

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

GWENDOLYN G. CARANCHINI,

Plaintiff,

v.

LOLA PECK, et al.,

Defendants.

Case No. 18-2249-CM-GLR

MEMORANDUM AND ORDER

This matter is before the Court on State Defendants' Motion for Extension of Time to Answer or Otherwise Plead or in the Alternative Motion for Status Conference (ECF 55). For the reasons set forth below, the Court on its own motion grants the State Defendants an extension of time to and including September 14, 2018, in which to answer or otherwise respond to Plaintiff's Complaint. The Court otherwise denies the motion.

Defendants Johnson County, Kansas, District Attorney's Office and Assistant District Attorneys John Fritz and Michael McElhinney, and Defendants Dan Vokins and James E. Phelan, Kansas Magistrate Judges, Johnson County, Kansas ("the State Defendants") seek to defer their answer or other responsive pleading, until the Court has ruled on an anticipated motion by Plaintiff to amend her complaint. The State Defendants say Plaintiff has indicated by email an intent to "make some changes" to her complaint. Her complaint currently contains 147 pages of allegations and claims. The State Defendants, understandably, prefer not to answer or otherwise respond to her complaint, only to have such response deemed moot, if indeed Plaintiff is granted leave to amend her complaint.

Plaintiff, however, has filed no motion to amend her complaint. The Court understands from her response that she may decide not to file such a motion until the State Defendants have

answered or otherwise responded to her complaint. In the email text included in the State Defendants' reply memorandum (ECF 57), Plaintiff says she is "considering" seeking to amend her complaint "as part of response" to the State Defendants' response. They acknowledge the uncertainty that she will file such a motion, and if she did, whether it would be granted.

The State Defendants ask for an order to impose a deadline for Plaintiff to file a motion to amend her complaint. But they cite no authority for the Court simply or sua sponte to impose such a deadline, absent a request from Plaintiff. Their suggestions appear better suited for opposing a possible motion that directly addresses the complaint, should any of the parties file such a motion.

Defendants Lola and Rick Peck have filed a motion to strike Plaintiff's Complaint (ECF 3). Defendant Sheriff Calvin Hayden has filed a motion to dismiss (ECF 11). Both of these motions remain pending. Conceivably, though not necessarily, a ruling on either of them could lead to the filing of an amended complaint. That in turn could change Plaintiff's allegations, depending upon the ruling.

Given the length of Plaintiff's complaint, the Court upon its own motion grants the State Defendants an extension, to and including September 14, 2018, in which to answer or otherwise respond to the complaint. The State Defendants' motion for extension of time is otherwise denied. The motion as it relates to a request for a status conference is also denied. Defendants have shown no need or constructive purpose for such a conference at this point. And the Court otherwise finds neither a need nor occasion for such a conference at this point. At an appropriate time the Court intends to set the case for a scheduling conference.

IT IS THEREFORE ORDERED BY THE COURT that State Defendants' Motion for Extension of Time to Answer or Otherwise Plead or in the Alternative Motion for Status

Conference (ECF 55) is denied. The Court on its own motion grants the State Defendants an extension of time, to and including September 14, 2018, in which to answer or otherwise respond to Plaintiff's complaint.

IT IS SO ORDERED.

Dated August 23, 2018, at Kansas City, Kansas.

S/ Gerald L. Rushfelt
Gerald L. Rushfelt
U.S. Magistrate Judge