

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

KAMAL K. PATEL,
and K & A MOTEL, INC.,

Plaintiffs,

v.

Case No. 10-2403-JTM

DAVID SNAPP and
WAITE, SNAPP & DOLL,

Defendants.

ORDER

This matter comes before the court on the motion of pro se plaintiff¹ Kamal Patel (ECF doc. 396) to compel non-party Bank of America to respond to requests for production set out in a subpoena served upon it by plaintiff. Plaintiff asserts that the court ruled that Bank of America is required to comply with the subpoena in its October 31, 2013 order (ECF doc. 366). Plaintiff misconstrues the court's holding. This court previously held that movants Wilson and Grace Parmar did not have standing to challenge the subpoena. Consequently, the court denied Wilson and Grace Parmars' *motion to quash* the Bank of America subpoena. Nowhere in its order did the court order Bank of America to *comply* with plaintiff's subpoena.²

The subject subpoena called for production on October 1, 2013. Pursuant to D. Kan. Rule 37.1(b), any motion to compel discovery in compliance with D. Kan. Rules 7.1

¹ Reference in this order to "plaintiff" is to Kamal Patel.

² See *Pennwalt Corp. v. Durand-Wayland, Inc.*, 708 F.2d 492, 494 (9th Cir. 1994) (denial of motion to compel is not interpreted as an order compelling compliance).

and 37.2 must be filed and served within thirty days of the default or service of the response, answer, or objection which is the subject of the motion, unless the timing for filing such a motion is extended for good cause shown. Otherwise, the objection to the default, response, answer, or objection shall be deemed waived. In the event plaintiff decided to file such motion, he was to do so by October 31, 2013. In consideration of the foregoing, plaintiff's motion to compel (**ECF doc. 395**) is denied.

Plaintiff is hereby informed that, within 14 days after he is served with a copy of this order, he may, pursuant to Fed. R. Civ. P. 72 and D. Kan. Rule 72.1(4)(a), file written objections to this order by filing a motion for review of this order. Plaintiff must file any objections within the 14-day period if he wants to have appellate review of this order. If plaintiff does not timely file his objections, no court will allow appellate review.

IT IS SO ORDERED.

Dated December 17, 2013 at Kansas City, Kansas.

s/ James P. O'Hara
James P. O'Hara
U.S. Magistrate Judge