

JEFFREY KINNEY,)
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Plaintiff,)
)
v.) Case No. 07-2248-KHV
)
NATIONS RECOVERY CENTER, INC.,)
)
Defendant.)

This matter comes before the court on Defendant's Motion to Compel Mediation (Doc. 31). Defendant requests that the Court enter an order to require participation in mediation by the parties on December 17, 18, or 19, 2007, and that the discovery deadline of December 31, 2007, be continued to January 25, 2008. In response, plaintiff opposes the motion and moves the Court to require defendant to produce its representatives and collectors for depositions in Atlanta, Georgia, on December 18 and 19, 2007 (Doc. 34).

Upon consideration of the motion and briefing by the parties, the Court grants defendant's motion in part, and denies it in part. Further, the court grants plaintiff his requested relief. The Court finds that counsel for both parties have tried and been unable to schedule mediation within the deadline of November 9, 2007, as set forth in the Scheduling Order. Defendant contends it may be more economical to require mediation before depositions. However, in this case, defendant has not persuasively show that mediation should necessarily precede the depositions. While the parties have had adequate opportunity to schedule their mediation, they have allowed the mediation deadline to pass. The deadline for the close of discovery is December 31, 2007. The Court finds no persuasive reason now to defer depositions plaintiff has already scheduled in Atlanta on December 18 and 19, 2007, particularly in view of

the arrangements and expense already committed for court reporters, videotaping, and non-refundable flight tickets, as well as several deadlines set by the Scheduling Order. Accordingly,

IT IS THEREFORE ORDERED that Defendant's Motion to Compel Mediation (Doc. 31) is hereby granted in part and denied in part. All discovery shall be completed by January 25, 2008. The parties shall complete mediation by January 17, 2008. The Final Pretrial Conference shall be held February 6, 2008 at 1:30 p.m. Any dispositive motion shall be filed by February 20, 2008. Defendants shall produce those witnesses previously noticed for their depositions in Atlanta, Georgia, on December 18 and 19, 2007.

IT IS SO ORDERED.

Dated this 14th day of December, 2007, at Topeka, Kansas.

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