

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS

JAMES JOHNSON,

Plaintiff,

vs.

Case No. 06-4016-SAC

UNITED STATES POSTAL  
SERVICE, TERRANCE COOK, and  
JAY BRIGGS,

Defendants.

**ORDER DENYING PLAINTIFF'S MOTION FOR DISCOVERY**

This matter comes before the court upon Plaintiff's Motion for Discovery (Doc. 6). Upon reviewing Plaintiff's motion, the court finds that a response is not necessary and is prepared to rule.

It appears to the court from Plaintiff's motion that Plaintiff is seeking to serve interrogatories and/or additional discovery upon Defendants at this time. Fed. R. Civ. P. 26(d) controls timing and sequence of discovery and provides in relevant part, "[e]xcept ...when authorized under these rules or by order or agreement of the parties, a party may not seek discovery from any source before the parties have conferred as required by Rule 26(f)." Fed. R. Civ. P. 26(f) specifies the procedure for the parties to conduct a conference to plan for discovery in advance of a scheduling conference with the court. In this case, the court has not entered its Initial Order Regarding Planning and Scheduling and the parties have not yet held a Rule 26(f)-planning conference. Therefore, because Plaintiff's Motion

for Discovery is seeking discovery prior to the parties having held a Rule 26(f)-planning conference, the court finds that the requested discovery is premature. Once the parties have completed their planning conference and such discovery becomes appropriate, Plaintiff may serve interrogatories and additional proper discovery on Defendants in the event he still desires to obtain discovery from these parties.

**IT IS THEREFORE ORDERED** that Plaintiff's Motion for Discovery (Doc. 6) is hereby denied.

**IT IS SO ORDERED.**

Dated this 17th day of February, 2006, at Topeka, Kansas.

s/ K. Gary Sebelius  
K. Gary Sebelius  
U.S. Magistrate Judge