

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS

MYLISSA FARMER,

Plaintiff,

v.

THE UNIVERSITY OF KANSAS HOSPITAL  
AUTHORITY,

Defendant.

Case No. 24-2335-HLT-BGS

**SCHEDULING ORDER**

On December 3, 2024, U.S. Magistrate Judge Severson conducted a scheduling conference by phone in accordance with Fed. R. Civ. P. 16. Plaintiff Mylissa Farmer appeared through counsel Mark V. Dugan, Heather J. Schlozman, Alison S. Deich, Harini Srinivasan, Michelle Banker, Alison A. Tanner, Aniko Schwarcz, Nina Jaffe-Gaffner and Kenna Titus. Defendant The University of Kansas Hospital Authority appeared through counsel Trevin Wray and Jaime Whitt.<sup>1</sup>

Following is a brief summary of the nature of the case:

Plaintiff brought an action against the University of Kansas Hospital Authority for violations of the Emergency Medical Treatment and Labor Act (EMTALA), 42 U.S.C. § 1395dd *et seq.*, and the Kansas Act Against Discrimination (KAAD), K.S.A. § 44-1001 *et seq.* Plaintiff alleges that Defendant violated EMTALA's Screening Requirement and Stabilization Requirement, and facially discriminated on the basis of sex in violation of the KAAD. Plaintiff alleges that this Court has original jurisdiction over Plaintiff's EMTALA claim under 28 U.S.C. § 1331 and supplemental jurisdiction over Plaintiff's KAAD claim under 28 U.S.C. § 1367. Defendant denies all allegations and has moved to dismiss the claims pursuant to Fed. R. Civ. P. 12(b)(6). That motion remains pending at the time of the parties Rule 26(f) conference.

---

<sup>1</sup>As used in this scheduling order, the term "plaintiff" includes plaintiffs as well as counterclaimants, crossclaimants, third-party plaintiffs, intervenors, and any other parties who assert affirmative claims for relief. The term "defendant" includes defendants as well as counterclaim defendants, crossclaim defendants, third-party defendants, and any other parties who are defending against affirmative claims for relief.

After consultation with the parties, the Court enters this scheduling order, summarized in the following table:

<b>SUMMARY OF DEADLINES AND SETTINGS</b>	
<b>Event</b>	<b>Deadline/Setting</b>
Jointly proposed protective order submitted to the Court	<b>December 17, 2024</b>
Motion and brief in support of proposed protective order (only if parties disagree about need for and/or scope of order)	<b>December 17, 2024</b>
Proposed ESI protocol submitted to the Court	<b>December 17, 2024</b>
Rule 26 document exchange	<b>December 23, 2024</b>
Plaintiff to supplement Rule 26 disclosures (damages section)	<b>December 23, 2024</b>
Confidential settlement reports or joint mediation report to magistrate judge	<b>14 days after ruling on motion to dismiss</b>
Comparative fault identification	<b>January 31, 2025</b>
Motions to amend	<b>February 14, 2025</b>
Mediation completed	<b>T/B/D</b>
Experts disclosed	<b>Plaintiff by July 1, 2025</b>  <b>Defendant by September 2, 2025</b>
Physical and mental examinations	<b>August 1, 2025</b>
Rebuttal experts disclosed	<b>October 1, 2025</b>
Supplementation of initial disclosures	<b>40 days before the deadline to complete all discovery</b>
All discovery completed	<b>October 31, 2025</b>
Proposed pretrial order due	<b>November 21, 2025</b>
Pretrial conference (in-person)	<b>December 5, 2025 at 10:00 a.m.</b>
Potentially dispositive motions (e.g., summary judgment)	<b>January 9, 2026</b>

Motions challenging admissibility of expert testimony	<b>January 9, 2026</b>
Trial — ETT 10 days	<b>T/B/D</b>

**1. Alternative Dispute Resolution (ADR).**

After discussing ADR during the scheduling conference, the Court determined that settlement would not be enhanced by mediation until after a ruling on Defendant's pending motion to dismiss. Within **14 days of the Court's ruling**, the parties must either (a) submit a confidential settlement report or (b) submit a joint mediation report by e-mail to the undersigned U.S. Magistrate Judge at [ksd\\_severson\\_chambers@ksd.uscourts.gov](mailto:ksd_severson_chambers@ksd.uscourts.gov). The joint mediation statement or confidential reports must set forth in detail the parties' settlement efforts to date (including the amounts of offers exchanged), evaluations of the case, views concerning future settlement negotiations, overall settlement prospects, and a specific recommendation regarding mediation or any other ADR method, e.g., arbitration, early-neutral evaluation, or a settlement conference with a magistrate judge. The Court will decide whether to require the parties to participate in mediation (or another ADR process) after receiving their submissions. As a reminder, defense counsel must file an ADR report within 14 days after any scheduled ADR process, using the form on the Court's website: <http://www.ksd.uscourts.gov/adr-report/>.

