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SUMMARY
April 1, 2021

2021COA43M

No. 19CA2125, *Johnson v. Toohey* — Courts and Court Procedures — Inmate Lawsuits — Filing Fees; Government — Colorado Governmental Immunity Act — Notice of Claim

Section 13-17.5-102(1), C.R.S. 2020, defines a “civil action” for purposes of inmate lawsuits as “the filing of a complaint . . . or motion with any court within the state” This opinion asks the question whether an inmate initiates a civil action — and is therefore required to pay the full amount of the filing fee under section 13-17.5-103(2), C.R.S. 2020 — when the inmate sends notices of claim under the Colorado Governmental Immunity Act, section 24-10-109, C.R.S. 2020, to the court. The division answers the question “no” because the documents that the inmate sent to the court were neither complaints nor motions for the purposes of section 13-17.5-102(1).

Court of Appeals Nos. 19CA2125, 19CA2126, 19CA2127, 19CA2128,
19CA2129, 19CA2130, 19CA2131, 19CA2132, 19CA2133 & 19CA2134
Logan County District Court Nos. 19CV81, 19CV82, 19CV83, 19CV84,
19CV85, 19CV86, 19CV87, 19CV88, 19CV89 & 19CV90
Honorable Carl S. McGuire, III, Judge

Calvin Johnson,

Plaintiff-Appellant,

v.

Toohey, Cyrus Clarkson, Glissman, Cartwright, Williams Scott, Sarah E.
Butler, Josh Dorcey, Long, Scott, and Josh Dorcey,

Defendants-Appellees.

ORDERS AFFIRMED IN PART, REVERSED IN PART,
AND CASE REMANDED WITH DIRECTIONS

Division A
Opinion by CHIEF JUDGE BERNARD
Davidson* and Casebolt*, JJ., concur

Opinion Modified and
Petition for Rehearing DENIED

Announced April 1, 2021

Calvin Johnson, Pro Se

Philip J. Weiser, Attorney General, Joshua G. Urquhart, Assistant Attorney
General, Rebekah Ryan, Assistant Attorney General, Denver, Colorado, for
Defendants-Appellees

*Sitting by assignment of the Chief Justice under provisions of Colo. Const. art.
VI, § 5(3), and § 24-51-1105, C.R.S. 2020.

OPINION is modified as follows:

Page 13, ¶ 28 currently reads:

Accordingly, we conclude that (1) the inmate did not, for the purposes of section 13-17.5-102(1), file a civil action when he sent the notices of claim and the accompanying “Motion[s] for the Court to Grant the Following” to the court; (2) the court thus erred when it assessed filing fees against him under section 13-17.5-103(2); and, therefore, (3) all the assessed fees that have been taken from the inmate’s account must be refunded to it.

Opinion now reads:

Accordingly, we conclude that (1) the inmate did not, for the purposes of section 13 17.5 102(1), file a civil action when he sent the notices of claim and the accompanying “Motion[s] for the Court to Grant the Following” to the court; (2) the court thus erred when it assessed filing fees against him under section 13 17.5 103(2); and, therefore, (3) all the assessed fees that have been taken from the inmate’s account must be refunded to it. For these reasons, we also reverse the orders insofar as the trial court assessed a “strike” against the inmate under section 13-17.5-102.7(1), C.R.S. 2020, based on the notices of claim.

¶ 1 This is a consolidated appeal. An inmate, Calvin Johnson, who is imprisoned in the Colorado Department of Corrections system, appeals the trial court’s orders striking documents that he described as “notices of claim.” These documents named employees and officers of the Sterling Correctional Facility, where he is incarcerated, as potential defendants. He also appeals the court’s orders assessing filing fees against him and taking funds from his inmate account to pay those fees.

¶ 2 We conclude that the documents were, indeed, notices of claim. This conclusion leads us to (1) affirm the court’s orders striking the notices; (2) reverse the court’s orders assessing filing fees against the inmate; and (3) order the court to refund any filing fees that have been taken from the inmate’s account.

