

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

ALLEN WOLFSON,

Plaintiff,

CIVIL ACTION

v.

No: 08-3190-CM-GLR

RON NUTT and SCHERYL NUTT,

Defendants.

ORDER

Pending before the Court is Plaintiff's Motion to Amend Complaint (doc. 39). Plaintiff requests that the Court allow him to amend his complaint to dismiss Scheryl Nutt as a defendant and add "KCTU PAX '55'" as a defendant. Defendants have filed their Objection to Plaintiff's Request to Amend Complaint (doc. 42), in which Defendant Scheryl Nutt consents to her dismissal, but Ron Nutt does not consent to the request for amendment. Defendant Ron Nutt argues that Plaintiff has failed to attach the proposed Amended Complaint to the motion, and therefore he does not have knowledge of the exact nature of the proposed amendment.

Rule 15.1 of the Rules of Practice and Procedure for the District of Kansas sets forth certain requirements for motions to amend and motions for leave to file. One of these requirements is that the proposed amended pleading be attached to the motion. Plaintiff fails to attach his proposed Amended Complaint to his motion. Plaintiff's motion to amend his complaint to add "KCTU PAX '55'" as a defendant is therefore denied for failure to comply with D. Kan. Rule 15.1. Such ruling is without prejudice to any future motion that attaches the proposed Amended Complaint.

To the extent Plaintiff seeks to voluntarily dismiss Defendant Scheryl Nutt, he should file a stipulation of dismissal, signed by all parties who have appeared, pursuant to Fed. R. Civ. P. 41(a)(1)(A)(ii), or a motion to dismiss pursuant to Fed. R. Civ. P. 41(a)(2).

IT IS THEREFORE ORDERED that Plaintiff's Motion to Amend Complaint (doc. 39) is denied without prejudice, as set forth herein.

Dated in Kansas City, Kansas on this 6th day of January, 2009.

s/ Gerald L. Rushfelt
Gerald L. Rushfelt
United States Magistrate Judge