

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

GARY L. ABRAHAM,)
)
Plaintiff,)
)
v.) Case No. 18-2137-DDC
)
HAMPTON INN CORPORATION, et al.,)
)
Defendants.)

ORDER

On or about April 7, 2018, plaintiff served separate subpoenas on defendants Hampton Inn and Hilton Worldwide. Although copies of the subpoenas are not in the record, plaintiff states they seek information from defendants “concerning specific times, logs, records, dates and ledgers of room occupancy on given dates pertaining, specific to this complaint.”¹ Plaintiff has filed a motion asking the court to compel defendants’ compliance with the subpoenas (ECF No. 9). Because the subpoenas were issued in violation of Fed. R. Civ. P. 26(d)(1), they are invalid and the motion is denied.

Rule 26(d)(1) provides that no party may seek discovery from any source until the parties have held a discovery planning conference in accordance with Fed. R. Civ. P. 26(f). The parties have not yet held a Rule 26(f) planning conference. Typically, this conference

¹ ECF No. 14 at ¶ 6.

is held after the court issues what it calls an “initial order on planning and scheduling.”² Because plaintiff issued the subpoenas before the Rule 26(f) conference, the subpoenas are invalid.

The court advises plaintiff that once discovery does begin, it is not necessary for plaintiff to serve subpoenas on parties to this action. Instead, plaintiff may wish to serve defendants with interrogatories under Fed. R. Civ. P. 33, or with requests for production of documents under Fed. R. Civ. P. 34.

IT IS THEREFORE ORDERED that plaintiff’s motion to compel is denied.

Dated May 21, 2018, at Kansas City, Kansas.

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

² The court usually will issue an initial order on planning and scheduling after all defendants have been served with summons and the complaint, and have had an opportunity to file a pleading responsive to the complaint.