

FILED  
UNITED STATES DISTRICT COURT  
DENVER, COLORADO

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

FEB 19 2009

Civil Action No. 09 - CV - 0029 BmB GREGORY C. LANGHAM  
CLERK  
(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.)

EDDIE ZAMORA,  
BARBARA ZAMORA,

Plaintiffs,

v.

COMMISSIONER [sic] OF SOCIAL SECURITY,

Defendant.

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ORDER DIRECTING CLERK TO COMMENCE CIVIL ACTION AND  
DIRECTING PLAINTIFF BARBARA ZAMORA ONLY  
TO CURE DEFICIENCY

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Plaintiffs, Eddie Zamora and Barbara Zamora, have submitted a complaint that only Barbara Zamora signed. Plaintiff Barbara Zamora has submitted a Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 that only she signed. 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.

Plaintiff Barbara Zamora lacks standing to represent her minor son, Plaintiff Eddie Zamora, age 12, in this action. **See *Meeker v. Kercher***, 782 F.2d 153, 154 (10th Cir. 1986) (per curiam). Under Fed. R. Civ. P. 17(c) and 28 U.S.C. § 1654 (1994), Eddie Zamora, a minor child, "cannot bring suit through a parent acting as next friend if the parent is not represented by an attorney." *Id.*; accord *Osei-Afriyie ex rel. Osei-*

**Afriye v. Medical College of Pa.**, 937 F.2d 876, 882-83 (3d Cir. 1991); **Cheung v. Youth Orchestra Found. of Buffalo, Inc.**, 906 F.2d 59, 61 (2d Cir. 1990). Plaintiff Barbara Zamora is not represented by an attorney. Therefore, Barbara Zamora may not represent her minor son, Eddie, in this action. Eddie will be dismissed as a party to this action.

Notwithstanding this deficiency, the clerk of the Court will be directed to commence a civil action. Plaintiff Barbara Zamora will be directed to cure the following if she wishes to pursue her claims. Any papers that Plaintiff Barbara Zamora files in response to this order must include the civil action number on this order.

**Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915:**

- (1) \_\_\_ is not submitted
- (2) \_\_\_ is not on proper form (must use the court's current form)
- (3) \_\_\_ is missing original signature by plaintiff/petitioner/applicant
- (4) \_\_\_ is missing affidavit
- (5) \_\_\_ affidavit is incomplete
- (6) \_\_\_ affidavit is not notarized or is not properly notarized
- (7) \_\_\_ names in caption do not match names in caption of complaint, petition or application
- (8) \_\_\_ An original and a copy have not been received by the court. Only an original has been received.
- (9) \_\_\_ other \_\_\_\_\_

**Complaint or Petition:**

- (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 plaintiff/petitioner/applicant
- (13) \_\_\_ is incomplete
- (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) X 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 Plaintiff Eddie Zamora, a minor child, is dismissed as a party to this action. It is

FURTHER ORDERED that Plaintiff Barbara Zamora cure the deficiency designated above **within thirty (30) days from the date of this order**. Any papers that Plaintiff Barbara Zamora 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 Plaintiff Barbara Zamora, together with a copy of this order, two copies of the following form: Complaint. It is

FURTHER ORDERED that, if Plaintiff Barbara Zamora fails to cure the designated deficiency **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 11<sup>th</sup> day of February, 2009.

BY THE COURT:

  
\_\_\_\_\_  
BOYD M. BOLAND  
United States Magistrate Judge

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO


CERTIFICATE OF MAILING

Civil Action No. '09 - CV - 00294

Barbara Zamora  
112 N. Cora Ave.  
Milliken, CO 80543

I hereby certify that I have mailed a copy of the **ORDER** and **two copies of the Complaint form** to the above-named individuals on 2/12/09

GREGORY C. LANGHAM, CLERK

By:  \_\_\_\_\_  
Deputy Clerk