

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 10-cv-00601-BNB

TIMOTHY HATTEN,

Plaintiff,

v.

R. ANDERT,  
A. BARKER,  
J.C. HOLLAND,  
SARA REVELL,  
BLAKE R. DAVIS,  
D.J. HARMON,  
J. CHAVEZ,  
HARRELL WATTS,  
G. MALDONADO, JR.,  
M. GUITIERREZ,  
MICHAEL K. NALLEY,  
N. FIELDS,  
E. ALEXANDER,  
J.P. YOUNG,  
RICHARD W. SCHOTT,  
M. WACKER,  
B. EISCHEN,  
V. VISIL,  
D. BORGERS,  
B. OLMSTEAD,  
CARL LAFARGUE,  
GREGORY KIZZIAH,  
MARNE BOYLE, and  
J. CRAMER,

Defendants.

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

APR 08 2010

GREGORY C. LANGHAM  
CLERK

---

ORDER DIRECTING PLAINTIFF TO FILE AMENDED COMPLAINT

---

Plaintiff, Timothy Hatten, is a prisoner in the custody of the United States Bureau of Prisons who currently is incarcerated at the Federal Correctional Institution in

Oakdale, Louisiana. Mr. Hatten filed a *pro se* Prisoner Complaint alleging that his constitutional rights have been violated. He has been granted leave to proceed pursuant to 28 U.S.C. § 1915.

The Court must construe Mr. Hatten's filings liberally because he is representing himself. *See Haines v. Kerner*, 404 U.S. 519, 520-21 (1972); *Hall v. Bellmon*, 935 F.2d 1106, 1110 (10th Cir. 1991). However, the Court should not be the *pro se* litigant's advocate. *Hall*, 935 F.2d at 1110. For the reasons stated below, Mr. Hatten will be directed to file an amended complaint.

The Court has reviewed Mr. Hatten's complaint and finds that the complaint does not 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) requires that a complaint "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. In order for Mr. Hatten to state a claim in federal court, his “complaint must explain what each defendant did to him or her; when the defendant did it; how the defendant’s action harmed him or her; and, what specific legal right the plaintiff believes the defendant violated.” **Nasious v. Two Unknown B.I.C.E. Agents**, 492 F.3d 1158, 1163 (10th Cir. 2007).

Mr. Hatten fails to set forth a short and plain statement of his claims showing that he is entitled to relief. The complaint, which is twenty-nine pages long, is verbose and repetitive. Although Mr. Hatten appears to assert three claims for relief, he sets forth an extended and unnecessary discussion of often insignificant details and legal argument in support of his claims rather than providing “a generalized statement of the facts from which the defendant may form a responsive pleading.” **New Home Appliance Ctr., Inc., v. Thompson**, 250 F.2d 881, 883 (10th Cir. 1957). As a result, the complaint is excessively and unnecessarily long. For the purposes of Rule 8(a), “[i]t is sufficient, and indeed all that is permissible, if the complaint concisely states facts upon which relief can be granted upon any legally sustainable basis.” *Id.*

Mr. Hatten is directed to file an amended complaint that complies with the pleading requirements of Rule 8. Mr. Hatten is reminded that it is his responsibility to present his claims in a manageable format that allows the Court and the defendants to know what claims are being asserted and to be able to respond to those claims.

In the amended complaint, Mr. Hatten must assert personal participation by each named defendant. **See Bennett v. Passic**, 545 F.2d 1260, 1262-63 (10th Cir. 1976).

To establish personal participation, Mr. Hatten must name and show how named defendants caused a deprivation of his federal rights. **See *Kentucky v. Graham***, 473 U.S. 159, 166 (1985). There must be an affirmative link between the alleged constitutional violation and each defendant's participation, control or direction, or failure to supervise. **See *Butler v. City of Norman***, 992 F.2d 1053, 1055 (10th Cir. 1993). A defendant may not be held liable on a theory of respondeat superior merely because of his or her supervisory position. **See *Pembaur v. City of Cincinnati***, 475 U.S. 469, 479 (1986); ***McKee v. Heggy***, 703 F.2d 479, 483 (10th Cir. 1983).

Mr. Hatten may use fictitious names, such as "John or Jane Doe," if he does not know the real names of the individuals who allegedly violated his rights. However, if Mr. Hatten uses fictitious names he must provide sufficient information about each defendant so that he or she can be identified for purposes of service.

Mr. Hatten must file an amended complaint that contains a short and plain statement of the statutory grounds for the Court's jurisdiction, states his claims clearly and concisely, asserts the constitutional rights allegedly violated, and alleges specific facts demonstrating how each named defendant personally participated in the asserted constitutional violations. Accordingly, it is

ORDERED that Plaintiff, Timothy Hatten, file **within thirty days from the date of this order** an amended complaint that complies with the directives of this order. It is

FURTHER ORDERED that the clerk of the Court mail to Mr. Hatten, together with a copy of this order, two copies of the Court-approved Prisoner Complaint form to be used in submitting the amended complaint. It is

FURTHER ORDERED that the amended complaint shall be titled "Amended Prisoner Complaint," and shall be filed with the Clerk of the Court, United States District

Court for the District of Colorado, Alfred A. Arraj United States Courthouse, 901  
Nineteenth Street, A105, Denver, Colorado 80294. It is

FURTHER ORDERED that if Mr. Hatten fails to file an amended complaint as  
directed within the time allowed, the 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-00601-BNB

Timothy Hatten  
Reg No. 27993-004  
FCI - Oakdale  
P.O. Box 5000  
Oakdale, LA 71463

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

GREGORY C. LANGHAM, CLERK

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