

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

JUSTIN GARDNER,

Plaintiff,

vs.

STATE OF NEBRASKA, KIMBERLY
PANKONIN MILLER, DOUGLAS A.
JOHNSON, MARLON A. POLK, and
MATTHEW J. MILLER,

Defendants.

8:17CV391

**MEMORANDUM
AND ORDER**

This matter is before the court on its own motion. Plaintiff filed a Complaint ([Filing No. 1](#)) on October 16, 2017. However, Plaintiff failed to include the \$400.00 filing and administrative fees. Plaintiff has the choice of either submitting the \$400.00 filing and administrative fees to the clerk's office or submitting a request to proceed in forma pauperis.¹ Failure to take either action within 30 days will result in the court dismissing this case without further notice to Plaintiff.

IT IS THEREFORE ORDERED that:

1. Plaintiff is directed to submit the \$400.00 fees to the clerk's office or submit a request to proceed in forma pauperis within 30 days. Failure to take either action will result in dismissal of this matter without further notice.

¹ If Plaintiff is granted leave to proceed in forma pauperis ("IFP") in this matter, he will be allowed to pay the court's \$350 filing fee in installments. *See* 28 U.S.C. § 1915(b)(1); *In re Tyler*, 110 F.3d 528, 529-30 (8th Cir. 1997). He would not be subject to the \$50.00 administrative fee assessed to non-IFP plaintiffs.

2. The clerk of the court is directed to send to Plaintiff the Form AO240 (“Application to Proceed Without Prepayment of Fees and Affidavit”).

3. The clerk of the court is directed to set a pro se case management deadline in this matter with the following text: November 17, 2017: Check for MIFP or payment.

Dated this 18th day of October, 2017.

BY THE COURT:

s/ Richard G. Kopf
Senior United States District Judge