I. Background

¶ 3 The inmate filed ten separate packets with the trial court, which each consisted of two documents. One document in each packet bore the heading “NOTICE OF CLAIM,” printed in large letters. In all but one of them, the inmate wrote that he would provide additional information once he filed his “actual complaint”

and that he had mailed copies of the documents to the Attorney General's office.

¶ 4 The second document in each packet was labeled "Motion for the Court to Grant the Following." These documents asked the court to (1) make the "notice of claim[]" a part of the court record to prove that he had "mailed a copy . . . to the . . . [A]ttorney [G]eneral"; (2) send him two filing forms "to file state level lawsuits," rather than forms for "small claims court"; (3) send him forms that "were the type for prisoner 'pro se' litigants who have no legal training"; and (4) send him an in forma pauperis application.

¶ 5 Here is a short summary of the allegations in the ten documents labeled "NOTICE OF CLAIM":

1. The first one alleged that the inmate's case manager violated his right to access the courts when she refused to (a) reinstate his grievance privileges; and (b) provide him with the necessary documents to file a grievance.
2. The second one alleged that the manager of the food service department violated his due process rights by (a) improperly substituting food in his meals; and (b) providing unripe or inedible food.

3. The third one alleged that prison officials threatened to take away some of his privileges if he did not provide information about an assault on a police officer.
4. The fourth one alleged that prison officials falsely accused him of “drinking cleaner” and then prohibited him from having cleaning kits, without administering a drug test to detect cleaner in his body.
5. The fifth one alleged that prison officials subjected him to cruel and unusual punishment by requiring him to wait six to eight weeks between barber services, rather than the usual monthly service, resulting in “itchy and unsanitary hair on [his] face and neck.”
6. The sixth one alleged that the prison psychiatrist and his mental health supervisor purposefully misdiagnosed his mental health problems and refused to prescribe him effective medication.
7. The seventh one alleged that prison officials did not heat his cell sufficiently during the months of September through May.

8. The eighth one alleged that prison officials discriminated against him by only playing “white people’s music” in the common areas.
9. The ninth one alleged that prison officials subjected him to cruel and unusual punishment when they changed his custody level from “mcc” to “mch.”
10. The tenth one alleged that prison officials violated his right to access the courts by mishandling his grievances.

¶ 6 The court, apparently treating the documents labeled “NOTICE OF CLAIM” as complaints, decided that they were substantially frivolous, groundless, and malicious. So it struck them. As is pertinent to this appeal, it also assessed filing fees against the inmate and ordered that the fees be taken from his inmate account.

II. Standard of Review

¶ 7 The court’s orders striking the documents labeled “NOTICE OF CLAIM” are analogous to orders dismissing a complaint, which we review de novo. *See Fisher v. Colo. Dep’t of Corr.*, 56 P.3d 1210, 1212 (Colo. App. 2002). We may affirm the court on any grounds supported by the record. *See Moss v. Bd. of Cnty. Comm’rs*, 2015 COA 35, ¶ 59; *see also Negron v. Golder*, 111 P.3d 538, 542 (Colo.

App. 2004)(affirming court’s decision on “partially different grounds”).

III. Notices of Claim

¶ 8 The inmate contends that the court acted prematurely when it struck the documents labeled “NOTICE OF CLAIM.” Instead, citing section 24-10-109, C.R.S. 2020, which is part of the Colorado Governmental Immunity Act, he asserts that these documents were notices of claim because they were “preliminary to an actual complaint” and because the Attorney General had not yet responded to them. Although we agree with him that these documents were notices of claim, we nonetheless conclude that the court did not err when it struck them.

