

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. **06-CV-02148-BNB**
(The above civil action number must appear on all future papers sent to the court in this action. Failure to include this number may result in a delay in the consideration of your claims.)

DARRELL FORTNER, and
JENNIFER FORTNER, d/b/a Diamond Tree Service,

Plaintiffs,

v.

UNITED STATES OF AMERICA,
ATF, and
SARAH PELTON, individually and in her own capacity as ATF Agent, et al., Agents Dog
1, Cat 2 and Horse 3,

Defendants.

FILED
UNITED STATES DISTRICT COURT
DENVER, COLORADO

OCT 26 2006

GREGORY C. LANGHAM
CLERK

**ORDER DIRECTING CLERK TO COMMENCE CIVIL ACTION AND
DIRECTING PLAINTIFFS TO CURE DEFICIENCY**

Plaintiffs have submitted an "Ex Parte Application to Waive the Requirements of Filing Administrative Claim With U.S. of America, ATF and Other County &/or State Employees." As part of the court's review pursuant to D.C.COLO.LCivR 8.2, the court has determined that the document is deficient as described in this order.

Notwithstanding the deficiencies, the clerk of the court will be directed to commence a civil action. Plaintiffs will be directed to cure the following if they wish to pursue their claims. Any papers that Plaintiffs file in response to this order must include the civil action number on this order.

28 U.S.C. § 1915 Motion and Affidavit:

(1) xx is not submitted

- (2) ___ is missing affidavit
- (3) ___ is missing certified copy of prisoner's trust fund statement for the 6-month period immediately preceding this filing
- (4) ___ is missing required financial information
- (5) ___ is missing an original signature by the prisoner
- (6) ___ is not on proper form (must use the court's current form)
- (7) ___ names in caption do not match names in caption of complaint, petition or habeas application
- (8) ___ An original and a copy have not been received by the court. Only an original has been received.
- (9) xx other: motion is necessary only if filing fee is not paid in advance.

Complaint, Petition or Application:

- (10) ___ is not submitted
- (11) xx is not on proper form (must use the court's current form)
- (12) ___ is missing an original signature by the prisoner
- (13) ___ is missing page nos. ___
- (14) ___ uses et al. instead of listing all parties in caption
- (15) ___ An original and a copy have not been received by the court. Only an original has been received.
- (16) ___ Sufficient copies to serve each defendant/respondent have not been received by the court.
- (17) ___ names in caption do not match names in text
- (18) ___ other _____

Accordingly, it is

ORDERED that the clerk of the court commence a civil action in this matter. It is

FURTHER ORDERED that Plaintiffs cure the deficiencies designated above **within thirty (30) days from the date of this order.** Any papers that Plaintiffs file in response to this order must include the civil action number on this order. It is

FURTHER ORDERED that the clerk of the court mail to Plaintiffs, together with a copy of this order, two copies of the following forms: Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915; Complaint. It is

FURTHER ORDERED that, if Plaintiffs fail to cure the designated deficiencies **within thirty (30) days from the date of this order**, the action will be dismissed without further notice. The dismissal shall be without prejudice.

DATED at Denver, Colorado, this 24th day of October, 2006.

BY THE COURT:



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 - 02148 - BNB**

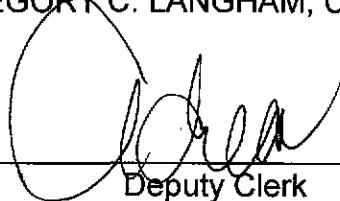
Darrell Fortner
13365 Nelson St.
Colorado Springs, CO 80908

Jennifer Fortner
13365 Nelson St.
Colorado Springs, CO 80908

I hereby certify that I have mailed a copy of the **ORDER and two copies of the Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 and a Complaint** to the above-named individuals on 10/26/06

GREGORY C. LANGHAM, CLERK

By: _____



Deputy Clerk