

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

BARRY W. FLETCHER SR.,)	4:12CV3179
)	
Plaintiff,)	
)	
v.)	MEMORANDUM
)	AND ORDER
ROBERT P. HOUSTON, et al.,)	
)	
Defendants.)	

This matter is before the court on Plaintiff’s Motion for an Order Compelling Discovery, and Second Motion for the Appointment of Counsel. (Filing Nos. [61](#) and [63](#).)

I. Motion to Compel Discovery

Plaintiff filed a motion seeking an order compelling discovery on September 13, 2013. (Filing No. [61](#).) In response, Defendants filed a Certificate of Service of Discovery setting forth that Defendants mailed to Plaintiff on September 17, 2013, a supplemental response to Plaintiff’s third request for production of documents. (Filing No. [62](#).) Because Defendants have responded to Plaintiff’s discovery requests, the court need not consider the timeliness of Plaintiff’s motion and will deny the motion as moot.

Plaintiff has had since March 25, 2013, in which to conduct discovery. The original deadline for completing discovery in this matter was June 3, 2013. (See Progression Order at Filing No. [34](#).) On June 28, 2013, the court extended the discovery deadline to July 29, 2013. (Filing No. [47](#).) Accordingly, the time in which to conduct discovery is now closed. However, in light of the discovery responses sent to Plaintiff on September 17, 2013, on the court’s own motion, Plaintiff shall be given additional time in which to respond to Defendants’ Motion for Summary Judgment.

II. Motion to Appoint Counsel

Plaintiff seeks the appointment of counsel. However, the court cannot routinely appoint counsel in civil cases. In [Davis v. Scott, 94 F.3d 444, 447 \(8th Cir. 1996\)](#), the Eighth Circuit Court of Appeals explained that “[i]ndigent civil litigants do not have a

constitutional or statutory right to appointed counsel. . . . The trial court has broad discretion to decide whether both the plaintiff and the court will benefit from the appointment of counsel” *Id.* (quotation and citation omitted). No such benefit is apparent here. Thus, the request for the appointment of counsel is denied.

IT IS THEREFORE ORDERED that:

1. Plaintiff’s Motion for an Order Compelling Discovery (Filing No. [61](#)) is denied as moot.
2. Plaintiff’s Second Motion for Appointment of Counsel (Filing No. [63](#)) is denied.
3. On the court’s own motion, Plaintiff shall have 30 days from the date of this Memorandum and Order to file his final brief in opposition to Defendants’ pending Motion for Summary Judgment.
4. The clerk’s office is directed to set the following pro se case management deadline: October 25, 2013: Deadline for Plaintiff to file final brief in opposition to motion for summary judgment.

DATED this 25th day of September, 2013.

BY THE COURT:

s/ Joseph F. Bataillon
United States District Judge

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