**2. Discovery.**

**a.** The parties already served Fed. R. Civ. P. 26(a)(1) initial disclosures regarding witnesses, exhibits, damages, and insurance. To facilitate settlement negotiations and to avoid unnecessary expense, the parties have agreed that, without the need for formal requests for production, they will exchange copies of the documents described in their Rule 26(a)(1) disclosures, to the extent they are within the parties' possession, custody, or control, by **December 23, 2024**. Supplementations of initial disclosures must be served at such times and under such

circumstances as required by Fed. R. Civ. P. 26(e). In addition, such supplemental disclosures must be served 40 days before the deadline to complete discovery so as to identify all witnesses and exhibits that might be used at trial so that the opposing party can decide whether to pursue follow-up discovery before the time allowed for discovery expires. Witnesses or other information included in a party's final Fed. R. Civ. P. 26(a)(3) disclosures that did not previously appear in the initial Rule 26(a)(1) disclosures or a timely Rule 26(e) supplement thereto presumptively will be excluded from evidence under Fed. R. Civ. P. 37(c)(1).

**b.** All discovery must be commenced or served in time to be completed by **October 31, 2025**.

**c.** By **January 31, 2025**, any party asserting comparative fault must identify all persons or entities whose fault is to be compared and specify the nature of the fault claimed. In the event there is disagreement on the applicability of comparative fault, the parties must confer prior to the filing of any motion. If the parties believe a conference with the Court would be beneficial, the Court will accommodate such a request.

**d.** Expert disclosures required by Fed. R. Civ. P. 26(a)(2) must be served as follows: Plaintiff shall serve expert disclosures by **July 1, 2025**. Defendant shall serve responsive expert disclosures by **September 2, 2025**. Any rebuttal experts from Plaintiff shall be disclosed by **October 1, 2025**. The parties must serve any objections to such disclosures (other than objections pursuant to Fed. R. Evid. 702-705, *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509 U.S. 579 (1993), *Kumho Tire Co. v. Carmichael*, 526 U.S. 137 (1999), or similar case law), within 14 days after service of the disclosures. These objections should be confined to technical objections related to the sufficiency of the written expert disclosures (e.g., whether all the information required by Rule 26(a)(2)(B) has been provided) and need not extend to the admissibility of the expert's

proposed testimony. If such technical objections are served, counsel must confer or make a reasonable effort to confer consistent with D. Kan. Rule 37.2 before raising those objections in a pre-motion conference with the Court pursuant to D. Kan. Rule 37.1(a).

**e.** The parties disagree whether physical or mental examinations pursuant Fed. R. Civ. P. 35 are appropriate in this case. The parties must complete all physical or mental examinations under Fed. R. Civ. P. 35 by **August 1, 2025**. If the parties disagree about the need for or scope of such an examination, a formal motion must be filed within 60 days of the deadline for fact discovery to allow the motion to be fully briefed and decided by the Court, and the examination conducted, all before the deadline expires. The parties are reminded that they must comply with Local Rules 37.1 and 37.2 prior to the filing of any Rule 35-related motion.

**f.** The Court considered the following discovery problem(s) raised by one or more of the parties: None.

**g.** Consistent with the parties' agreement, electronically stored information (ESI) in this case will be handled as follows:

A proposed ESI order will be submitted to the Court by **December 17, 2024**. The proposed order will address issues including: general production format protocols, claims of privilege and redactions, and ESI metadata format.

**h.** Consistent with the parties' agreement, claims of privilege or of protection as trial-preparation material asserted after production will be handled as follows:

A proposed protective order will be submitted to the Court.

**i.** To encourage cooperation, efficiency, and economy in discovery, and also to limit discovery disputes, the Court adopts as its order the following procedures agreed to by the parties and counsel: None.

**j.** No party may serve more than 25 interrogatories, including all discrete subparts, on any other party.

**k.** Each deposition must be limited to 7 hours for parties (including 30(b)(6) designated representatives) except for the deposition(s) of non-parties which must be limited to 4 hours, unless otherwise agreed upon by the parties or ordered by the Court. All depositions will be governed by the written guidelines on the Court's website:

<https://ksd.uscourts.gov/file/843>

**l.** Discovery may be governed by a protective order. If the parties agree on the need for, scope, and form of such a protective order, they must confer and then submit a jointly proposed protective order by **December 17, 2024**. This proposed protective order should be drafted in compliance with the guidelines available on the Court's website:

<https://ksd.uscourts.gov/file/919>

At a minimum, such proposed orders must include a concise but sufficiently specific recitation of particular facts that provide the Court with an adequate basis upon which to make the required good cause finding pursuant to Fed. R. Civ. P. 26(c). A pre-approved form protective order is available on the Court's website:

<https://ksd.uscourts.gov/civil-forms>

Before filing any disputed motion for a protective order, and after satisfying the duty to confer or to make a reasonable effort to confer under Fed. R. Civ. P. 37(a)(1) and D. Kan. Rule 37.2, the party intending to file the motion must email the Court to arrange a telephone conference with the undersigned Magistrate Judge by **December 17, 2024**.

