

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS

EMMANUEL SOTO-MONTES

Plaintiff,

v.

Case No. 08-3108-KHV-GLR

(fnu) BOGART,  
et al.,

Defendants.

**ORDER**

This matter is before the Court on Plaintiff Emmanuel Soto-Montes's Motion Requesting Discovery (doc. 38). Plaintiff requests permission to propound each Defendant with twenty-five interrogatories. Plaintiff claims such written questions are necessary for him "to prepare his case for trial." Plaintiff filed his motion while proceeding *pro se* and has subsequently been appointed counsel to represent him in this action.

Federal Rule of Civil Procedure 26(d)(1) governs the timing and sequence of discovery. It provides, in pertinent part, that "[a] party may not seek discovery from any source before the parties have conferred as required by Rule 26(f), except in a proceeding exempted from initial disclosure under Rule 26(a)(1)(B), or when authorized by these rules, by stipulation, or by court order."<sup>1</sup> The court may, in the exercise of its broad discretion, alter the timing, sequence, and volume of discovery.<sup>2</sup> A party who seeks expedited discovery in advance of the Rule 26(f) conference has the

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<sup>1</sup>Fed. R. Civ. P. 26(d)(1).

<sup>2</sup>*Thermal Solutions, Inc. v. Imura Int'l U.S.A. Inc.*, No. 08-CV-2220-JWL-DJW, 2008 WL 2561098, at \*1 (D. Kan. June 26, 2008).

burden of showing good cause for the requested departure from usual discovery procedures.<sup>3</sup>

Plaintiff states in his Motion Requesting Discovery that the purpose of the discovery is for “trial preparation.” This is not sufficient justification for allowing discovery before the parties’ Rule 26(f) planning conference. The Initial Order Regarding Planning and Scheduling (doc. 44) sets a July 7, 2009 deadline for the parties to hold their planning conference and sets a Scheduling Conference with the Court on July 21, 2009.

**IT IS THEREFORE ORDERED THAT** Plaintiff’s Motion Requesting Discovery (doc. 38) is denied.

Dated this 26th day of June, 2009.

s/ Gerald L. Rushfelt

Gerald L. Rushfelt  
United States Magistrate Judge

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<sup>3</sup>*Id.*