

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

IRA BROWN, )  
)  
Plaintiff, )  
)  
v. )  
)  
PHYLLIS BRUNS, ERIC ANDER, )  
and U.S.P.S., )  
)  
Defendants. )

8:13CV318

**MEMORANDUM  
AND ORDER**

On December 2, 2013, the court conducted an initial review of Plaintiff’s Complaint and determined that it stated a Rehabilitation Act claim, but failed to state a Title VII or Postal Reorganization Act (“PRA”) claim upon which relief could be granted. (Filing No. [7](#).) However, the court gave Plaintiff until January 2, 2014, to file an amended complaint. (*Id.* at CM/ECF p. 6.) In doing so, the court warned Plaintiff that if he failed to file an amended complaint, his Title VII and PRA claims against Defendants would be dismissed without further notice for failure to state a claim upon which relief may be granted. (*Id.*)

On January 22, 2013, the court extended the time for Plaintiff to file an amended complaint until February 21, 2014. (Filing No. [9](#).) Plaintiff failed to file an amended complaint by the court’s deadline. (*See* Docket Sheet.) Accordingly,

IT IS THEREFORE ORDERED that:

1. Plaintiff’s Title VII and PRA claims are dismissed without prejudice.
2. Plaintiff’s Rehabilitation Act claim may proceed to service.

3. To obtain service of process on Defendants, Plaintiff must complete and return the summons forms which the Clerk of the court will provide. The Clerk of the court shall send THREE (3) summons forms and THREE (3) USM-285 forms 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.

4. Upon receipt of the completed forms, the Clerk of the court will sign the summons form, to be forwarded with a copy of the Complaint to the U.S. Marshal for service of process. The Marshal shall serve the summons and Complaint without payment of costs or fees. Service may be by certified mail pursuant to [Fed. R. Civ. P. 4](#) and Nebraska law in the discretion of the Marshal. The Clerk of the court will copy the Complaint, and Plaintiff does not need to do so.

5. [Fed. R. Civ. Pro. 4](#) requires service of a 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, on the court's own motion, an extension of time until 120 days from the date of this order to complete service of process.

6. 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 twenty-one (21) days after receipt of the summons to answer or otherwise respond to a complaint.

7. The Clerk of the Court is directed to set a pro se case management deadline in this case with the following text: "**July 2, 2014**: Check for completion of service of summons."

8. 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 4<sup>th</sup> day of March, 2014.

BY THE COURT:

*Richard G. Kopf*

Senior United States District Judge

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