A. Law

¶ 9 Under section 24-10-109(1)-(2), a person claiming to have suffered an injury by a public entity or its employee must file a written notice of claim that includes specific information such as the date, time, place, and circumstances of the act, omission, or event. “[T]he statute plainly requires” a claimant to file this notice with either the governing body of the public entity or the entity’s attorney, or, if the claim involves the state or a state employee, the

notice must be filed with the Attorney General. *Jefferson Cnty. Health Servs. Ass'n v. Feeney*, 974 P.2d 1001, 1003 (Colo. 1998); § 24-10-109(3)(a).

¶ 10 The purposes of the notice-of-claim process “include avoiding prejudice to the governmental entity, encouraging settlement, and providing public entities the opportunity to investigate claims, remedy conditions, and prepare defense of claims.” *Finnie v. Jefferson Cnty. Sch. Dist. R-1*, 79 P.3d 1253, 1258 (Colo. 2003). For these reasons, a claimant cannot file a lawsuit based on a claim against a public entity or a public employee until one of two events has occurred: the public entity or the public employee denies the claim or ninety days pass after the notice was filed, whichever occurs first. § 24-10-109(6).

B. Analysis

¶ 11 We conclude, for the following reasons, that the documents entitled “NOTICE OF CLAIM” were notices of claim under section 24-10-109.

¶ 12 First, the inmate took pains to make clear what these documents were. They were prominently labeled “NOTICE OF

CLAIM,” and the inmate wrote in all but one of them that he would provide additional information once he filed his “actual complaint.”

¶ 13 Second, the accompanying “Motion[s] for the Court to Grant the Following” asked the court to send him forms for filing a “state level lawsuit.” This request underscored the statement in the documents labeled “NOTICE OF CLAIM” that the inmate intended to file his “actual complaint” later.

¶ 14 Third, the documents labeled “NOTICE OF CLAIM” generally followed the requirements of section 24-10-109(1)-(3). They set forth specific allegations, and they named various prison employees. They each included a certificate of service stating that the document had been mailed to the Attorney General. *See Jefferson Cnty. Health Servs. Ass’n*, 974 P.2d at 1003.

¶ 15 But, even though we conclude that these documents were notices of claim, we nonetheless conclude, although for different reasons than the trial court expressed, that the court did not err when it struck them. *See Moss*, ¶ 59; *Negron*, 111 P.3d at 542.

¶ 16 The inmate filed the notices of claim with the court just three days after he had mailed them to the Attorney General. But nothing in section 24-10-109 instructed the inmate to file the

notices of claim with the court. To the contrary, section 24-10-109(6) required the inmate to complete the notice-of-claim process *before* filing an action with the court. This means that he should have waited to file his documents with the court until either the Attorney General had denied the claims or ninety days had passed.

¶ 17 In *Curry v. Zag Built LLC*, 2018 COA 66, ¶ 78, the division explained that, when a statute makes “completion of the notice-of-claim process a prerequisite to filing a complaint or to commencing an action, it . . . require[s] the court to *dismiss* a case that a plaintiff filed before the notice-of-claim process was completed.” The division recognized that section 24-10-109 “includes an example of such an explicit limitation” by requiring an injured party to “send a notice of claim to a governmental agency before filing a complaint.” *Id.* at ¶ 79. In this case, the inmate had not completed the notice-of-claim process before filing the notices of claim and the accompanying “Motion[s] for the Court to Grant the Following” with the court.

IV. Filing Fees

¶ 18 The inmate next contends that (1) the court erred when it assessed filing fees against him; and, therefore, (2) “all the money taken so far” should be refunded to his inmate account. We agree.

¶ 19 There are special rules governing filing fees in cases that involve lawsuits filed by prison inmates. These rules reflect the General Assembly’s declaration that the “state has a strong interest in limiting substantially frivolous, groundless, or vexatious inmate lawsuits that impose an undue burden on the state judicial system.” § 13-17.5-101(1), C.R.S. 2020.

¶ 20 Under these rules, even “[an] inmate who is allowed to proceed in [a] civil action as a poor person shall be required to pay the full amount of the filing fee” § 13-17.5-103(2), C.R.S. 2020. In fact, all inmates become responsible for the filing fee the moment the civil action is filed. *Schwartz v. Owens*, 134 P.3d 455, 460 (Colo. App. 2005).

