

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

DALE W. BIRCH,)
)
 Plaintiff,)
)
 v.) Case No. 19-2156-JAR
)
 THE CITY OF ATCHISON, KANSAS, et al.,)
)
 Defendants.)

SCHEDULING ORDER

This is a civil-rights action filed by an individual who is incarcerated and not represented by a lawyer. Accordingly, Federal Rule of Civil Procedure 26(f), which generally requires parties to confer and propose a discovery plan before the court enters a scheduling order, does not apply. *See* Fed. R. Civ. P. 26(a)(1)(B)(iv) and 26(f). Additionally, initial disclosures regarding witnesses and documents upon which the parties intend to rely to support their claims and defenses, plaintiff's damage computations, and any insurance coverage defendants might have are not required in this case. *See* Fed. R. Civ. P. 26(a)(1)(B)(iv). The court therefore proceeds to enter the following scheduling order.

The court orders the parties to comply with the following deadlines and discovery directives:

1. Any motion to amend the complaint or to add parties must be filed by **July 22, 2019**.

2. Any motion seeking dismissal of plaintiff's claims, whether based on failure to state a claim, failure to exhaust administrative remedies, or any other reason, must be filed by **August 22, 2019**.
3. Any motion for a protective order to govern the exchange of discovery (whether agreed to by both sides or not) shall be filed no later than **July 22, 2019**.
 - 3.1 The party or parties seeking entry of a protective order must submit the proposed order (formatted in MS Word) as an attachment to an e-mail sent to ksd_ohara_chambers@ksd.uscourts.gov.
 - 3.2 The proposed order should follow the District of Kansas preapproved form protective order, available on the court's website: <http://ksd.uscourts.gov/index.php/forms/?open=CivilForms>.
4. Any discovery requests must be served by **October 22, 2019**.
 - 4.1. No discovery requests may be served after this deadline except by stipulation of the parties or by court order for good cause shown.
 - 4.2. Responses to discovery must be served within the time provided by the Federal Rules of Civil Procedure unless the parties stipulate otherwise.
5. Any deposition of plaintiff must be taken by **September 23, 2019**.
 - 5.1. Leave of court for the taking of such deposition is granted pursuant to Federal Rule of Civil Procedure 30(a)(2)(B). The deposition may be taken by telephone at the option of defendants.

6. Dispositive motions (e.g., for summary judgment) must be filed by **December 23, 2019.**
7. A proposed joint pretrial order must be submitted by **December 23, 2019, unless a dispositive motion is filed, in which case by 30 days after the court's ruling on the last dispositive motion.**
 - 7.1. Defense counsel is responsible for initiating the drafting of the proposed pretrial order in the form available on the court's website:
<http://ksd.uscourts.gov/index.php/forms/?open=CivilForms>.
 - 7.2. Defense counsel must submit the parties' proposed pretrial order (formatted in MS Word) as an attachment to an e-mail sent to ksd_ohara_chambers@ksd.uscourts.gov. The proposed pretrial order must not be filed with the Clerk's Office.
8. Limits on discovery.
 - 8.1. Interrogatories: No more than 25 (including discrete subparts) by each party to any other party.
 - 8.2. Requests for production of documents: No more than 15 from each party to any other party.
 - 8.3. Requests for admissions: No more than 10 from each party to any other party.
 - 8.4. Depositions: Because of the logistical problems involved, self-represented, incarcerated parties may not take depositions without

prior court permission. Such permission will not be granted except upon a showing of exceptional circumstances.

9. Discovery disputes.

9.1. The court will not entertain motions to compel discovery, motions for sanctions, motions for protective orders, or the like unless and until there has been compliance with the following procedure: In the event of a dispute over discovery, the parties must confer in good faith, in person or by telephone if possible, and attempt to resolve the dispute. *See* Federal Rule of Civil Procedure Rule 37(a) and D. Kan. Rule 37.2.

9.2. Any motion to compel discovery in compliance with D. Kan. Rules 7.1 and 37.2 must be filed and served within 30 days of the default or service of the response, answer, or objection that is the subject of the motion, unless the time for filing such a motion is extended for good cause shown. Otherwise, the objection to the default, response, answer, or objection is waived. *See* D. Kan. Rule 37.1(b).

This scheduling order will not be modified except by leave of court upon a showing of good cause.

IT IS SO ORDERED.

Dated May 22, 2019, at Kansas City, Kansas.

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