

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

PATRICK RONALD RUSSELL,)
)
 Plaintiff,)
)
 v.)
)
 ROBERT HOUSTON, DENNIS)
 BAKEWELL, MELVIN ROUF,)
 CURTIS MOFFAT, MICHAEL)
 EDISON, and MARK DANNER,)
)
 Defendants.)

4:09CV3249

MEMORANDUM AND ORDER

The plaintiff moved to file an amended complaint. (Filing No. 47). The defendants responded by moving to dismiss the amended complaint. (Filing No. 48). Since the amended complaint has not been filed, the motion to dismiss was premature. Defense counsel advised the court that she does not object to the motion to amend. The plaintiff has not responded to the motion to dismiss, perhaps due to the current confusion in the record.

Accordingly,

IT IS ORDERED:

- 1) The plaintiff’s motion to file an amended complaint, (filing no. 47), is granted, and the plaintiff’s amended complaint, a copy of which is attached to his motion, shall be filed on or before January 12, 2011.
- 2) The defendants’ motion to dismiss (filing no. 48) is denied without prejudice to re-filing after the plaintiff’s amended complaint is filed of record.

DATED this 5th day of January, 2011.

BY THE COURT:

s/ Cheryl R. Zwart

United States Magistrate Judge