¶ 21 In general, an “action” is “a court proceeding by one party to enforce a right against another party.” *State ex rel. Coffman v. Vaden Law Firm LLC*, 2015 COA 68, ¶ 18. Under C.R.C.P. 3(a), a party commences a civil action by (1) filing a complaint with the

court; or (2) serving another party with a summons and complaint. Section 13-17.5-102(1), C.R.S. 2020, is broader. It defines a “civil action” for purposes of inmate lawsuits as “the filing of a complaint . . . or motion with any court within the state” *Id.*

¶ 22 Under section 13-17.5-102(1), did the inmate in this case initiate a civil action when he sent the notices of claim and the “Motion[s] for the Court to Grant the Following” to the court, which would have triggered his obligation to pay a filing fee under section 13-17.5-103(2) and *Schwartz*? We answer this question “no” because we conclude that the documents that the inmate sent to the court were neither complaints nor motions for the purposes of section 13-17.5-102(1).

¶ 23 Our task when interpreting a statute is to discern and to effectuate the legislature’s intent. *Denver Post Corp. v. Ritter*, 255 P.3d 1083, 1088 (Colo. 2011). To achieve that end, we consider the plain meaning of the statutory language “within the context of the statute as a whole.” *Id.* “We give effect to words and phrases according to their plain and ordinary meaning.” *Id.* at 1089. “We construe the entire statutory scheme to give consistent,

harmonious, and sensible effect to all [its] parts.” *Id.* If the language is clear, we apply it as written. *Id.*

¶ 24 Consulting dictionary definitions of “complaint” and “motion,” we discover that

- a complaint is “[t]he initial pleading that starts a civil action and states the basis for the court’s jurisdiction, the basis for the plaintiff’s claim, and the demand for relief,” Black’s Law Dictionary (11th ed. 2019); and
- a motion is a “written or oral application requesting a court to make a specified ruling or order,” *id.*; see C.R.C.P. 7(b)(1) (“An application to the court for an order shall be made by motion”).

¶ 25 The concept that different kinds of documents can initiate a legal action is not unique to inmate lawsuits. In *Coffman*, ¶ 18, the division provided examples of documents that initiate actions (a “complaint,” an “indictment,” an “information,” a “petition,” or a “motion”). The division explained that “[w]hatever the operative document is called, the effect is the same — an action is instituted.” *Id.* at ¶ 19. In other words, “[t]he character of the proceeding as an

‘action’ is unaffected by the title of the operative document which commences the action.” *Id.*

¶ 26 Looking at the substance of the documents that the inmate filed, as opposed to their titles, the notices of claim included language referring to actions that the inmate would take “when [he] file[d] the actual complaint[s].” The “Motion[s] for the Court to Grant the Following” stated that the court should make the notices of claim part of its record to prove that he had sent them to the Attorney General, and they asked the court to send him forms so that he could file “state level lawsuits.”

¶ 27 Based on our previous discussion of the function of notices of claim, along with the definitions of “complaint” and “motion” that we have cited above, we can see that these notices of claim and the “Motion[s] for the Court to Grant the Following” were not (1) complaints because they were not the initial pleadings that would have begun civil cases; or (2) motions because they were not written applications asking the court to make specified rulings or orders. In other words, the inmate’s notices of claim and the “Motion[s] for the Court to Grant the Following” made clear that they were merely prequels to the initiation of civil actions, requests for relief, or

requests for specified rulings or orders. See § 13-17.5-102(1); *Coffman*, ¶ 19; cf. *DiChellis v. Peterson Chiropractic Clinic*, 630 P.2d 103, 106 (Colo. App. 1981)(In discussing a letter sent to the court, the division concluded that, “[f]rom the substance of plaintiff’s conduct, it is apparent that he intended to file suit at that time and was not expressing an intention to file suit in the future.”).

