UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

BRUCE DANIEL MULLIGAN, Plaintiff, v. DR. DAVID KENNEY, *et al*., Defendants.	CASE NO. C09-842-RSL-MAT ORDER GRANTING PLAINTIFF'S MOTION FOR EXTENSION OF TIME

This is a civil rights action filed under 42 U.S.C. § 1983. This matter comes before the Court on plaintiff's motion to for an extension of the discovery deadline. The Court, having reviewed plaintiff's motion, defendants' response thereto, and the remaining record, does hereby ORDER as follows:

(1) Plaintiff's motion for an extension of time (Dkt. No. 57) is GRANTED. Plaintiff, by way of the instant motion, seeks an extension of the discovery deadline so that he may locate, and be examined by, a board certified nephrologist. Defendants oppose plaintiff's motion on the grounds that plaintiff failed to confer with defendants' counsel before requesting relief from the Court as required by Local Rule CR 37(a)(2), and that plaintiff has not articulated a valid basis for the relief he requests.

The Court notes, with respect to defendants' first argument, that the current version of this Court's Local Rules contains no Rule CR 37(a)(2). It appears that counsel intends to refer to Fed. R. Civ. P. 37(a)(1) and/or to Local Rule CR37(a)(1)(A). Rule 37(a)(1) of the Federal Rules of Civil Procedure requires that a party seeking to compel discovery include in the motion a certification that the moving party "has in good faith conferred or attempted to confer" with the party failing to make disclosures. *See* Fed. R. Civ. P. 37(a)(1). Local Rule CR 37(a)(1)(A) provides that "a good faith effort to confer with a party or person not making a disclosure or discovery requires a face-to-face meeting or a telephone conference." Because plaintiff is not seeking to compel discovery, but merely seeking an extension of time, neither Fed. R. Civ. P. 37(a)(1) nor Local Rule 37(a)(1)(A) appear to apply.

Defendants' second argument, that plaintiff has presented no valid basis for the requested extension is also off target. Defendants construe plaintiff's request for additional time as being based on his need to obtain more information from defendant Kenney, and they argue that plaintiff has demonstrated his ability to request relevant discovery from defendants and that he has had ample time to do so. However, it is clear from the face of plaintiff's motion that his request for additional time does not concern his ability to obtain timely discovery from defendants, but his ability to obtain a timely opinion from an outside expert given that he is incarcerated.

As defendants have offered no meritorious opposition to plaintiff's motion, and as it does not appear that the additional time requested will cause any prejudice or will unduly delay these proceedings, the request for additional time will be granted.

(2) Accordingly, the discovery deadline in this matter is hereby extended to ***February 17, 2011***, and the dispositive motion filing deadline is extended to ***March 17, 2011***.

(3) The Clerk is directed to send copies of this Order to plaintiff, to counsel for defendants, and to the Honorable Robert S. Lasnik.

DATED this 4th day of August, 2010.

Mary Alice Theiler
United States Magistrate Judge