

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

MILTON and ELAINE GOODSTEIN, et al. : CIVIL ACTION
: :
v. : :
: :
STEVEN L. ETTENGER : NO. 06-0317

ORDER-MEMORANDUM

AND NOW, this 7th day of August, 2006, “Plaintiffs’ Motion to Strike the Motion to Dismiss filed by Defendant Steven L. Ettenger” is granted. Fed. R. Civ. P. 6(b).¹ Defendant shall answer the complaint within the time permitted by the applicable Rules of Civil Procedure.²

BY THE COURT:

/s/ Edmund V. Ludwig
Edmund V. Ludwig, J.

¹ Fed. R. Civ. P. 6(b) states: “When by these rules or by a notice given thereunder or by order of court an act is required or allowed to be done at or within a specified time, the court for cause shown may at any time in its discretion . . . upon motion made after the expiration of the specified period permit the act to be done where the failure to act was the result of excusable neglect.” Fed. R. Civ. P. 6(b)(2). Here, defendant’s response to the complaint was due by March 27, 2006 under the Rules, extended to April 10, 2006 by agreement of the parties. Defendant did not file a motion until April 18, 2006. See docket entries. Because the time for filing had passed, defendant was required to demonstrate that the untimely filing was the result of excusable neglect. 1 Moore’s Federal Practice § 6.06[3][a] (Matthew Bender 3d ed.). “Ignorance of when a time period expires does not qualify as excusable neglect, nor does a busy schedule, lack of diligence, inadvertance, or other manifestation of carelessness and laxity.” Id. at § 6.06[3][c] (citations omitted). Here, defendant did not file a motion - and, in his response to plaintiffs’ motion to strike, does not describe any circumstances that could support a finding of excusable neglect. Therefore, no extension of the deadline has been justified, and defendant’s untimely motion to dismiss must be stricken.

² On April 13, 2006, plaintiffs filed an application for default judgment; however, no default was entered. See docket entries.