

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 14-cv-02913-BNB

CHARLES WHITTAKER,

Plaintiff,

v.

BLOCK BY BLOCK,

Defendant.

ORDER DIRECTING PLAINTIFF TO FILE AMENDED COMPLAINT

Plaintiff, Charles Whittiker, has filed *pro se* a Title VII Complaint (ECF No. 1). The court must construe the Title VII Complaint liberally because Mr. Whittiker 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. Mr. Whittiker will be ordered to file an amended complaint if he wishes to pursue his claims in this action.

The Title VII Complaint is deficient because it 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) 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.

Mr. Whittiker fails to provide a short and plain statement of his claims showing he is entitled to relief and fails to specify the relief he is seeking. Although he indicates on the preprinted portion of the Title VII Complaint form that he was demoted or discharged from his employment because of sexual harassment and retaliation, Mr. Whittiker does not include any specific factual allegations in the Title VII Complaint that detail the alleged sexual harassment and retaliation. As a result, the conclusory assertions of sexual harassment and retaliation are not sufficient to state a cognizable claim for relief. The narrative statement Mr. Whittiker attaches to the Title VII Complaint also does not provide a short and plain statement of the sexual harassment and retaliation claims he apparently intends to assert in this action.

The general rule that *pro se* pleadings must be construed liberally has limits and “the court cannot take on the responsibility of serving as the litigant’s attorney in constructing arguments and searching the record.” *Garrett v. Selby Connor Maddux & Janer*, 425 F.3d 836, 840 (10th Cir. 2005). Mr. Whittiker must identify, clearly and

concisely, the specific claims he is asserting and the specific facts that support each asserted claim. See *Nasious v. Two Unknown B.I.C.E. Agents*, 492 F.3d 1158, 1163 (10th Cir. 2007) (noting that, to state a claim in federal court, “a 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”). Accordingly, it is

ORDERED that Mr. Whittiker file, **within thirty (30) days from the date of this order**, an amended complaint that complies with this order. It is

FURTHER ORDERED that Mr. Whittiker shall obtain the appropriate court-approved Title VII Complaint form, along with the applicable instructions, at www.cod.uscourts.gov. It is

FURTHER ORDERED that, if Mr. Whittiker fails within the time allowed to file an amended complaint that complies with this order as directed, the action will be dismissed without further notice.

DATED October 28, 2014, at Denver, Colorado.

BY THE COURT:

s/ Boyd N. Boland
United States Magistrate Judge