

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

DAVID P. HANEY,)	
)	
Plaintiff,)	
)	
v.)	Case No. 07-4015-JAR
)	
UNIVERSITY OF KANSAS, and)	
RALPH OLIVER, in his Individual)	
and Official Capacity,)	
Defendants.)	
)	

ORDER TO SUPPLEMENT

This matter comes before the court upon movant Rhonda McCracken's Motion to Quash Deposition and Supporting Brief (Doc. 24). Counsel for Ms. McCracken has contacted the court and informed that she will not file a reply brief in support of her motion. Plaintiff David Haney issued the subpoena at issue and has filed a response to the present motion (Doc. 27). The court has contacted counsel for the defendants who have informed that they will not file a response brief to the pending motion. As a result, the issues in the present motion are ripe and disposition is warranted. However, before the court can proceed with disposition of this motion, Ms. McCracken will need to supplement the record.

D. Kan. R. 37.1(a) provides in pertinent part: "Motions under Fed. R. Civ. P. 45(c) directed at subpoenas shall be accompanied by a copy of the subpoena in dispute."

On July 10, 2007, Ms. McCracken filed a Motion to Quash Deposition and Supporting Brief pursuant to Fed. R. Civ. P. 45. This motion did not including the deposition subpoena in dispute as an exhibit.

Moreover, the subpoena in dispute is not elsewhere included on the record. On June 29, 2007, plaintiff filed a Notice to take Deposition of Rhonda McCracken (Doc. 21). This Notice

stated that a copy of the Deposition Subpoena “is attached hereto and served herewith.”¹

However, no separate deposition subpoena is attached to plaintiff’s Notice.

While Ms. McCracken’s motion is not based on any perceived procedural failures of the subpoena at issue, D. Kan. R. 37.1(a) clearly provides that all motions to quash subpoenas *shall* be accompanied by a copy of the subpoena in dispute.

Accordingly,

IT IS THEREFORE ORDERED that on or before **July 26, 2007**, Ms. McCracken’s counsel shall file, as a supplement to her Motion to Quash (Doc. 24), a copy of the subpoena in dispute.

IT IS SO ORDERED.

Dated this 19th day of July, 2007, at Topeka, Kansas.

s/ K. Gary Sebelius
K. GARY SEBELIUS
U.S. MAGISTRATE JUDGE

¹Notice (Doc. 21) at p. 1.