

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

DERRICK HOWARD,

)

Plaintiff,

)

)

v.

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No. 4:10CV2367 CDP

)

BANK OF AMERICA, N.A.,

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Defendant.

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MEMORANDUM AND ORDER

This matter is before me on plaintiff’s motions for subpoenas and motion for an extension of time to pay his initial partial filing fee. Plaintiff seeks to subpoena witnesses and documents pursuant to Rule 45 of the Federal Rules of Civil Procedure. Because plaintiff is a prisoner, this case is assigned to Track 5 of the Differentiated Case Management Program of the United States District Court of the Eastern District of Missouri. See E.D. Mo. L.R. 16 - 5.01, 16 - 5.04. In Track 5 cases, discovery may not take place until authorized by the Court and a schedule is set forth in a Track 5 Case Management Order. I have not yet authorized discovery in this case because defendant has not filed a responsive pleading and because plaintiff has not paid the initial partial filing fee. As a result, I will deny plaintiff’s motions for subpoenas.

Plaintiff seeks an extension of time up to sixty days to pay his initial partial filing fee of \$16.67. Plaintiff says that USP Coleman II is on lockdown, which has


prevented plaintiff from procuring the funds to pay the fee. I will grant the motion for an extension of time, and I allow plaintiff until March 25, 2011, to pay the initial partial filing fee.

Accordingly,

IT IS HEREBY ORDERED that plaintiff's motions for subpoenas [##'s 10,11] are **DENIED** without prejudice.

IT IS FURTHER ORDERED that plaintiff's motion for extension of time [#12] is **GRANTED**. Plaintiff shall pay the initial partial filing fee no later than **March 25, 2011**.

Dated this 28th day of January, 2011.



CATHERINE D. PERRY
UNITED STATES DISTRICT JUDGE