

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS**

**DERRICK HOWARD,** )  
 )  
 **Plaintiff,** )  
 )  
 **v.** )  
 )  
 **FARMERS INSURANCE** )  
 **COMPANY, INC., et al.,** )  
 )  
 **Defendants.** )  
 \_\_\_\_\_ )

**Case No. 18-4011-DDC-GEB**

**NOTICE AND ORDER TO SHOW CAUSE**

Under Rule 41(b) of the Federal Rules of Civil Procedure, when a plaintiff “fails to prosecute or to comply with these rules or a court order,” the Court may dismiss the matter. *See* Fed. R. Civ. P. 41(b). The U.S. Court of Appeals for the Tenth Circuit has “consistently interpreted Rule 41(b) to permit courts to dismiss actions sua sponte for a plaintiff’s failure to prosecute.”<sup>1</sup> Where a matter is dismissed without prejudice, no “particular procedure[.]” is required.<sup>2</sup>

In this matter, plaintiff Derrick Howard failed to respond to the April 13, 2018 Order (ECF No. 6) directing him to submit a partial filing fee of \$2.50, or file any objection to the partial fee, no later than May 18, 2018. Because Plaintiff has failed to respond to the order of the Court, the undersigned United States Magistrate Judge is

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<sup>1</sup> *Huggins v. Supreme Court of the U.S.*, 480 Fed. Appx. 915, 916-17 (10th Cir. 2012) (internal quotation marks omitted).

<sup>2</sup> *AdvantEdge Bus. Grp. v. Thomas E. Mestmaker & Assocs., Inc.*, 552 F.3d 1233, 1236 (10th Cir. 2009) (internal quotation marks omitted).

considering a recommendation to the District Judge of dismissal of this matter for lack of prosecution.

Therefore, the Court **ORDERS** Plaintiff Derrick Howard to **show cause** in writing to the undersigned, on or before **June 25, 2018** why she should not recommend to the District Judge that his claims be dismissed under Fed. R. Civ. P. 41(b) for his failure to pay the initial partial filing fee as ordered.

This Notice and Order to Show Cause shall be mailed to Plaintiff by certified mail, return receipt delivery.

**IT IS SO ORDERED.**

Dated May 23, 2018, at Wichita, Kansas.

s/ Gwynne E. Birzer  
GWYNNE E. BIRZER  
U.S. Magistrate Judge