

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY
AT BOWLING GREEN**

MICHAEL JOSEPH PATTERSON

PLAINTIFF

v.

CIVIL ACTION NO. 1:11-CV-P68-R

NBC UNIVERSAL INC.

DEFENDANT

MEMORANDUM OPINION AND ORDER

By prior Order of this Court, discovery was due to be completed on November 16, 2011. *See* DN 6. On October 6, 2011, Defendant filed a motion to dismiss this case pursuant to Fed. R. Civ. P. 12(b)(6). Plaintiff had until October 31, 2011, to file a response to that motion. On that date, Plaintiff filed a motion to extend the time to complete discovery, indicating that he needs additional time to complete discovery and to retain counsel (DN 15). He attaches a copy of a recent letter to an attorney in New York inquiring whether that attorney would be willing to represent him.

“One of the purposes of Rule 12(b)(6) is to save parties the expense of discovery on claims that lack merit.” *White v. Foster*, No. C2-01-0083, 2002 WL 193848, at *3 (S.D. Ohio Jan. 16, 2002). Moreover, discovery cannot affect whether a complaint states a claim for purposes of Rule 12(b)(6). *See Mitchell v. McNeil*, 487 F.3d 374, 379 (6th Cir. 2007); *cf. Neitzke v. Williams*, 490 U.S. 319, 326–27 (1989) (“[Rule 12(b)(6)] streamlines litigation by dispensing with needless discovery and factfinding.”).

IT IS THEREFORE ORDERED that Plaintiff’s motion (DN 15) is **DENIED IN PART and GRANTED IN PART**. It is **DENIED** to the extent that it requests an extension of time to complete discovery but is **GRANTED** with regard to the request for an extension of time as it pertains to attempting to find retained counsel. Accordingly,

IT IS ORDERED that Plaintiff shall have **45 days from the entry of this Order** to file a response to Defendant's motion to dismiss. Defendant may file a reply **within 14 days** of service of that response.

Date:

cc: Plaintiff, *pro se*
Counsel of record
4413.009