

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

ANDRE PARE, et al.,)	4:15CV3055
)	
Plaintiffs,)	
)	
v.)	MEMORANDUM
)	AND ORDER
FRED BRITTON, SCOT FRAKES,)	
JANE DOE 1, JANE DOE 2, and)	
MIKE KINNEY,)	
)	
Defendants.)	

This matter is before the court on several documents filed by the plaintiffs in response to the court’s order dated June 16, 2015. The court provided each non-lead Plaintiff¹—Andre Thomas, Anthony Hancock, Brian Obst, Brian Spotts, Cory Mattly, Dennis Thomas, Eric Berning, Kenneth Capps, Kurt Brown, Lamar Dunn, Lamont Stuart, Matthew Meyer, Michael Fleming, Orlando Brewer, Ricky Fletcher, Terrence Thompson, Thad Junge, 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. [17](#).)

The following plaintiffs and interested parties responded by requesting to be dismissed from this group litigation: Cory Mattly, Michael Fleming, Terrence Thompson, Brian Spotts, Matthew Meyer, Kenneth Capps, Kurt Brown, Dennis Thomas, Brian Obst, Eric Berning, Adam Koehler, and Anthony Hancock. As they were advised, they will be dismissed from this action and will not be required to pay the filing fee in this matter.

¹The court designated Andre Pare as the “lead plaintiff.” (Filing No. [17](#) at CM/ECF p. 1)

Orlando Brewer did not sign the Complaint. Because it is entirely unclear whether he intended to join in this group litigation, the court will terminate him as an interested party to this case and will not require him to pay the filing fees associated with filing this action.

Thad Junge did not receive notice of this court's order giving him an opportunity to "opt out" of this litigation. (*See* Filing No. [23](#) (docket entry indicating mail was returned as undeliverable and not remailed).) Therefore, the court will terminate him as a plaintiff in this case and will not require him 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: Andre Thomas, Lamar Dunn, Lamont Stuart, and William Jordan. These plaintiffs all signed the Complaint in this matter. (*See* Filing No. [1 at CM/ECF p. 5.](#)) 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. Andre Pare and Ricky Fletcher are the only remaining plaintiff in this case. The court will enter a separate order on their requests to proceed in forma pauperis in this matter.

2. Cory Mattly, Terrence Thompson, Kenneth Capps, Michael Fleming, Kurt Brown, Brian Spotts, Matthew Meyer, Dennis Thomas, Brian Obst, Eric Berning, Adam Koehler, Anthony Hancock, Orlando Brewer, and Thad Junge are dismissed from this action and they will not be required to pay the filing fee.

3. Andre Thomas, Lamar Dunn, Lamont Stuart, and William Jordan are dismissed from this action without 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 the 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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