

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

BRIAN OBST, et al., )  
)  
Plaintiffs, )  
)  
v. )  
)  
NEBRASKA DEPARTMENT OF )  
CORRECTIONS, FRED BRITTON, )  
and SCOTT FRAKES, )  
)  
Defendants. )

4:15CV3054

**MEMORANDUM  
AND ORDER**

This matter is before the court on several documents filed by the plaintiffs in response to the court’s order dated June 10, 2015. The court provided each non-lead Plaintiff—Andre Thomas, Anthony Hancock, Brian Spotts, Chris McWilliams, Cory Mattly, DeAnthony McGuire, Eric Berning, Ernest Lawrence, Josh Lawver, Justin James Seffron, Kenneth Hoelk, Kurt Brown, Lamont Stuart, Matthew Miller, Matthew Meyer, Michael Fleming, Orlando Brewer, Ricky Fletcher, Scott Kornahrens, Thad Junge, Walter Minshall, and William Jordan—with an opportunity to “opt out” of this group litigation by so advising the court in writing. Each non-lead Plaintiff was warned that failure to respond to the court’s order would obligate him to pay the full filing fee and would result in his dismissal from this action for want of prosecution. (See Filing No. [19](#).)

The following plaintiffs responded by requesting to be dismissed from this group litigation: Andre Thomas, Anthony Hancock, Brian Spotts, Chris McWilliams, Cory Mattly, Eric Berning, Ernest Lawrence, Kenneth Capps, Josh Lawver, Justin James Seffron, Kenneth Hoelk, Kurt Brown, Matthew Miller, Adam Koehler, and Michael Fleming. As they were advised, they will be dismissed from this action and will not be required to pay the filing fee in this matter.

Brian Obst,<sup>1</sup> DeAnthony McGuire, and Orlando Brewer did not sign the Complaint. (*See* Filing No. 4.) Because it is entirely unclear whether they intended to join in this group litigation, the court will terminate them as parties to this case and will not require them to pay the filing fees associated with filing this action.

The following plaintiffs did not respond to the court's order, despite having ample time to do so: Lamont Stuart, Matthew Meyer, Ricky Fletcher, Scott Kornahrens, Thad Junge, Walter Minshall, and William Jordan. These plaintiffs all signed the Complaint in this matter. (*See* Filing No. [1-1 at CM/ECF pp. 1-2.](#)) As they were advised, each of them will be required to pay the \$350.00 filing fee for having initiated this action, and each of them will be dismissed from this case.

IT IS THEREFORE ORDERED that:

1. Having dismissed all of the remaining plaintiffs in this case, the case is dismissed without prejudice in its entirety. The court will enter a separate judgment in accordance with this Memorandum and Order.

2. Andre Thomas, Anthony Hancock, Brian Spotts, Chris McWilliams, Cory Mattly, Eric Berning, Ernest Lawrence, Kenneth Capps, Josh Lawver, Justin James Seffron, Kenneth Hoelk, Kurt Brown, Matthew Miller, Adam Koehler, Michael Fleming, Brian Obst, DeAnthony McGuire, and Orlando Brewer are dismissed from this action and they will not be required to pay the filing fee.

3. Lamont Stuart, Matthew Meyer, Ricky Fletcher, Scott Kornahrens, Thad Junge, Walter Minshall, and William Jordan are dismissed from this action without

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<sup>1</sup>The court designated Brian Obst as the lead Plaintiff in this case and advised the parties that Obst could not escape his obligation to pay the filing fee for this action. However, upon further review of the record, it is apparent that Obst did not sign the Complaint and it is unclear whether he intended to prosecute this action.

prejudice for want of prosecution and for failure to comply with an order from this court. They each incurred the obligation to pay the \$350.00 filing fee for this action when they declined the opportunity to voluntarily withdraw from the case.

4. The clerk of the court is directed to send a copy of this order to the financial officer at these plaintiffs' place of incarceration.

DATED this 11th day of September, 2015.

BY THE COURT:

*s/ John M. Gerrard*  
United States District Judge

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