

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

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

AUG 26 2010

Civil Action No. 10 - CV - 02072 *BnB* 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.)

JOHN M. HENTGES, Individually and in Behalf of my Children: B.W.H., T.J.H., N.A.H.,  
C.M.H., and A.N.H.,

Plaintiff,

v.

GIRL SCOUTS OF THE U.S.A, et al.,  
KATE GENAITIS, Individually and in her Official Capacity as Consultant to the State  
Councils,  
GIRL SCOUTS OF COLORADO, et al.,  
VIRGINIA L. MASON, Individually and in her Official Capacity as President and CEO,  
ANGELA LANGHUS-GANTT, Individually and in her Official Capacity as Membership  
Executive,  
JULIANA RIED, Individually and as a Private Citizen Acting Under Color of State Law,  
MARGARET BERRY, Individually and as a Private Citizen Acting Under Color of State  
Law,  
LIA CHRISTIANS, Individually and as a Private Citizen Acting Under Color of State  
Law,  
DENVER POLICE DEPARTMENT, et al.,  
TONY DALVIT, Individually and in his Official Capacity as Police Officer,  
RICHARD SEELEY, Individually and in his Official Capacity as Police Sergeant,  
DENVER CITY ATTORNEY, et al.,  
MELISSA DRAZEN-SMITH, Individually and in her Official Capacity as Assistant  
Director,  
CAROL A. WALTER, Individually and as a Private Citizen Acting Under Color of State  
Law, and  
E. GAY NIERMANN, Individually and in her Official Capacity as Attorney and Child and  
Family Investigator,

Defendants.

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**ORDER DIRECTING CLERK TO COMMENCE CIVIL ACTION AND  
DIRECTING PLAINTIFF TO CURE DEFICIENCY**

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On August 13, 2010, Plaintiff, John M. Hentges, submitted, *pro se* and on behalf of his children, B.W.H., T.J.H., N.A.H., C.M.H., and A.N.H., a Civil Cover Sheet, a "Request to Waive *Pro Se* Requirement Under D.C.COLO.LCivR 8.1," a Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915, and a "Verified Complaint."

On August 17, 2010, Mr. Hentges submitted, *pro se* and on behalf of his children, a cover letter to the clerk of the Court and two copies of an amended Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 indicating his request that the Court direct the United States Marshal Service to serve process. He also submitted two additional copies of the "Verified Complaint."

As part of the court's review pursuant to D.C.COLO.LCivR 8.1, the court has determined that the submitted documents are deficient as described in this order.

Mr. Hentges lacks standing to represent his minor children 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, 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-Afriyie 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). Mr. Hentges' children are not represented by an attorney. Therefore, Mr. Hentges may not represent his minor children in this action. The minor children, B.W.H., T.J.H., N.A.H., C.M.H., and A.N.H., will be dismissed as parties to this action.

Notwithstanding the deficiencies, the clerk of the court will be directed to

commence a civil action. Plaintiff's "Request to Waive *Pro Se* Requirement Under D.C.COLO.LCivR 8.1" will be denied. Plaintiff will be directed to cure the following if he wishes to pursue his claims. Any papers which the Plaintiff 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
- (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
- (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)  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 the minor children, B.W.H., T.J.H., N.A.H., C.M.H., and A.N.H., of Plaintiff, John M. Hentges, are dismissed as parties to this action. It is FURTHER ORDERED that Plaintiff's "Request to Waive *Pro Se* Requirement

Under D.C.COLO.LCivR 8.1" is denied. It is

FURTHER ORDERED that the Plaintiff cure the deficiencies designated above **within thirty (30) days from the date of this order**. Any papers which the Plaintiff 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 the Plaintiff, together with a copy of this order, copies of the following forms: Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 and Complaint. It is

FURTHER ORDERED that, if the Plaintiff fails to cure the designated deficiencies **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 25<sup>th</sup> day of August, 2010.

BY THE COURT:



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PHILIP A. BRIMMER  
United States District Judge, for  
ZITA LEESON WEINSHIENK  
Senior Judge, United States District Court

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

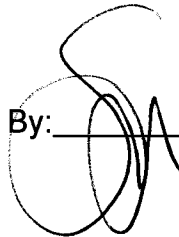
CERTIFICATE OF MAILING

Civil Action No. '10 - CV - 02072

John M. Hentges  
827 Commerce Street  
Le Sueur, MN 56058

I hereby certify that I have mailed a copy of the **ORDER** and **two copies of the Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. §1915 and Complaint forms** to the above-named individuals on 8/26/10

GREGORY C. LANGHAM, CLERK

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