

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

COACH, INC., AND COACH
SERVICES, INC.,

Plaintiffs,

vs.

RAJA D. QUINN, AND FAWAZ
MUMTAZ,

Defendants.

8:16CV338

ORDER

Defendant Raja D. Quinn has filed a motion for discovery and for dismissal for lack of evidence, (Filing No. 21). The motion was not signed under oath and cannot be considered as evidence in support of a motion for summary judgment. And unless presented as a properly supported summary judgment motion, dismissal for lack of evidence is not a recognized and valid procedure in the federal courts. As such, Quinn's motion to dismiss will be denied.

Quinn's motion could be construed as demanding production of Plaintiffs' Rule 26 mandatory disclosures; that is, Defendant Quinn "ask[s] the court to make Coach submit a discovery packet of all of their evidence." (Filing No. 21). While Plaintiffs were not required to serve initial mandatory disclosures before a scheduling order was entered, they did so on September 20, 2016. (Filing No. 20). Defendant Quinn has therefore received a copy of the evidence in Plaintiffs' possession that Plaintiffs' intend to use at trial.

Plaintiffs filed a Rule 26(f) Report, but Defendants did not participate in preparing that report. (Filing No. 18). The court must therefore set a hearing to discuss case scheduling to trial.

Accordingly,

IT IS ORDERED:

- 1) Defendant Quinn's motion, (Filing No. 21), is denied.

- 2) A telephonic conference with the undersigned magistrate judge will be held on October 12, 2016 at 11:00 a.m. to discuss case scheduling. Defendants and counsel for Plaintiffs shall use the following conferencing instructions to participate in the call:

Dial 1-877-336-1828.

Enter the access code 5957780, then hit the # key.

Enter the security code: 0338

Press (1) to accept. Press (2) to re-enter.

September 28, 2016.

BY THE COURT:

s/ Cheryl R. Zwart
United States Magistrate Judge