

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

LENA LASHER,

Plaintiff,

vs.

NEBRASKA STATE BOARD OF PHARMACY (NE BOP), State of Nebraska, Lincoln, Nebraska 68508; and THOMAS L. WILLIAMS, MD, Chief Medical Officer Director, Division of Public Health State of Nebraska Department of Health and Human Services Lincoln, Nebraska 68508;

Defendants.

4:17CV3125

**MEMORANDUM
AND ORDER**

This matter is before the court on Plaintiff's second motion to proceed in forma pauperis. ([Filing No. 9](#).) The court previously denied Plaintiff's motion to proceed in forma pauperis and ordered Plaintiff to pay the \$400 filing fee. ([Filing No. 8](#).) Plaintiff has filed the present motion to proceed in forma pauperis based on the same trust account information submitted with her previous motion. ([Filing No. 7](#); [Filing No. 9](#).) For the same reasons stated in the court's October 18, 2017 Order, Plaintiff's motion to proceed in forma pauperis is denied

Because Plaintiff is a prisoner, her request to proceed in forma pauperis is governed by [28 U.S.C. § 1915\(b\)\(1\)](#) which requires a prisoner "to pay the full amount of a filing fee." Proceeding in forma pauperis does not permit a prisoner, such as Plaintiff, to proceed with her civil action without making any prepayment of fees. Rather, a prisoner is permitted to pay the full filing fee in installments. Pursuant to [28 U.S.C. § 1915\(b\)\(1\)](#), Plaintiff must pay an initial partial filing fee in the amount of 20 percent of the *greater* of her average monthly account balance or

average monthly deposits for the six months preceding the filing of the Complaint. The court must use the greater of the two figures which, in Plaintiff's case, is her average monthly deposits of \$3,827.60. If the court were to grant Plaintiff in forma pauperis status, she would be required to pay 20 percent of \$3,827.60, or \$765.52, which is more than the \$400 filing fee for this matter. *See 28 U.S.C. § 1915(b)(3)* ("In no event shall the filing fee collected exceed the amount of fees permitted by statute for the commencement of a civil action . . ."). Accordingly,

IT IS THEREFORE ORDERED that:

1. Plaintiff's Motion to Proceed in Forma Pauperis ([Filing No. 9](#)) is denied.
2. Plaintiff shall pay the \$400.00 filing fee no later than November 29, 2017.
3. Failure to comply with this order will result in dismissal of this matter without further notice.
4. The clerk's office is directed to set a pro se case management deadline using the following text: **November 29, 2017**: deadline for Plaintiff to pay \$400.00 filing fee.

Dated this 30th day of October, 2017.

BY THE COURT:

s/ *Richard G. Kopf*
Senior United States District Judge