

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS

JOSHUA D. LIVINGSTON, )  
 )  
 Plaintiff, )  
 )  
 v. ) Case No. 04-3459-KHV  
 )  
 DOUG CRISP, )  
 )  
 Defendant. )

**ORDER NUNC PRO TUNC**

The court hereby vacates only that portion of its order of July 25, 2005 (doc. 25) which granted defendant's motion to stay this case (doc. 23); that particular portion of the court's order was entered in error. Rather than grant defendant's motion to stay without awaiting plaintiff's response, the court will postpone the August 1, 2005 scheduling conference until after the motion to stay is fully briefed by the parties.

Therefore, the scheduling conference that currently is scheduled for August 1, 2005 is rescheduled for **September 6, 2005, at 11:00 a.m.** Unless otherwise ordered later by the court, the parties shall hold their planning meeting by **August 26, 2005**, and defense counsel shall submit the report of their planning meeting to the chambers of the undersigned magistrate judge by **August 30, 2005**. After the motion for stay has been fully briefed, though, the court may decide to stay the case and cancel the September 6, 2005 scheduling conference.

In consideration of the foregoing,

IT IS HEREBY ORDERED:

1. The court's previous order (doc. 25) granting defendant's motion to stay (doc. 23) is vacated, as set forth above. The court's additional rulings regarding plaintiff's motion for appointment for counsel and for a stay pending appointment of counsel (docs. 19 and 20, respectively) remain in place. That is, plaintiff's motion for appointment of counsel and for a stay related to that appointment are still denied for the reasons set forth in the court's earlier order.

2. The clerk shall serve copies of this order upon plaintiff by regular and certified mail and serve all counsel of record electronically.

Dated this 25th day of July, 2005, at Kansas City, Kansas.

s/ James P. O'Hara  
James P. O'Hara  
U.S. Magistrate Judge