¶ 28 Accordingly, we conclude that (1) the inmate did not, for the purposes of section 13-17.5-102(1), file a civil action when he sent the notices of claim and the accompanying “Motion[s] for the Court to Grant the Following” to the court; (2) the court thus erred when it assessed filing fees against him under section 13-17.5-103(2); and, therefore, (3) all the assessed fees that have been taken from the inmate’s account must be refunded to it. For these reasons, we also reverse the orders insofar as the trial court assessed a “strike” against the inmate under section 13-17.5-102.7(1), C.R.S. 2020, based on the notices of claim.

¶ 29 The orders are affirmed in part and reversed in part, and the case is remanded for the court to refund the inmate’s assessed fees.

JUDGE DAVIDSON and JUDGE CASEBOLT concur.

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Section 13-17.5-102(1), C.R.S. 2020, defines a “civil action” for purposes of inmate lawsuits as “the filing of a complaint . . . or motion with any court within the state” This opinion asks the question whether an inmate initiates a civil action — and is therefore required to pay the full amount of the filing fee under section 13-17.5-103(2), C.R.S. 2020 — when the inmate sends notices of claim under the Colorado Governmental Immunity Act, section 24-10-109, C.R.S. 2020, to the court. The division answers the question “no” because the documents that the inmate sent to the court were neither complaints nor motions for the purposes of section 13-17.5-102(1).

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Plaintiff-Appellant,

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Announced April 1, 2021

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Defendants-Appellees

*Sitting by assignment of the Chief Justice under provisions of Colo. Const. art.
VI, § 5(3), and § 24-51-1105, C.R.S. 2020.

¶ 1 This is a consolidated appeal. An inmate, Calvin Johnson, who is imprisoned in the Colorado Department of Corrections system, appeals the trial court’s orders striking documents that he described as “notices of claim.” These documents named employees and officers of the Sterling Correctional Facility, where he is incarcerated, as potential defendants. He also appeals the court’s orders assessing filing fees against him and taking funds from his inmate account to pay those fees.

¶ 2 We conclude that the documents were, indeed, notices of claim. This conclusion leads us to (1) affirm the court’s orders striking the notices; (2) reverse the court’s orders assessing filing fees against the inmate; and (3) order the court to refund any filing fees that have been taken from the inmate’s account.

I. Background

¶ 3 The inmate filed ten separate packets with the trial court, which each consisted of two documents. One document in each packet bore the heading “NOTICE OF CLAIM,” printed in large letters. In all but one of them, the inmate wrote that he would provide additional information once he filed his “actual complaint”

and that he had mailed copies of the documents to the Attorney General's office.

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¶ 5 Here is a short summary of the allegations in the ten documents labeled "NOTICE OF CLAIM":

1. The first one alleged that the inmate's case manager violated his right to access the courts when she refused to (a) reinstate his grievance privileges; and (b) provide him with the necessary documents to file a grievance.
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¶ 6 The court, apparently treating the documents labeled “NOTICE OF CLAIM” as complaints, decided that they were substantially frivolous, groundless, and malicious. So it struck them. As is pertinent to this appeal, it also assessed filing fees against the inmate and ordered that the fees be taken from his inmate account.

II. Standard of Review

¶ 7 The court’s orders striking the documents labeled “NOTICE OF CLAIM” are analogous to orders dismissing a complaint, which we review de novo. *See Fisher v. Colo. Dep’t of Corr.*, 56 P.3d 1210, 1212 (Colo. App. 2002). We may affirm the court on any grounds supported by the record. *See Moss v. Bd. of Cnty. Comm’rs*, 2015 COA 35, ¶ 59; *see also Negron v. Golder*, 111 P.3d 538, 542 (Colo.

