

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Action No. 14-cv-03048-GPG

(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.)

MAGDALINA KALINCHEVA, MD,

Plaintiff,

v.

JESSE NEUBARTH, and
OTHER DEFENDANTS,

Defendants.

ORDER DIRECTING PLAINTIFF TO CURE DEFICIENCIES

On November 10, 2014, Plaintiff Magdalina Kalincheva, MD, submitted a "Complaint for Injunctive Relieif [sic] Restraining Order and Damages 10/22/2014-Present," a "Notice of Removal of All Cases, Change of Venue, Relief," a "Declination to Proceed Before a Magistrate Judge and Request for Reassignment Only to United States Judge," "Objections to Magistrate Judge's Findings and Recommendations F & Rs," an "Ex Parte Motion for Pacer Credit and Exemption From the User Fee in all Districts for the Next 24-50 Years Restitution," an "Ex Parte Motion for Nunc Pro Tunc Orders to Correct Court Records, to Correct all Illegal Actions in Wrong State Court Errors Since 1991-92, Affidavit," and an "Ex Parte Motion Request for Preliminary Injunction & TRO Several Motions for Plaintiff to Have Nine Biologically Hers Children

First Strictly, Affidavit." Plaintiff also has submitted three separate requests to proceed in forma pauperis.

As part of the Court's review pursuant to D.C.COLO.LCivR 8.1(a), the Court has determined that the documents are deficient as described in this Order. Plaintiff will be directed to cure the following if she wishes to pursue any claims in this Court in this action. Any papers that Plaintiff files in response to this Order must include the civil action number on this Order.

The Court also has reviewed the Public Access to Court Electronic Records (PACER) and found that Plaintiff has filed twenty-three cases since 2012 in various federal district courts. Plaintiff has filed three cases in the Southern District of California, six in the Eastern District of California, and four in the Northern District of California. Plaintiff also has filed a case in each of the following federal district courts: Northern District of Indiana; Eastern District of Virginia; District of Idaho; Eastern District of Kentucky; District of Massachusetts; Western District of Minnesota; District of Michigan; Western District of Oklahoma; Northern District of Georgia; and District of North Dakota. In each of these cases, Plaintiff names Jesse Neubarth as the defendant.

The District of Idaho recently dismissed a case that alleges claims similar to the claims Plaintiff asserts in this action. See *Kalincheva v. Neubarth*, No. 14-cv-00351-EJL-CWD (D. Idaho Sept. 16, 2014). In Case No. 14-cv-00351, the District of Idaho found Plaintiff failed to comply with Fed. R. Civ. P. 8 and to state a cause of action based on any federal law. The District of Idaho took judicial notice of cases Plaintiff

had filed in various other federal district courts that alleged the same claims as Plaintiff asserted in Case No. 14-cv-0351. The District of Idaho found these cases were dismissed for lack of jurisdiction and for failure to comply with Rule 8.¹

Furthermore, in *Kalincheva v. Neubarth*, No. 14-cv-01261-LJO-JLT (E.D. Calif. Oct. 31, 2014), Plaintiff raised the same claims and for the most part submitted the same pleadings as she has done in the instant case. Case No. 14-cv-01261 was dismissed as barred by the doctrine of res judicata because Plaintiff had previously raised the same claims in *Kalincheva v. Neubarth*, No. 13-cv-01601-TLN-DAD (E.D. Calif. Feb. 21, 2014), and *Kalincheva v. Neubarth*, No. 12-cv-02231-JAM-DAD (E.D.

