

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

| | | |
|------------------------------|---|----------------------|
| RODERICK T. HILLIARD, SR., |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | No. 4:15-CV-1604-AGF |
| |) | |
| LUCRESHA SUTHERLAND, et al., |) | |
| |) | |
| Defendants. |) | |

MEMORANDUM AND ORDER

This matter is before the Court on review of plaintiff's inmate account statement [Doc. 2]. The Court notes that the account statement is not certified, and plaintiff has failed to pay the filing fee or to file a motion for leave to proceed in forma pauperis. As such, the Court will order plaintiff to either pay the \$400 filing fee or to submit a motion to proceed in forma pauperis. If he files a motion to proceed in forma pauperis, plaintiff must also file a *certified* copy of his prison account statement for the six-month period immediately preceding the filing of his complaint. See 28 U.S.C. § 1915(b).

The Court further notes that plaintiff has failed to sign the complaint [Doc. 1]. Rule 11(a) of the Federal Rules of Civil Procedure requires that each pleading, written motion, and other paper be signed by an attorney of record or, if the party is not represented by an attorney, by the party. Rule 11(a) further provides that "an

unsigned paper shall be stricken unless the omission of the signature is corrected promptly after being called to the attention of the attorney or party.” Fed. R. Civ. P. 11(a). Because plaintiff is proceeding pro se, the Court will instruct him to file an amended complaint on a Court-provided form, as follows:

All claims in an action must be included in one, centralized complaint form, as neither the Court nor defendants wish to search through supplemental and prior pleadings in order to piece together plaintiff’s claims. **As such, plaintiff is warned that the filing of an amended complaint replaces the original complaint and all previously-filed pleadings, supplements, and attachments thereto, and therefore, he must include each and every one of the claims he wishes to pursue in the amended complaint.** *See, e.g., In re Wireless Tel. Fed. Cost Recovery Fees Litig.*, 396 F.3d 922, 928 (8th Cir. 2005). **Any claims from the original complaint, supplements, and/or pleadings that are not included in the amended complaint will be deemed abandoned and will not be considered.** *Id.* Plaintiff is advised that the amended complaint will replace the original complaint and will be the only pleading this Court reviews. *Id.* If plaintiff wishes to sue defendants in their individual capacities, plaintiff must specifically say so in the amended complaint. Plaintiff should not attach any exhibits to the amended complaint; all claims should be clearly set forth in the "Statement of Claim."

In addition, in the "Caption" of the amended complaint, plaintiff shall set forth the name of each defendant he wishes to sue; and in the "Statement of Claim," plaintiff shall start by typing the first defendant's name, and under that name, he shall set forth in separate numbered paragraphs the allegations supporting his claim(s) as to that particular defendant, as well as the right(s) that he claims that particular defendant violated and the capacity in which the defendant is being sued. Plaintiff shall proceed in this manner with each of the named defendants, *separately* setting forth each individual name and under that name, in numbered paragraphs, the allegations specific to that particular defendant and the right(s) that he claims that particular defendant violated. The amended complaint must contain short and plain statements showing that plaintiff is entitled to relief, the allegations must be simple, concise, and direct, and the numbered paragraphs must each be limited to a single set of circumstances. If plaintiff needs more space, he may attach additional sheets of paper to the amended complaint and identify them as part of the "Caption" or "Statement of Claim"; however, as previously stated, plaintiff shall not attach any exhibits to the pleading. Plaintiff shall sign the amended complaint.

Plaintiff is reminded that he is required to submit his amended complaint on a Court-provided form, and it must comply with Rules 8 and 10 of the Federal Rules of Civil Procedure. Plaintiff's failure to make specific and actionable allegations

against any of defendant(s) will result in that individual's dismissal from this case.¹

If plaintiff fails to comply with the Court's instructions, this action will be dismissed without prejudice and without further notice.

Accordingly,

IT IS HEREBY ORDERED that, on or before November 23, 2015, plaintiff shall either pay the \$400 filing fee or submit a motion to proceed in forma pauperis.

IT IS FURTHER ORDERED that if plaintiff submits a motion to proceed in forma pauperis, he must also submit, on or before November 23, 2015, a *certified* copy of his prison account statement for the six-month period immediately preceding the filing of his complaint.

IT IS FURTHER ORDERED that, on or before November 23, 2015, plaintiff shall file an amended complaint on a Court-provided form, in accordance with the instructions set forth above.

IT IS FURTHER ORDERED that the Clerk shall mail plaintiff a copy of the Court's form "Motion to Proceed in Forma Pauperis - Prisoner Cases" and a form prisoner complaint for filing a civil rights action.

¹The Court will review plaintiff's amended complaint pursuant to 28 U.S.C. § 1915. A claim and/or defendant must survive § 1915 review in order for plaintiff to proceed in this lawsuit.

IT IS FURTHER ORDERED that if plaintiff fails to comply with this Order, the Court will dismiss this action without prejudice and without further notice.

Dated this 26th day of October, 2015.


UNITED STATES DISTRICT JUDGE