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III. Notices of Claim

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A. Law

¶ 9 Under section 24-10-109(1)-(2), a person claiming to have suffered an injury by a public entity or its employee must file a written notice of claim that includes specific information such as the date, time, place, and circumstances of the act, omission, or event. “[T]he statute plainly requires” a claimant to file this notice with either the governing body of the public entity or the entity’s attorney, or, if the claim involves the state or a state employee, the

notice must be filed with the Attorney General. *Jefferson Cnty. Health Servs. Ass'n v. Feeney*, 974 P.2d 1001, 1003 (Colo. 1998); § 24-10-109(3)(a).

¶ 10 The purposes of the notice-of-claim process “include avoiding prejudice to the governmental entity, encouraging settlement, and providing public entities the opportunity to investigate claims, remedy conditions, and prepare defense of claims.” *Finnie v. Jefferson Cnty. Sch. Dist. R-1*, 79 P.3d 1253, 1258 (Colo. 2003). For these reasons, a claimant cannot file a lawsuit based on a claim against a public entity or a public employee until one of two events has occurred: the public entity or the public employee denies the claim or ninety days pass after the notice was filed, whichever occurs first. § 24-10-109(6).

B. Analysis

¶ 11 We conclude, for the following reasons, that the documents entitled “NOTICE OF CLAIM” were notices of claim under section 24-10-109.

¶ 12 First, the inmate took pains to make clear what these documents were. They were prominently labeled “NOTICE OF

CLAIM,” and the inmate wrote in all but one of them that he would provide additional information once he filed his “actual complaint.”

¶ 13 Second, the accompanying “Motion[s] for the Court to Grant the Following” asked the court to send him forms for filing a “state level lawsuit.” This request underscored the statement in the documents labeled “NOTICE OF CLAIM” that the inmate intended to file his “actual complaint” later.

¶ 14 Third, the documents labeled “NOTICE OF CLAIM” generally followed the requirements of section 24-10-109(1)-(3). They set forth specific allegations, and they named various prison employees. They each included a certificate of service stating that the document had been mailed to the Attorney General. *See Jefferson Cnty. Health Servs. Ass’n*, 974 P.2d at 1003.

¶ 15 But, even though we conclude that these documents were notices of claim, we nonetheless conclude, although for different reasons than the trial court expressed, that the court did not err when it struck them. *See Moss*, ¶ 59; *Negron*, 111 P.3d at 542.

¶ 16 The inmate filed the notices of claim with the court just three days after he had mailed them to the Attorney General. But nothing in section 24-10-109 instructed the inmate to file the

notices of claim with the court. To the contrary, section 24-10-109(6) required the inmate to complete the notice-of-claim process *before* filing an action with the court. This means that he should have waited to file his documents with the court until either the Attorney General had denied the claims or ninety days had passed.

¶ 17 In *Curry v. Zag Built LLC*, 2018 COA 66, ¶ 78, the division explained that, when a statute makes “completion of the notice-of-claim process a prerequisite to filing a complaint or to commencing an action, it . . . require[s] the court to *dismiss* a case that a plaintiff filed before the notice-of-claim process was completed.” The division recognized that section 24-10-109 “includes an example of such an explicit limitation” by requiring an injured party to “send a notice of claim to a governmental agency before filing a complaint.” *Id.* at ¶ 79. In this case, the inmate had not completed the notice-of-claim process before filing the notices of claim and the accompanying “Motion[s] for the Court to Grant the Following” with the court.

IV. Filing Fees

¶ 18 The inmate next contends that (1) the court erred when it assessed filing fees against him; and, therefore, (2) “all the money taken so far” should be refunded to his inmate account. We agree.

¶ 19 There are special rules governing filing fees in cases that involve lawsuits filed by prison inmates. These rules reflect the General Assembly’s declaration that the “state has a strong interest in limiting substantially frivolous, groundless, or vexatious inmate lawsuits that impose an undue burden on the state judicial system.” § 13-17.5-101(1), C.R.S. 2020.

¶ 20 Under these rules, even “[an] inmate who is allowed to proceed in [a] civil action as a poor person shall be required to pay the full amount of the filing fee” § 13-17.5-103(2), C.R.S. 2020. In fact, all inmates become responsible for the filing fee the moment the civil action is filed. *Schwartz v. Owens*, 134 P.3d 455, 460 (Colo. App. 2005).

