

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 10-cv-00323-BNB

ELIZABETH HARTLEY,

Plaintiff,

v.

DEPARTMENT OF AGRICULTURE, Forest Service,

Defendant.

**FILED**  
UNITED STATES DISTRICT COURT  
DENVER, COLORADO

APR 08 2010

GREGORY C. LANGHAM  
CLERK

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ORDER DIRECTING PLAINTIFF TO FILE FINAL AMENDED COMPLAINT

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Plaintiff, Elizabeth Hartley, initiated this action by submitting a Title VII Complaint and a Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 on February 4, 2010. On February 16, 2010, the Court directed the Clerk of the Court to commence a civil action and ordered Ms. Hartley to cure certain deficiencies.

Specifically, the Court ordered Ms. Hartley to file a complete complaint, on the court-approved form, that included her Request for Relief.

Ms. Hartley filed an amended complaint on March 12, 2010. On March 18, 2010, the Court determined that the amended complaint was deficient because it was completely blank except for Plaintiff's Request for Relief. Therefore, the Court ordered Ms. Hartley to file a second amended complaint on the Court-approved form that included all claims, named parties, and requests for relief. Ms. Hartley submitted a second amended complaint on March 29, 2010. The Court has reviewed the second

amended complaint and finds that it is again deficient, because it does not include any of Plaintiff's claims for relief.

Plaintiff apparently does not understand 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 March 18 order for a second 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 Title VII complaint. Plaintiff will be directed within thirty days from the date of this order to file a fully completed final amended complaint.

The final 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 amended complaint filed on March 12, and the second amended complaint filed on March 29, fail to set forth 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 amended complaint filed on March nor the second amended complaint filed on March 29 meets the requirements of Rule 8, and that Plaintiff should be given an opportunity to file a final amended complaint. Plaintiff will be directed to do so below. If Plaintiff fails to comply with this order as directed, the second amended complaint, and the action will be dismissed without further notice. Accordingly, it is

ORDERED that Plaintiff, Elizabeth Hartley, **within thirty days from the date of this order**, file a final 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 following form: Title VII Complaint. It is

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

DATED April 8, 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-00323-BNB

Elizabeth L. Hartley  
424 32 Road #17  
Clifton, CO 81520

I hereby certify that I have mailed a copy of the **ORDER** and **two copies of the Title VII Complaint** to the above-named individuals on 4/8/10

GREGORY C. LANGHAM, CLERK

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