

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON

BELLUR G. SHIVA PRASAD,

Plaintiff,

v.

A.O. SMITH ELECTRICAL
PRODUCTS CO.,

Defendant.

Case No. 3:15-cv-150

District Judge Walter H. Rice
Magistrate Judge Michael J. Newman

**REPORT AND RECOMMENDATION¹ THAT DEENDANT'S MOTION TO DISMISS
(DOC. 59) BE DENIED**

This civil case is before the Court on Defendant's motion to dismiss for failure to prosecute. Doc. 59. Following the filing of Defendant's motion, the Court directed Plaintiff to either affirm interrogatory responses prepared by his former attorney or provide interrogatory responses prepared by him under oath by February 4, 2016. Doc. 66. On February 3, 2016, Plaintiff submitted a response to Defendant's motion to dismiss stating that he will affirm the interrogatory responses prepared by his former attorney. Doc. 68. Based upon *pro se* Plaintiff's compliance in this regard -- albeit untimely -- the undersigned **RECOMMENDS** that Defendant's motion to dismiss (doc. 59) be **DENIED**.

The Clerk of Courts is **ORDERED** to promptly serve this Report and Recommendation on Plaintiff at his mailing address and email address of record.

Date: February 5, 2016

s/ Michael J. Newman
Michael J. Newman
United States Magistrate Judge

¹ Attached hereto is a NOTICE to the parties regarding objections to this Report and Recommendation.

NOTICE REGARDING OBJECTIONS

Pursuant to Fed. R. Civ. P. 72(b), any party may serve and file specific, written objections to the proposed findings and recommendations within **FOURTEEN** days after being served with this Report and Recommendation. Pursuant to Fed. R. Civ. P. 6(d), this period is extended to **SEVENTEEN** days because this Report and Recommendation is being served by one of the methods of service listed in Fed. R. Civ. P. 5(b)(2)(C), (D), (E), or (F), and may be extended further by the Court on timely motion for an extension. Such objections shall specify the portions of the Report and Recommendation objected to, and shall be accompanied by a memorandum of law in support of the objections. If the Report and Recommendation is based in whole or in part upon matters occurring of record at an oral hearing, the objecting party shall promptly arrange for the transcription of the record, or such portions of it as all parties may agree upon or the Magistrate Judge deems sufficient, unless the assigned District Judge otherwise directs. A party may respond to another party's objections within **FOURTEEN** days after being served with a copy thereof. As is made clear above, this period is likewise extended to **SEVENTEEN** days if service of the objections is made pursuant to Fed. R. Civ. P. 5(b)(2)(C), (D), (E), or (F). Failure to make objections in accordance with this procedure may forfeit rights on appeal. See *Thomas v. Arn*, 474 U.S. 140, 153-55 (1985); *United States v. Walters*, 638 F.2d 947, 949-50 (6th Cir. 1981).