

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

MELVIN HALE, PH.D.,)
)
 Plaintiff,) Case No. 16-4183-DDC-KGG
)
v.)
)
JACKIE VIETTI, PH.D., *et al.*,)
 Defendants.)

ORDER DENYING IN PART AND GRANTING IN PART PLAINTIFF’S MOTION TO
EXTEND THE DISCOVERY DEADLINE

Plaintiff, *pro se*, has filed a motion (Doc. 45) to extend the discovery period two weeks, or until March 16, 2018 to allow him to make an additional request for documents after a ruling in a related case (*Angelica Hale v. Emporia State University*, 16-4182-DDC-TJJ) concerning whether those documents are privileged.

Defendants oppose the request. Among other arguments, Defendants appear to doubt the Plaintiff’s motivation, pointing out the Plaintiff submitted written discovery 28 days before the discovery deadline, thus 2 days late. (The Scheduling Order, Doc. 32 requires discovery be served in time to be completed by the deadline.) Extending the discovery deadline for any reason would render these requests timely. Notably, the Defendants have not filed a motion for protective order to resolve the issue of whether they must respond to the discovery requests.

This motion requires practical resolution. First, the extension requested by the Plaintiff would not provide the relief the Plaintiff claims he needs. New discovery requests issued now (March 1, 2018) would not be served in time to meet a March 16, 2018, discovery deadline, since the responses would not be due for 30 days. The Plaintiff has not established good cause for not having previously issued a request for the documents in question. Awaiting a ruling on the discoverability of those document from another judge in a case to which he is not a party is

not good cause. (The Court notes that Magistrate Judge James ruled on the subject motion on February 20. Case No. 16-4182, Doc. 71).

However, anticipating a motion to compel responses to the discovery served on February 2, 2018, or a motion for protective order from Defendants, and in the interests of efficiency, the Court will solve this nascent problem *sua sponte*. The discovery deadline is extended from Friday March 2, 2018 to Monday March 5, 2018. This adjustment will make the already-issued discovery requests timely and will avoid motion litigation over a 2-day extension (See Fed. R. Civ. Proc. 1). This will not prejudice the Defendants except, of course, to require them to respond to the requests. Additionally, the deadline to respond to those pending discovery requests is extended to March 9, 2018.

The Plaintiff's motion is Granted to the extent the discovery deadline is extended to March 5, 2018. The motion is otherwise DENIED.

Dated: March 1, 2018.

s/ Kenneth G. Gale
Kenneth G. Gale
United States Magistrate Judge