

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

WILLIAM ZUCK,)	4:12CV3252
)	
Plaintiff,)	
)	
v.)	MEMORANDUM
)	AND ORDER
MARIO PEART, et al.,)	
)	
Defendants.)	

This matter is before the court on Plaintiff William Zuck’s motion seeking additional time in which to conduct discovery (Filing No. [114](#)) and motion requesting an order from the court to compel discovery (Filing No. [123](#)). Subsequent to Zuck filing these motions, Defendants moved for summary judgment on the basis that they are entitled to qualified immunity (*see* Filing No. [135](#)). Defendants have objected to Zuck’s discovery-related motions, in part, because they have filed a motion raising the issue of qualified immunity (Filing No. [138](#)).

Unless a complaint states a claim of a violation of clearly established law, a defendant pleading qualified immunity is entitled to dismissal before the commencement of discovery. *See* [Mitchell v. Forsyth, 472 U.S. 511 \(1985\)](#).

Upon careful review of the record before the court, the undersigned judge finds Defendants’ Objection (Filing No. [138](#)) should be sustained without prejudice to Zuck filing, if necessary, a motion pursuant to Rule 56(d) of the Federal Rules of Civil Procedure. That is, pending the court’s determination of whether Zuck has stated a claim of a violation of clearly established law, no additional discovery will be allowed unless Zuck shows that he cannot present facts essential to justify his opposition to Defendants’ dispositive motions.

IT IS THEREFORE ORDERED that:

1. Defendants' Objection (Filing No. [138](#)) is sustained.
2. Zuck's Motion for Enlargement of Time (Filing No. [114](#)) and Motion to Compel Discovery (Filing No. [123](#)) are denied without prejudice to Zuck filing, if necessary, a proper motion pursuant to Rule 56(d) of the Federal Rules of Civil Procedure.

DATED this 16th day of September, 2014.

BY THE COURT:

Richard G. Kopf
Senior United States District Judge

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