

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 10-cv-00174-BNB

KAT BAILOT,

Plaintiff,

v.

STATE OF CO DIV. OF EMP., and
RANDALL D. JOHANNES,

Defendants.

FILED
UNITED STATES DISTRICT COURT
DENVER, COLORADO

FEB 05 2010

GREGORY C. LANGHAM
CLERK

ORDER DIRECTING PLAINTIFF TO FILE AMENDED COMPLAINT

Plaintiff, Kat Bailot, currently resides in Lafayette, Colorado. Plaintiff initiated this action by filing *pro se* a complaint. In an order entered on January 26, 2010, the Court directed the clerk of the Court to commence a civil action and directed Plaintiff to cure certain deficiencies if she wished to pursue her claims.

Specifically, the Court ordered Plaintiff to submit within thirty days an amended complaint complete with pages three through five and with her asserted claims for relief. On February 1, 2010, Plaintiff only submitted pages three through five with her asserted claims for relief and attachments.

Plaintiff misunderstands that she must cure the designated deficiencies by submitting a fully completed amended complaint, and not simply by submitting missing pages. Therefore, Plaintiff will be given one final opportunity to cure the deficiencies designated in the January 26 order for an amended complaint. The clerk of the Court will be directed to mail to Plaintiff, together with a copy of this order, a copy of the

Court-approved form for filing a complaint. Plaintiff will be directed within thirty days from the date of this order to file a fully completed amended complaint.

The amended complaint must comply with the pleading requirements of Rule 8 of the Federal Rules of Civil Procedure. The twin purposes of a complaint 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 “must contain (1) a short and plain statement of the grounds for the court’s jurisdiction . . . (2) a short and plain statement of the claim showing that the pleader is entitled to relief; and (3) a demand for the relief sought” The philosophy of Rule 8(a) is reinforced by Rule 8(d)(1), which provides that “[e]ach allegation must be simple, concise, and direct.” Taken together, Rules 8(a) and (d)(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. The Court notes that the complaint filed on January 26 fails to set forth a short and plain statement of the grounds on which the Court’s jurisdiction depends, **see** Fed. R. Civ. P. 8(a)(1) and a short a plain statement of the claims for relief. **See** Fed. R. Civ. P. 8(a)(2).

A decision to dismiss a pleading pursuant to Rule 8 is within the trial court's sound discretion. **See *Atkins v. Northwest Airlines, Inc.***, 967 F.2d 1197, 1203 (8th Cir. 1992); ***Gillibeau v. City of Richmond***, 417 F.2d 426, 431 (9th Cir. 1969). The Court finds that neither the complaint filed on January 26 nor the amendment to the complaint filed on February 1 meets the requirements of Rule 8, and that Plaintiff should be given an opportunity to file an amended complaint. Plaintiff will be directed to do so below. If Plaintiff fails to comply with this order as directed, the complaint, the amendment to the complaint, and the action will be dismissed without further notice. Accordingly, it is

ORDERED that Plaintiff, Kat Bailot, **within thirty days from the date of this order**, file an amended complaint that complies with this order and with the pleading requirements of Rule 8 of the Federal Rules of Civil Procedure as discussed in this order. It is

FURTHER ORDERED that the clerk of the Court mail to Plaintiff, together with a copy of this order, two copies of the Court-approved complaint form. It is

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

DATED February 5, 2010, 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. 10-cv-00174-BNB

Kay Bailot
10695 Arapahoe Rd.
Lafayette, CO 80026

I hereby certify that I have mailed a copy of the **ORDER and two copies of the Complaint** to the above-named individuals on 2/5/10

GREGORY C. LANGHAM, CLERK

By: 

Deputy Clerk