

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

RICHARD BERRY,)
)
 Plaintiff,)
)
 v.)
)
 TRANSSYSTEMS CORPORATION,)
)
 Defendant.)

Case No. 17-1202-EFM

ORDER

This matter comes before the court upon defendant’s Motion to Vacate Mediation Deadline (ECF No. 26). For the following reasons, this motion is denied.

In this action, plaintiff claims he was unlawfully terminated by defendant in retaliation for filing a workmen’s compensation claim. On October 26, 2017, the court conducted a Scheduling Conference. At that time, the court determined that mediation was appropriate and established the deadline for mediation as December 31, 2017. Thereafter, the parties agreed on a mediator and agreed to conduct the mediation prior to the deadline. Subsequently, the parties requested an extension of the deadline. On January 4, 2018, the court extended the mediation deadline to February 16, 2016.

On February 16, 2016, defendant filed the instant motion. Defendant now contends that the order of mediation should be vacated because “the gap between the parties in their assessment of the settlement value of this matter is too broad to make any mediation productive.” Defendant suggests that the parties can revisit mediation after the dispositive motion deadline.

In response, plaintiff points out that discovery has progressed efficiently and a significant amount of evidence has been obtained by the parties. Plaintiff contends that the parties are “well-positioned to engage in fruitful settlement discussions.” Plaintiff argues that defendant’s suggested

deferral of mediation until after a decision on dispositive motions will needlessly delay a resolution of this case.

The court is not persuaded that mediation should be delayed. At the Scheduling Conference, the court found that settlement of this case would be enhanced by early mediation. The court fails to find defendant has demonstrated that the court's belief was mistaken. The court understands that the parties may have different views on the value of this case, but mediation may allow both sides to effectively examine their respective positions on this issue. Accordingly, the court denies defendant's motion. The court shall set the deadline for mediation as March 25, 2018.

IT IS THEREFORE ORDERED that defendant's Motion to Vacate Mediation Deadline (ECF No. 26) is denied. The deadline for mediation is extended to March 25, 2018.

IT IS SO ORDERED.

Dated this 26th day of February, 2018, at Topeka, Kansas.

s/ K. Gary Sebelius
K. Gary Sebelius
U.S. Magistrate Judge