

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

STEFAN SEMCHYSHYN,)	
)	
Plaintiff,)	
)	CIVIL ACTION
v.)	
)	No. 08-2627-KHV
THE UNIVERSITY OF KANSAS, et al.,)	
)	
Defendants.)	
)	

MEMORANDUM AND ORDER AND ORDER NUNC PRO TUNC

Stefan Semchyshyn brings suit against KU Hospital Authority and Kansas University Physicians Inc. for violation of the Age Discrimination in Employment Act of 1967 (“ADEA”), 29 U.S.C. § 621 *et seq.* This matter comes before the Court on plaintiff’s Second Motion For Leave To File An Amended Complaint And To Add Parties (Doc. #23) filed July 14, 2009 and the Memorandum And Order And Order To Show Cause (Doc. #48) entered December 4, 2009. On December 4, 2009, the Court ordered plaintiff to show cause in writing by December 11, 2009 why it should not overrule plaintiff’s second motion for leave to amend as futile under Ex parte Young, 209 U.S. 123 (1908). Plaintiff did not respond. The Court therefore overrules in part plaintiff’s second motion for leave to amend.

In its order of December 4, 2009, the Court sustained plaintiff’s separate motion to add Kansas University Gynecological & Obstetrical Foundation as a defendant, and also sustained the unopposed portion of plaintiff’s second motion for leave to amend which sought to add official capacity claim for injunctive relief against Dr. Carl Weiner. Unfortunately, the Court’s order did not make this ruling explicitly clear. The Court therefore enters this order to clarify its prior order.

IT IS THEREFORE ORDERED that plaintiff's Second Motion For Leave To File An Amended Complaint And To Add Parties (Doc. #23) filed July 14, 2009 be and hereby is **OVERRULED** in part.

IT IS FURTHER ORDERED that the Memorandum And Order And Order To Show Cause (Doc. #48) entered December 4, 2009 is hereby amended to clarify that plaintiff's Second Motion For Leave To File An Amended Complaint And To Add Parties (Doc. #23) filed July 14, 2009, be and hereby is **SUSTAINED** in part. Plaintiff is permitted to amend his complaint to add his proposed official capacity claim for injunctive relief against Dr. Weiner.

Dated this 17th day of December, 2009 at Kansas City, Kansas.

s/ Kathryn H. Vratil
KATHRYN H. VRATIL
United States District Judge