

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS

BARRY EUGENE MILLER,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. 07-3168-CM
	)	
PRISON HEALTH SERVICES, et al.,	)	
	)	
Defendants.	)	

**ORDER**

Pursuant to Fed. R. Civ. P. 15(a), this case comes before the court on the motion (**doc. 13**) of the *pro se* plaintiff, Barry Eugene Miller, for leave to amend his complaint and to request a jury trial. Defendants have filed a response (doc. 17). The court finds it unnecessary to await a reply, but rather is prepared to rule.

First, as to plaintiff's request for a jury trial, the court finds that this issue is moot as defendants requested that this case be tried to a jury in their answer.<sup>1</sup>

As to plaintiff's motion to amend, the court finds that the instant motion does not comply with Fed. R. Civ. P. 15 and D. Kan. Rule 15.1 in that plaintiff has failed to attach his proposed amended complaint. Therefore, the court overrules the motion to amend without prejudice for reassertion in compliance with the above-mentioned rules. Before refiling his motion, with the proposed amended complaint attached, plaintiff should carefully consider the objections raised by defendants in their response to the instant motion. In consideration of the foregoing,

IT IS HEREBY ORDERED that plaintiff's motion to amend (**doc. 13**) is denied in its

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<sup>1</sup> See doc. 12.

entirety.

Dated this 17th day of September, 2007, at Kansas City, Kansas.

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