

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

RODERICK F. FIELDS,)
)
 Plaintiff,)
)
 v.)
)
 AIMEE HUFFMAN, et al.,)
)
 Defendants.)

CIVIL ACTION

Case No. 07-3310-JTM-DJW

ORDER

This matter is before the Court on Plaintiff’s Motion for Objection and Imposition of Sanctions With an Affidavit in Support (doc. 73). Plaintiff seeks an order from this Court sanctioning Defendants, Defendants’ counsel, and the Kansas Department of Corrections, an interested party in this case, for failure to provide Plaintiff with a written settlement statement before the Settlement Conference which took place on June 15, 2009. For the reasons set forth below, the Motion is denied.

Plaintiff filed this Motion before the Court entered an order appointing him counsel. In his Motion, Plaintiff asks the Court to impose sanctions against Defendants, Defendants’ counsel, and the Kansas Department of Corrections, an interested party in this case. In support of this Motion, Plaintiff points out that the Court’s Order and Notice of Settlement Conference (doc. 51) required the parties to serve their settlement statement on opposing counsel by June 8, 2009. Plaintiff claims that he never received a copy of Defendants’ settlement statement before the Settlement Conference. Plaintiff further claims that during the Settlement Conference, he made Defendants’ counsel and the Court aware of the fact that he had not received Defendants’ settlement statement. According to Plaintiff, Defendants’ counsel stated that he had placed Defendants’ settlement statement in the mail

to Plaintiff on June 8, 2009. Plaintiff then wrote a letter to the Court requesting a copy of Defendants' settlement statement, which the Court provided to Plaintiff on June 26, 2009.

Plaintiff argues that because he did not receive a copy of Defendants' settlement statement before the Settlement Conference, he was "substantially prejudiced at the settlement conference because Defendants were well prepared after studying Plaintiff's strengths and weaknesses and also prepared to down play Plaintiff's civil rights complaint and injuries."¹ Plaintiff asks that the Court impose sanctions in the amount of \$500.00 against Defendants, Defendants' counsel, and the Kansas Department of Corrections.

Plaintiff fails to specify the rule under which he seeks sanctions. It appears to the Court that Plaintiff seeks sanctions under Fed. R. Civ. P. 16(f), which allows the Court to order sanctions against a party for failure to obey a scheduling order or other pretrial order.² Having reviewed Plaintiff's Motion, the affidavit in support of his Motion, and Defendants' response to the Motion, the Court finds that Defendants did not violate the Order for and Notice of Settlement Conference (doc. 51). It appears to the Court that Defendants served Plaintiff with a copy of their settlement statement on June 8, 2009, as required by the Court's Order for and Notice of Settlement Conference. For some reason, Plaintiff did not receive this statement, which is unfortunate but does not result in a violation of the Court's Order. The Court finds that Defendants, Defendants' counsel, and the Kansas Department of Corrections did not violate the Court's Order and, thus, did not commit any sanctionable conduct. The Court will therefore deny Plaintiff's Motion.

¹ Mot. for Objection and Imposition of Sanctions with an Aff. in Supp. (doc. 73) at ¶ 4.

² Fed. R. Civ. P. 16(f)(1)(C).

IT IS THEREFORE ORDERED that Plaintiff's Motion for Objection and Imposition of Sanctions With an Affidavit in Support (doc. 73) is denied.

IT IS SO ORDERED.

Dated in Kansas City, Kansas on this 18th day of September 2009.

s/ David J. Waxse _____
David J. Waxse
U.S. Magistrate Judge

cc: All counsel and *pro se* parties