

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

TERRY A. CARTER,)	
)	
Plaintiff,)	
)	
v.)	Case 07-4063-JAR
)	
AMERICAN EAGLE OUTFITTERS, INC.,)	
Defendant.)	

ORDER

This matter comes before the court upon defendant's Motion for Order Directing the Kansas Human Rights Commission to Produce Documents (Doc. 7). On June 20, 2007, the court entered an Initial Order Regarding Planning and Scheduling (Doc. 6). This order set July 16, 2007 as the deadline for the parties to confer pursuant to Fed. R. Civ. P. 26(f). On June 20, 2007, defendant filed the present motion.

Rule 26(d) provides: Except in categories of proceedings exempted from initial disclosure under Rule 26(a)(1)(E), or when authorized under these rules or by order or agreement of the parties, a party may not seek discover *from any source* before the parties have conferred as required by Rule 26(f).¹

While the court has specifically instructed that the parties shall hold their Rule 26(f) conference by no later than July 16, 2007, the present motion fails to indicate whether the Rule 26(f) conference has occurred. However, as the present motion was filed on the same day as the court's Initial Order, the court finds it unlikely that the parties have held their Rule 26(f) conference. Moreover, the present motion fails to indicate whether both parties agree to the present motion.

¹(Emphasis added).

Accordingly,

IT IS THEREFORE ORDERED that defendant's Motion for Order Directing the Kansas Human Rights Commission to Produce Documents (Doc. 7) is denied without prejudice.

Defendant is free to refile the present motion wherein defendant shall indicate either plaintiff's agreement to the relief sought therein or that the parties' Rule 26(f) conference has occurred.

IT IS SO ORDERED.

Dated this 25th day of June, 2007, at Topeka, Kansas.

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