

FILED
UNITED STATES DISTRICT COURT
DENVER, COLORADO

FEB 4 - 2009

GREGORY C. LANGHAM
CLERK

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. **'09 - CV - 00225 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.)

M. BERNIECE JOHNSON,

Plaintiff,

v.

TODD K. FUSS: 2189 S. Flower Way, Lakewood,
PAULA S. BOWERS, 3394 Ave. F., Kittredge,
CAROL DIETRICK FUSS, 800 Everett St., Denver,
MRS. DIETRICK, mother of Carol Fuss,
VICKIE FUSS, true name unknown,
JEAN WILLITT, mother of Todd Fuss – 2189 S. Flower Way, Lakewood,
MR. A. WILLITT, Jean Willitt's Husband – 2189 S. Flower Way, Lakewood,
JOHN WIMBERLY, true name unknown, 4201 S. Fed. Blvd., Denver,
TERA FUSS, sister of Todd Fuss, true name unknown,
CRYSTAL FUSS, sister of Todd Fuss, true name unknown,
ZANE FUSS, brother of Todd Fuss, 7727 Jared Way, Littleton, and
JERRY SMITH, job address, Sprung Construction, Blake St.,

Defendants.

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

Plaintiff has submitted a document titled "District Court Civil (CV) Case Cover Sheet for Initial Pleading of Complaint, Counterclaim, Cross-Claim or Third Party Complaint," a Motion to File Without Payment of Filing Fee, and a document titled "First Cause of Action Fraud." As part of the court's review pursuant to D.C.COLO.LCivR 8.2, the court has determined that the submitted documents are deficient as described in this order. Notwithstanding the deficiencies, the clerk of the court will be directed to

commence a civil action. Plaintiff will be directed to cure the following if she wishes to pursue her claims. Any papers which the Plaintiff files in response to this order must include the civil action number on this order.

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

- (1) 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 (Account statement submitted is not certified by a prison official.)
- (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) other: _____

Complaint, Petition or Application:

- (10) is not submitted
- (11) 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 the Plaintiff cure the deficiencies designated above

within thirty (30) days from the date of this order. Any papers which the Plaintiff files 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 the Plaintiff, together with a copy of this order, two copies of the following form(s): Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. §1915; Prisoner Complaint. It is

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

DATED at Denver, Colorado, this 3^d day of February, 2009.

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. **'09 - CV - 00225**

M. Berniece Johnson
Prisoner No. 105370
Colorado Women's Correctional Facility
P.O. Box 500
Unit 1
Cañon City, CO 81215

I hereby certify that I have mailed a copy of the **ORDER** and **two copies** of the **Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. §1915** and the **Prisoner Complaint forms** to the above-named individuals on 7/4/09

GREGORY C. LANGHAM, CLERK

By:  _____
Deputy Clerk