

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

DALE W. BIRCH,

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)

Plaintiff,

)

)

v.

)

Case No. 19-2156-JAR

)

THE CITY OF ATCHISON,

)

KANSAS, et al.,

)

)

Defendants.

)

ORDER

The pro se plaintiff, Dale Birch, has filed a fifth motion for appointment of counsel (ECF No. 38). This fifth motion sets forth no facts, details, or law that were not included in plaintiff's last motion seeking appointment of counsel (ECF No. 22). For the reasons previously set forth by the court (*see* ECF Nos. 8, 11, 13, and 24), the motion is denied without prejudice to being reasserted. As the court has ruled, plaintiff may file a new motion for appointment of counsel if his "complaint survives . . . a dispositive motion filed by defendants."¹ Defendants filed a dispositive motion on December 23, 2019 (ECF No. 36), and plaintiff's response is due January 13, 2020. If the presiding U.S. District Judge ultimately denies defendant's motion in whole or in part, such that plaintiff's case remains pending, that would be the time for plaintiff to request the appointment of counsel.

¹ ECF No. 8.

IT IS SO ORDERED.

Dated January 3, 2020, at Kansas City, Kansas.

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