

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 12-cv-02573-BNB

RAY MONDRAGON,

Plaintiff,

v.

DOUG CAMPING,
KEVIN CAMPING, and
CAMPING COMPANIES,

Defendants.

FINAL ORDER DIRECTING PLAINTIFF TO FILE AMENDED COMPLAINT

Plaintiff, Ray Mondragon, initiated this action on September 27, 2012, by filing *pro se* a Complaint (ECF No. 1). He has been granted leave to proceed pursuant to 28 U.S.C. § 1915 based on his inability to pay the filing fee in this action.

The Court must construe the Complaint liberally because Mr. Mondragon is not represented by an attorney. *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 an advocate for a *pro se* litigant. *See Hall*, 935 F.2d at 1110. For the reasons stated below, Mr. Mondragon will again be ordered to file an amended complaint.

On November 5, 2012, the Court reviewed the Complaint and determined that it was deficient because it failed to assert a jurisdictional basis for Plaintiff's claims. The Court entered an order directing Plaintiff to file an amended complaint within thirty days that asserted jurisdiction pursuant to 28 U.S.C. § 1331 (federal question jurisdiction) or § 1332 (diversity jurisdiction).

Mr. Mondragon filed a “Motion to amend and assert jurisdiction, as requested” (ECF No. 9) on December 3, 2012. In the motion, Plaintiff stated facts to show the diversity of citizenship of the parties, but did not allege the requisite amount in controversy under 28 U.S.C. § 1332.

On December 10, 2012, Magistrate Judge Boland issued a second order directing Plaintiff to file an Amended Complaint that alleged sufficient facts to support the court’s exercise of jurisdiction under the diversity of jurisdiction statute. Plaintiff was thereafter granted an extension of time until February 11, 2013, to file his Amended Complaint on the court-approved form in compliance with the December 10, 2012 Order. [ECF No. 12; Minute Order dated January 11, 2013]. In the January 13, 2013 Minute Order, the Court specifically told Plaintiff that if he intends to assert jurisdiction based on the diversity jurisdiction statute, he must file an amended complaint and allege in that pleading all the facts necessary to support jurisdiction under 28 U.S.C. § 1332. [*Id.*]

On January 25, 2013, Mr. Mondragon filed an “Amendmet [sic] to Complaint CV-02573 and request to make this amendment part of Complaint.” [ECF No. 13]. The amendment asserts the jurisdictional basis for Plaintiff’s claim in the Complaint. Contrary to the Court’s previous instructions, Mr. Mondragon did not file an amended complaint on the court-approved form and allege all facts to support jurisdiction in a single pleading. The Court is not required to read multiple amended complaints to determine whether Plaintiff has stated an arguable claim for relief against the Defendants. However, because Mr. Mondragon filed his “amendment” before the deadline imposed by the Court in the January 11, 2013 Minute Order, the Court will

allow him one final, brief opportunity to comply with the Court's orders. Accordingly, it is

ORDERED that Plaintiff, Ray Mondragon, **on or before February 14, 2013**, shall file an Amended Complaint, on the court-approved Complaint form, and shall allege all facts supporting the Court's exercise of diversity jurisdiction. Plaintiff may obtain the court-approved complaint form, along with the applicable instructions, at www.cod.uscourts.gov. Alternatively, Plaintiff may obtain the Court-approved form from the Clerks Office of the United States District Court, 901 19th Street, Denver, Colorado, 80294. It is

FURTHER ORDERED that, if Mr. Mondragon fails to file an amended complaint **on or before February 14, 2013**, the Complaint and this action will be dismissed without prejudice for Plaintiff's failure to comply with a court order.

DATED January 29, 2013, at Denver, Colorado.

BY THE COURT:

s/ Boyd N. Boland
United States Magistrate Judge