**m.** The parties do consent to electronic service of disclosures and discovery requests and responses. *See* Fed. R. Civ. P. 5(b).

n. The expense and delay often associated with civil litigation can be dramatically reduced if the parties and counsel conduct discovery in the “just, speedy, and inexpensive” manner mandated by Fed. R. Civ. P. 1. Accordingly, the parties and counsel are reminded of their important obligations under Fed. R. Civ. P. 26(g) in certifying discovery disclosures, requests, responses, and objections and that the Court “must impose an appropriate sanction on the signer, the party on whose behalf the signer was acting, or both” if the certification violates Rule 26(g) (e.g., overbroad discovery requests, boilerplate objections, etc.) without substantial justification.

### 3. Motions

a. Any motion for leave to join additional parties or to otherwise amend the pleadings must be filed by **February 14, 2025**.

b. All potentially dispositive motions (e.g., motions for summary judgment), must be filed by **January 9, 2026**. The Court plans to decide dispositive motions, to the extent they are timely filed and briefed without any extensions, approximately 60 days before trial.

c. Compliance with Fed. R. Civ. P. 56 and D. Kan. Rule 56.1 is mandatory, i.e., summary-judgment briefs that fail to comply with these rules may be rejected, resulting in summary denial of a motion or consideration of a properly supported motion as uncontested. Further, the Court strongly encourages the parties to explore submission of motions on stipulated facts and agreement resolving legal issues that are not subject to a good faith dispute. The parties should follow the summary-judgment guidelines available on the Court’s website:

<https://ksd.uscourts.gov/file/326>.

d. All motions to exclude testimony of expert witnesses pursuant to Fed. R. Evid. 702-705, *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509 U.S. 579 (1993), *Kumho Tire Co. v. Carmichael*, 526 U.S. 137 (1999), or similar case law, must be filed by **January 9, 2026**.

e. Before filing any disputed discovery-related motion, and after satisfying the duty to confer or to make a reasonable effort to confer under Fed. R. Civ. P. 37(a)(1) and D. Kan. Rule 37.2, the party intending to file a discovery-related motion must email the Court to arrange a telephone conference with the judge and opposing counsel. The email request, preferably in a joint submission, must include a brief, nonargumentative statement of the nature of the dispute; the estimated amount of time needed for the conference, and suggested dates and times; and any preference for conducting the conference in person or by phone. The Court will typically grant the request and contact the parties to arrange the conference within a few days. The Court will inform the parties whether any additional information should be submitted or filed in advance of this conference. Unless otherwise requested by the Court, no disputed discovery-related motion, material, or argument should be filed or submitted prior this telephone conference. See D. Kan. Rule 37.1(a).

f. To avoid unnecessary motions, the Court encourages the parties to utilize stipulations regarding discovery procedures. However, this does not apply to extensions of time that interfere with the deadlines to complete all discovery, for briefing or hearing a motion, or for trial. See Fed. R. Civ. P. 29; D. Kan. Rule 6.1(c).

#### **4. Pretrial Conference, Trial, and Other Matters.**

a. Pursuant to Fed. R. Civ. P. 16(a), a pretrial conference is scheduled for **December 5, 2025, at 10:00 a.m.** in the U.S. Courthouse in Wichita, Kansas, courtroom 406. No later than **November 21, 2025**, defense counsel must submit the parties' proposed pretrial order in Word format as an attachment to an e-mail sent to [ksd\\_severson\\_chambers@ksd.uscourts.gov](mailto:ksd_severson_chambers@ksd.uscourts.gov). The proposed pretrial order must not be filed with the clerk's office. It must be in the form available on the Court's website:



<https://ksd.uscourts.gov/civil-forms>

**b.** The parties expect the jury trial of this case to take approximately 10 trial days in Kansas City, Kansas. The Court will subsequently set this case for trial.

**c.** If at any time the parties wish to consent to trial by a U.S. Magistrate Judge, they must email the Clerk's Office their signed form, "Notice, Consent, and Reference of a Civil Action to a Magistrate Judge" available on the Court's website at:

<https://ksd.uscourts.gov/civil-forms>

**d.** This scheduling order will not be modified except by leave of court upon a showing of good cause.

IT IS SO ORDERED.

Dated December 3, 2024, at Wichita, Kansas.

/s/ BROOKS G. SEVERSON  
Brooks G. Severson  
United States Magistrate Judge