' Counterclaim**

Plaintiffs, Andrea Rossi and Leonardo Corporation (“Plaintiffs”), hereby move for an extension of fourteen (14) days from the date of this filing or seven (7) days from the date that this Court issues its Order on the Third Party Defendants’ Motion to Dismiss, whichever is shorter, to Answer and file Affirmative Defenses to Defendants’ Counterclaims. The grounds for this Motion are:

1. On August 11, 2016, Defendants filed their Amended Answer, Additional Defenses, Counterclaims and Third-Party Claims [**ECF No. 30**].
2. On September 1, 2016, Plaintiffs moved to dismiss Defendants’ Amended Counterclaims [**ECF No. 41**].
3. On September 19, 2016 Defendants’ filed their Second Amended Answer, Additional Defenses, Counterclaims and Third-Party Claims [**ECF No. 50**].
4. On September 23, 2016, Plaintiffs moved to strike certain portions of Defendants’ Second Amended Answer and Additional Defenses [**ECF No. 54**].

5. At a hearing on October 14, 2016, the Court granted in part and denied in part Plaintiffs' Motion to Strike, providing Defendants seven days from the Court's order on Plaintiff's Motion to Dismiss to amend certain of Defendants' Second Amended Affirmative Defenses [ECF No. 67].

6. On October 20, 2016, the Third Party Defendants filed their Combined Motion to Dismiss Counts III, IV, and V of [Defendants'] Second Amended Counterclaims and Third-Party Claims [ECF No. 69].

7. On November 16, 2016, this Court issued its Order on Plaintiffs' Motion to Dismiss [ECF No. 76], triggering Defendants' seven-day deadline to file an amended pleading.

8. On November 23, 2016, Defendants filed their Third Amended Answer, Additional Defenses, Counterclaims and Third-Party Claims [ECF No. 78].

9. Plaintiffs' Answer and Affirmative Defenses to the Defendants' counterclaims are due on or before November 30, 2016.

10. Because the Court's forthcoming order on the Third Party Defendants' Motion to Dismiss [ECF No. 69] is likely to inform Plaintiff's answers and affirmative defenses to Defendants' counterclaims, Plaintiffs respectfully request an extension of seven days from that order in which to file such answers and affirmative defenses; alternatively, and to ensure a date-certain is established, if the Court has not ruled on the Motion to Dismiss [ECF No. 69] within seven days of the existing deadline (i.e., by December 7, 2016), then Plaintiffs simply request the extension through December 14, 2016.

11. Undersigned counsel has communicated with counsel for Defendants, who have stipulated and agreed to the requested relief.

12. The Court has authority to grant extensions under Rule 6(b) of the Federal Rules of Civil Procedure. This Motion is not for an extended period of time and therefore, should not create any prejudice or problem. As a result, Plaintiffs respectfully request that the Court exercise its authority and grant the requested extension. A proposed order granting the requested extension is attached pursuant to the Local Rules of this Court, as well as for the Court's convenience.

WHEREFORE, for all the foregoing reasons, Plaintiffs, Andrea Rossi and Leonardo Corporation, respectfully request that this Motion be granted.

Dated: November 29, 2016.

Respectfully submitted,

/s/ D. Porpoise Evans

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on November 29, 2016, I electronically filed the foregoing with the Clerk of the Court using CM/ECF. Copies of the foregoing document will be served upon interested counsel either via transmission of Notices of Electronic Filing generated by

CM/ECF or in some other authorized manner for those counsel or parties who are not authorized to receive electronically Notices of Electronic Filing.

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