

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

MICHAEL NGRIME,)	
)	
Plaintiff,)	8:13CV194
)	
v.)	
)	
MOSAIC,)	MEMORANDUM AND ORDER
)	
Defendant.)	
_____)	

This matter is before the Court on its own motion. On October 3, 2013, the Court entered a Memorandum and Order requiring plaintiff to show cause why this case should not be dismissed for a failure to file suit within 90 days of receipt of a right-to-sue letter from the Equal Employment Opportunity Commission ("EEOC") or the Nebraska Equal Opportunity Commission ("NEOC") (Filing No. [7](#)). In response, plaintiff filed a copy of a right-to-sue letter from the EEOC dated March 26, 2013 (Filing No. [8](#) at CM/ECF p. 3). Plaintiff alleged that he received the notice on April 6, 2013, and filed suit less than 90 days later, on July 1, 2013. (*Id.* at CM/ECF pp. 1-3.)

The Court finds that, at this early stage of the proceedings, plaintiff's allegations that he filed suit within 90 days of his receipt of the notice are sufficient to survive initial review. In addition, in light of plaintiff's pro se status, the Court finds that plaintiff's Amended Complaint

(Filing No. [13](#)) alleges facts showing plausibly that defendant has discriminated against plaintiff based on his race.

Accordingly, the Court finds that service on defendant is now warranted. However, the Court cautions plaintiff that this is a preliminary determination based only on the allegations of the Amended Complaint and is not a determination of the merits of plaintiff's claims or potential defenses thereto.

IT IS ORDERED:

1. To obtain service of process on defendant, plaintiff must complete and return the summons form that the clerk of the court will provide. The clerk of the court shall send one summons form and one USM-285 form to plaintiff, together with a copy of this Memorandum and Order. Plaintiff shall, as soon as possible, complete the forms and send the completed forms back to the clerk of the court. In the absence of the forms, service of process cannot occur.

2. Upon receipt of the completed forms, the clerk of the court will sign the summons forms, to be forwarded with a copy of the Amended Complaint to the U.S. Marshal for service of process. The Marshal shall serve the summons and the Amended Complaint without payment of costs or fees. Service may be by certified mail pursuant to [Federal Rule of Civil Procedure 4](#) and Nebraska law in the discretion of the Marshal. The clerk of the

court will copy the Amended Complaint, and plaintiff does not need to do so.

3. [Federal Rule of Civil Procedure 4](#) requires service of the complaint on a defendant within 120 days of filing the complaint. However, because in this order plaintiff is informed for the first time of these requirements, plaintiff is granted an extension of time until 120 days from the date of this order to complete service of process.

4. Plaintiff is hereby notified that failure to obtain service of process on a defendant within 120 days of the date of this order may result in dismissal of this matter without further notice as to such defendant. A defendant has 21 days after receipt of the summons to answer or otherwise respond to a complaint.

5. The clerk of the court is directed to set a pro se case management deadline in this case with the following text: "May 9, 2014: Check for completion of service of summons."

6. The parties are bound by the Federal Rules of Civil Procedure and by the Local Rules of this Court. Plaintiff shall keep the Court informed of his current address at all times

while this case is pending. Failure to do so may result in dismissal.

DATED this 9th day of January, 2014.

BY THE COURT:

/s/ Lyle E. Strom

LYLE E. STROM, Senior Judge
United States District Court

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