¶ 21 In general, an “action” is “a court proceeding by one party to enforce a right against another party.” *State ex rel. Coffman v. Vaden Law Firm LLC*, 2015 COA 68, ¶ 18. Under C.R.C.P. 3(a), a party commences a civil action by (1) filing a complaint with the

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¶ 22 Under section 13-17.5-102(1), did the inmate in this case initiate a civil action when he sent the notices of claim and the “Motion[s] for the Court to Grant the Following” to the court, which would have triggered his obligation to pay a filing fee under section 13-17.5-103(2) and *Schwartz*? We answer this question “no” because we conclude that the documents that the inmate sent to the court were neither complaints nor motions for the purposes of section 13-17.5-102(1).

¶ 23 Our task when interpreting a statute is to discern and to effectuate the legislature’s intent. *Denver Post Corp. v. Ritter*, 255 P.3d 1083, 1088 (Colo. 2011). To achieve that end, we consider the plain meaning of the statutory language “within the context of the statute as a whole.” *Id.* “We give effect to words and phrases according to their plain and ordinary meaning.” *Id.* at 1089. “We construe the entire statutory scheme to give consistent,

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- a complaint is “[t]he initial pleading that starts a civil action and states the basis for the court’s jurisdiction, the basis for the plaintiff’s claim, and the demand for relief,” Black’s Law Dictionary (11th ed. 2019); and
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¶ 25 The concept that different kinds of documents can initiate a legal action is not unique to inmate lawsuits. In *Coffman*, ¶ 18, the division provided examples of documents that initiate actions (a “complaint,” an “indictment,” an “information,” a “petition,” or a “motion”). The division explained that “[w]hatever the operative document is called, the effect is the same — an action is instituted.” *Id.* at ¶ 19. In other words, “[t]he character of the proceeding as an

‘action’ is unaffected by the title of the operative document which commences the action.” *Id.*

¶ 26 Looking at the substance of the documents that the inmate filed, as opposed to their titles, the notices of claim included language referring to actions that the inmate would take “when [he] file[d] the actual complaint[s].” The “Motion[s] for the Court to Grant the Following” stated that the court should make the notices of claim part of its record to prove that he had sent them to the Attorney General, and they asked the court to send him forms so that he could file “state level lawsuits.”

¶ 27 Based on our previous discussion of the function of notices of claim, along with the definitions of “complaint” and “motion” that we have cited above, we can see that these notices of claim and the “Motion[s] for the Court to Grant the Following” were not (1) complaints because they were not the initial pleadings that would have begun civil cases; or (2) motions because they were not written applications asking the court to make specified rulings or orders. In other words, the inmate’s notices of claim and the “Motion[s] for the Court to Grant the Following” made clear that they were merely prequels to the initiation of civil actions, requests for relief, or

requests for specified rulings or orders. See § 13-17.5-102(1); *Coffman*, ¶ 19; cf. *DiChellis v. Peterson Chiropractic Clinic*, 630 P.2d 103, 106 (Colo. App. 1981)(In discussing a letter sent to the court, the division concluded that, “[f]rom the substance of plaintiff’s conduct, it is apparent that he intended to file suit at that time and was not expressing an intention to file suit in the future.”).

¶ 28 Accordingly, we conclude that (1) the inmate did not, for the purposes of section 13-17.5-102(1), file a civil action when he sent the notices of claim and the accompanying “Motion[s] for the Court to Grant the Following” to the court; (2) the court thus erred when it assessed filing fees against him under section 13-17.5-103(2); and, therefore, (3) all the assessed fees that have been taken from the inmate’s account must be refunded to it.

¶ 29 The orders are affirmed in part and reversed in part, and the case is remanded for the court to refund the inmate’s assessed fees.

JUDGE DAVIDSON and JUDGE CASEBOLT concur.