¹ See *Kalincheva v. Neubarth*, No. 3:13-cv-00104-RRE-KKK (D. N.D. Mar. 25, 2014) (motion to proceed IFP denied for lack of jurisdiction and failure to comply with Rule 8 of the Federal Rules of Civil Procedure); *Kalincheva v. Neubarth*, No. 3:13-cv-384 (S.D. Cal. Feb. 21, 2013) (motion to proceed IFP denied because the complaint failed to comply with Rule 8 of the Federal Rules of Civil Procedure); *Kalincheva v. Neubarth*, No. 0:14-cv-20 (D. Minn. Feb. 20, 2014) (motion to proceed IFP denied because the complaint failed to state a claim upon which relief could be granted); *Kalincheva v. Neubarth*, No. 5:13-cv-400 (E.D. Ky. Nov. 26, 2013) (complaint dismissed for failure to state a claim upon which relief can be granted, for failure to comply with Rule 8 of the Federal Rules of Civil Procedure, and for lack of jurisdiction); *Kalincheva v. Neubarth*, No. 2:13-cv-231 (W.D. Mich. Jan. 15, 2014) (complaint dismissed for lack of jurisdiction and as frivolous); *Kalincheva v. Neubarth*, No. 4:13-cv-40110 (D. Mass. Oct. 2, 2013) (complaint dismissed for lack of jurisdiction and plaintiff warned that she would be subject to monetary sanctions if she submitted any additional frivolous or unreasonable pleadings); *Kalincheva v. Neubarth*, No. 3:13-cv-3212 (N.D. Cal. July 31, 2013) (case transferred to the Eastern District of California where the plaintiff and defendant reside); *Kalincheva v. Neubarth*, No. 3:13-cv-789 (S.D. Cal. June 5, 2013) (motion to leave to proceed IFP denied because the complaint failed to comply with Rule 8 of the Federal Rules of Civil Procedure and for failure to state a claim upon which relief could be granted); *Kalincheva v. Neubarth*, No. 3:13-cv-3294 (N.D. Cal. Aug. 13, 2013) (case transferred to the Eastern District of California where the plaintiff and defendant reside); *Kalincheva v. Neubarth*, No. 5:13-cv-963 (W.D. Okla. Sept. 27, 2013) (case dismissed for lack of jurisdiction and for failure to comply with Rule 8 of the Federal Rules of Civil Procedure); *Kalincheva v. Neubarth*, No. 2:13-cv-416 (N.D. Ind. Nov. 21, 2013) (motion to proceed IFP denied and case dismissed for lack of jurisdiction); *Kalincheva v. Neubarth*, No. 3:13-cv-1046 (S.D. Cal. filed May 1, 2013) (case pending and plaintiff notified that she failed to comply with the local rules); *Kalincheva v. Neubarth*, No. 2:13-cv-1601 (E.D. Cal. Feb. 21, 2014) (motion to proceed IFP denied and complaint dismissed for failure to comply with Rule 8 of the Federal Rules of Civil Procedure and based on res judicata).

Calif. Dec. 13, 2012). The Eastern District of California had dismissed the two previous actions for failure to state a claim. See Case No. 14-cv-01261-LJO-JLT at ECF No. 39.

Plaintiff's attempt to raise the same claims in this Court that she has raised in other federal actions, and that were dismissed on the merits, is an abuse of the federal judicial system. She is warned that this Court does not tolerate such abuse. Any attempt by Plaintiff to relitigate the issues that were addressed by the Eastern District of California, and dismissed on the merits, will result in Plaintiff being subject to filing restrictions in this Court. The Court, nonetheless, will allow Plaintiff to cure the deficiencies noted below. Plaintiff, however, is to assert only claims that are properly raised in this Court and that have not been addressed and dismissed on the merits by another federal district court.

28 U.S.C. § 1915 Motion and Affidavit:

- (1) is not submitted
- (2) is missing affidavit
- (3) is missing certified copy of prisoner's trust fund statement for the **6-month period immediately preceding** this filing
- (4) is missing certificate showing current balance in prison account
- (5) is missing required financial information
- (6) is missing authorization to calculate and disburse filing fee payments
- (7) is missing an original signature by the prisoner
- (8) is not on proper form (Must use Court-approved form)
- (9) names in caption do not match names in caption of complaint, petition or habeas application
- (10) other: _____

Complaint, Petition or Application:

- (11) is not submitted
- (12) is not on proper form
- (13) is missing an original signature by the prisoner
- (14) is missing page nos. _____
- (15) uses et al. instead of listing all parties in caption
- (16) names in caption do not match names in text
- (17) addresses must be provided for all defendants/respondents in "Section A. Parties" of complaint, petition or habeas application
- (18) other: _____

Accordingly, it is

ORDERED that Plaintiff comply with this Order and cure the deficiencies designated above **within thirty days from the date of this Order**. Any papers that Plaintiff files in response to this Order must include the civil action number on this Order. It is

FURTHER ORDERED that Plaintiff shall obtain the Court-approved Complaint form and Application to Proceed in District Court Without Prepaying Fees or Costs (Long Form), along with the applicable instructions, at www.cod.uscourts.gov. It is

FURTHER ORDERED that if Plaintiff fails to cure the designated deficiencies, **within thirty days from the date of this Order**, the action will be dismissed without further notice.

DATED November 17, 2014, at Denver, Colorado.

BY THE COURT:

S/ Gordon P. Gallagher

United States Magistrate Judge