

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Action No. 09-cv-02345-BNB

KKENNAN [sic] W. COLE, and
KEVAN SCOTT,

Plaintiffs,

v.

SHARIE RITTENOUR,
JOHN OLIPHANT, ADA Coordinator, City of Colorado Springs,
KENNETH GEORIDINO, Contract Administrator, Transit Division,
City of Colorado Springs,
PENELOPE COLBRITH-GRAFF, City Manager, Colorado Springs,
EX OFFICIO COUNCILPERSON JERRY HEIMICHER,
COUNCILPERSON RANDY PERVIS,
COUNCILPERSON DARRELL GLENN,
HONORABLE MAYOR LIONEL RIVERA,
COUNCILPERSON THOMAS GALLAGHER,
HONORABLE VICE-MAYOR LARRY SMALL,
COUNCILPERSON JAN MARTIN,
COUNCILPERSON SCOTT GENTE,
COUNCILPERSON BERNARD (BERNIE) HERPEN,
CHRISTINE WASNIAC, General Manager, Veolia Transportation,
DONNA HARPER, Ex Officio General Manager, MV Transportation
for the City of Colorado Springs,
MICHELLE [LAST NAME UNKNOWN], Dispatcher, Metro Mobility,

Defendants.

FILED
UNITED STATES DISTRICT COURT
DENVER, COLORADO

OCT 23 2009

GREGORY C. LANGHAM
CLERK

SECOND AND FINAL ORDER TO CURE DEFICIENCIES

Plaintiff, Kennan W. Cole, originally submitted a Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 that only he signed, a letter that only he signed intended as a complaint, and a compact disc (CD) containing numerous documents. As part of the Court's review pursuant to D.C.COLO.LCivR 8.2, the Court determined

that the submitted documents and the CD were deficient. Notwithstanding the deficiencies, the clerk of the Court was directed to commence the instant civil action. On September 30, 2009, Mr. Cole was directed to cure within thirty days certain enumerated deficiencies if he wished to pursue his claims.

The September 30, 2009, order noted that the complaint was not submitted on the proper, Court-approved form and that CD filings no longer would be accepted by the Court in this action. The order also noted that electronic filings only would be accepted in accordance with D.C.COLO.LCivR 5.6 of the Local Rules of Practice for this Court. The proper form to use in submitting the amended complaint was mailed to Mr. Cole together with a copy of the September 30 order.

On October 13, 2009, in an attempt to cure the designated deficiencies, Mr. Cole and another intended Plaintiff, Kevan Scott, submitted an amended complaint that neither of them signed and that was not on the Court-approved complaint form mailed to Mr. Cole. D.C.COLO.LCivR 8.1 concerning *pro se* pleadings requires the use of the forms established by this Court to file an action. In addition, Mr. Cole and Mr. Scott submitted another document titled "Information for Temporary Restraining Order" that neither of them signed. Furthermore, Mr. Scott has failed to submit a Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915.

None of the October 13, 2009, filings complies with the format requirements of D.C.COLO.LCivR 10.1 concerning papers presented for filing. The Federal Rules of Civil Procedure also require that all papers presented for filing must be signed. **See** Fed. R. Civ. P. 11(a). Plaintiffs will be given one final opportunity to cure the

deficiencies in this action and comply with the Local Rules of Practice for this Court and with the Federal Rules of Civil Procedure. Failure to do so within the time allowed may result in the dismissal of the instant action. Accordingly, it is

ORDERED that both Plaintiffs cure the deficiencies designated in this order **within thirty (30) days from the date of this order**. It is

FURTHER ORDERED that intended Plaintiff, Kevan Scott, submit a properly completed Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915. It is

FURTHER ORDERED that the clerk of the Court mail to Mr. Scott, together with a copy of this order, a copy of the Court-approved form to use for submitting a Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915. It is

FURTHER ORDERED that the clerk of the Court mail to Mr. Cole and Mr. Scott, together with a copy of this order, copies of the complaint form to be used in submitting a single second amended complaint that each of them has signed. It is

FURTHER ORDERED that the clerk of the Court mail to Mr. Cole and Mr. Scott a copy of this Court's Local Rules of Practice. It is

FURTHER ORDERED that, if either Mr. Cole or Mr. Scott fails to cure the designated deficiencies **within thirty (30) days from the date of this order**, he will be dismissed as a party to this action. In addition, the amended complaint and the action may be dismissed without further notice. The dismissal shall be without prejudice. It is

FURTHER ORDERED that the unsigned amended complaint and document titled "Information for Temporary Restraining Order" will not be addressed for failure to

comply with the Federal Rules of Civil Procedure and the Local Rules of Practice for this Court and, therefore, are dismissed and denied respectively without prejudice.

DATED October 23, 2009, 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. 09-cv-2345-BNB

Kennan W. Cole
1510 Yuma Street Apt. 101
Colorado Springs, CO 80909

Kevan Scott
2914 N. Aracadia St, Apt. 205
Colorado Springs, CO 80907

I hereby certify that I have mailed a copy of the **ORDER** and **two copies of the Complaint form** and a copy of the **Court's Local Rules of Practice** to the above-named individuals and two copies of the **Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915** to **Kevan Scott** only on 10/23/09

GREGORY C. LANGHAM, CLERK

By: 

Deputy Clerk