

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

EMMANUEL AZZUN,)	
)	
Plaintiff,)	
)	
v.)	Case No. 09-4144-SAC
)	
KANSAS DEPARTMENT OF HEALTH)	
AND ENVIRONMENT,)	
)	
Defendant.)	

ORDER

This matter comes before the Court upon Plaintiff's Motion to Reconsider Request for KDHE Hiring Employment Record (Doc. 44), filed April 7, 2010. Plaintiff requests this Court reconsider its Order (Doc. 29) denying Plaintiff's Motion to Request Kansas Department of Health and Environment Hiring Employment Record. For the reasons stated below, the Court denies Plaintiff's Motion to Reconsider.

The Federal Rules of Civil Procedure do not provide for motions to reconsider, but the District of Kansas has a local rule for such matters.¹ D. Kan. R. 7.3 states that motions for reconsideration must be based on "(1) an intervening change in controlling law, (2) the availability of new evidence, or (3) the need to correct clear error or prevent manifest injustice." The decision to grant or deny a motion to reconsider lies soundly within the court's discretion.² A motion to reconsider gives the court the opportunity to correct manifest errors of law or fact

¹ See *Hatfield v. Bd. of County Comm'rs for Converse County*, 52 F.3d 858, 861 (10th Cir. 1995).

² *Hancock v. City of Oklahoma City*, 857 F.2d 1394, 1395 (10th Cir. 1988).

and to review newly discovered evidence.³

On February 23, 2010, this Court denied Plaintiff's Motion to Request Kansas Department of Health and Environment Hiring Employment Record.⁴ In its prior Order, the Court stated, "a party cannot generally seek discovery until after the parties have conferred and developed their joint discovery plan."⁵ The Court has set this case for a scheduling conference on May 3, 2010 at 9:00 a.m, with the parties to confer by April 19, 2010.⁶ At this scheduling conference, the Court will establish various deadlines, including the deadline for the parties to exchange their initial disclosures and the deadline for the completion of discovery. Plaintiff may then formally request the production of documents from Defendant, as governed by Fed. R. Civ. P. 34.

Accordingly,

IT IS THEREFORE ORDERED that Plaintiff's Motion to Reconsider (Doc. 44) is hereby denied.

IT IS SO ORDERED

Dated this 12th day of April, 2010, at Topeka, Kansas.

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

³ *Comm. for the First Amendment v. Campbell*, 962 F. 2d 1517, 1523 (10th Cir. 1992).

⁴ Order (Doc. 29).

⁵ *Id.* (citing Fed. R. Civ. P. 26(d)(1)).

⁶ Initial Order Regarding Planning and Scheduling (Doc. 39).