

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 15-60082-CIV-DIMITROULEAS/Snow

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

FREDERIC ELM, f/k/a Frederic Elmaleh, ELM TREE
INVESTMENT ADVISORS LLC, ELM TREE
INVESTMENT FUND LP, ELM TREE 'E'CONOMY
FUND LP, ELM TREE MOTION OPPORTUNITY LP,
and AMANDA ELM, f/k/a Amanda Elmaleh,

Defendants.

ORDER

THIS CAUSE is before the Court on non-party Phil Elmaleh's Motion for Enlargement of Time to Obtain a Protective Order and Attorney (ECF No. 184), which was referred to United States Magistrate Judge Lurana S. Snow.

On August 21, 2017, Phil Elmaleh, on behalf of MojiLife, Inc., filed a motion challenging a subpoena duces tecum noticed by the Receiver in this case directed to a former employee of MojiLife. (ECF No. 180) Mr. Elmaleh requested a hearing to determine whether the Receiver should be permitted to obtain MojiLife's proprietary information, including MojiLife's source code from the deponent. Mr. Elmaleh requested time to hire an attorney in advance of a hearing on the issue. A corporate entity must be represented by counsel to appear in federal court. Palazzo v. Gulf Oil Corp., 764 F.2d 1381, 1385 (11th Cir. 1985) (“the long standing and consistent court interpretation of § 1654 is that [corporations] must be represented by licensed counsel”)(quoting Turner v. American Bar Ass’n, 407 F. Supp. 451, 476 (N.D. Ind. 1975), aff’d sub nom., Taylor v. Montgomery, 539 F.2d 715 (7th Cir. 1976), cert. denied, 474 U.S. 1058, 106 S.Ct. 799, 88 L.Ed.2d 775 (1986)).

On August 22, 2017, the Court entered an order requiring MojiLife to, on or before September 5, 2017, retain counsel (ECF No. 182). The Court warned that failure to do so would result in an order striking the motion for protective order. Because no licensed attorney entered a timely appearance on behalf of MojiLife, the Court entered an order striking MojiLife's motion for protective order. (ECF No. 183)

On September 18, 2017, Mr. Elmaleh, on behalf of MojiLife filed the instant motion requesting more time to hire a lawyer. He explains that MojiLife is located in Canada, and he did not receive the undersigned's order requiring MojiLife to retain counsel until August 31, 2017. Also, the medical condition of a family member hindered his ability to obtain U.S. counsel to represent MojiLife. Mr. Elmaleh has since obtained a PACER account in order to monitor the activity in this case. Under the circumstances, it is hereby

ORDERED AND ADJUDGED as follows:


1. The Court's September 6, 2017 Order striking Phil Elmaleh's Motion for Protective Order on Behalf of MojiLife, Inc. (ECF No. 180) (ECF No. 183) is VACATED;
2. Phil Elmaleh's Motion on behalf of MojiLife for Enlargement of Time to Obtain Protective Order and Attorney (ECF No. 184) is GRANTED; and
3. MojiLife shall retain counsel who shall enter an appearance on or before October 13, 2017, to represent its interests in this action. Failure to do so will result in an order striking the

motion for protective order.

DONE AND ORDERED at Fort Lauderdale, Florida, this 19th day of September,
2017.

Copies to:

All Counsel of Record
Phil Elmaleh (Via U.S. Mail)
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Thornhill, Ontario
Canada
L4J 2S6


LURANA S. SNOW
UNITED STATES MAGISTRATE JUDGE