

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADOFILED
UNITED STATES DISTRICT COURT
DENVER, COLORADO

Civil Action No. 06-cv-01393-BNB

JUL 21 2006

KATHLEEN A. PORTELL,

GREGORY C. LANGHAM
CLERK

Plaintiff,

v.

DR. STATEN, individually and as Medical Director, MARYBETH DONICA, MD AND
KAREN RIGGIO, MA and the FCCs (FAMILY CARE CENTERS),
DR. THOMAS, individually and as Medical Director, Otolaryngology and DR'S OLSON
and CUTURICH, and SLUCare (ST. LOUIS UNIVERSITY HOSPITAL),
THERESA ROYSTER,
DONALD PORTELL, JR.,
JOBIE OLSON (OR BOHR),
CONNIE SMITH,
SANDRA RADFORD,
TONIA RADFORD (OR SCHRUM), and
HAROLD and KIMBERLY COX,

Defendants.

ORDER DIRECTING PLAINTIFF TO FILE AMENDED COMPLAINT

Plaintiff, Kathleen A. Portell, has filed *pro se* a Complaint. The court must construe the Complaint liberally because Ms. Portell is representing herself. *See Haines v. Kerner*, 404 U.S. 519, 520-21 (1972); *Hall v. Bellmon*, 935 F.2d 1106, 1110 (10th Cir. 1991). For the reasons stated below, Ms. Portell will be ordered to file an amended complaint.

The court has reviewed the Complaint filed by Ms. Portell and has determined that the Complaint is deficient. First, it is not clear who the Defendants in this action are. Pursuant to the court's local rules, each Defendant must be listed on a separate

line in the caption of the pleading. Ms. Portell's failure to comply with this local rule makes it difficult to determine who the Defendants in this action are.

The Complaint also fails to comply with the pleading requirements of Rule 8 of the Federal Rules of Civil Procedure. The twin purposes of a pleading are to give the opposing parties fair notice of the basis for the claims against them so that they may respond and to allow the court to conclude that the allegations, if proven, show that the plaintiff is entitled to relief. *See Monument Builders of Greater Kansas City, Inc. v. American Cemetery Ass'n of Kansas*, 891 F.2d 1473, 1480 (10th Cir. 1989). The requirements of Fed. R. Civ. P. 8 are designed to meet these purposes. *See TV Communications Network, Inc. v. ESPN, Inc.*, 767 F. Supp. 1062, 1069 (D. Colo. 1991), *aff'd*, 964 F.2d 1022 (10th Cir. 1992). Specifically, Rule 8(a) provides that a complaint "shall contain (1) a short and plain statement of the grounds upon which the court's jurisdiction depends, . . . (2) a short and plain statement of the claim showing that the pleader is entitled to relief, and (3) a demand for judgment for the relief the pleader seeks." The philosophy of Rule 8(a) is reinforced by Rule 8(e)(1), which provides that "[e]ach averment of a pleading shall be simple, concise, and direct." Taken together, Rules 8(a) and (e)(1) underscore the emphasis placed on clarity and brevity by the federal pleading rules. Prolix, vague, or unintelligible pleadings violate the requirements of Rule 8.

Ms. Portell fails to set forth a short and plain statement of the grounds on which the court's jurisdiction depends. She fails to identify the statutory authority that allows this court to consider the claims she is asserting in this action. Ms. Portell also fails to set forth a short and plain statement of her claims showing that she is entitled to relief.

In fact, it is not even clear how many claims Ms. Portell is asserting because the Complaint includes multiple claim ones, claim twos, claim threes, and claim fours. In some of her claims Ms. Portell contends that her constitutional rights have been violated but she fails to allege facts to demonstrate how her constitutional rights have been violated or how any of the named Defendants are acting under color of state law. In short, the Complaint makes no sense. Finally, it is not clear what relief Ms. Portell seeks in this action.

Therefore, Ms. Portell will be ordered to file an amended complaint if she wishes to pursue her claims in this action. The amended complaint must comply with the court's local rules as well as the pleading requirements of Rule 8. Accordingly, it is

ORDERED that Ms. Portell file, **within thirty (30) days from the date of this order**, an amended complaint that complies with this order. It is

FURTHER ORDERED that the clerk of the court mail to Ms. Portell, together with a copy of this order, two copies of the following form: Complaint. It is

FURTHER ORDERED that, if Ms. Portell fails within the time allowed to file an amended complaint that complies with this order to the court's satisfaction, the Complaint and the action will be dismissed without further notice.

DATED July 21, 2006, at Denver, Colorado.

BY THE COURT:

s/ Boyd N. Boland
United States Magistrate Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

CERTIFICATE OF MAILING

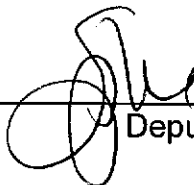
Civil Action No. 06-cv-01393-BNB

Kathleen A. Portell
980 Grant St., apt 505
Denver, CO 80203

I hereby certify that I have mailed a copy of the **ORDER** and **two copies of the Complaint** to the above-named individuals on 7-21-06

GREGORY C. LANGHAM, CLERK

By: _____



Deputy Clerk