

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

Civil Action No. 14-cv-03383-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.)

MARK A. SCHREINER, and
ROBERT V. SCHREINER,

Plaintiffs,

v.

CIT OF LOUISVILLE, COLORADO,
LOUISVILLE, CO POLICE DEPT. (LPD),
LPD CHIEF DAVID HAYES,
LPD OFFICER JOSH SUNDBERG,
LPD OFFICER ANTHONY MARTINEZ, and
LPD SGT. JAY LANPHERE,

Defendants.

ORDER DIRECTING PLAINTIFF TO CURE DEFICIENCIES

Plaintiff Mark A. Schreiner currently resides in Trinidad, Colorado. Mark Schreiner has submitted a Complaint and an Application to Proceed in District Court Without Prepaying Fees or Costs (Long Form).

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. Mark A. Schreiner will be directed to cure the following if he wishes to pursue his claims. Any papers that Mr. Schreiner files in response to this Order must include the civil action number on this Order.

Application to Proceed in District Court Without Prepaying Fees or Costs:

(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) other: Conflicting information is provided on Page Two regarding Mr. Schreiner's expected income for next month.

Complaint or Petition:

- (9) is not submitted
- (10) is not on proper form (must use the Court's current form)
- (11) is missing an original signature by **Plaintiff**
- (12) is incomplete
- (13) uses et al. instead of listing all parties in caption
- (14) names in caption do not match names in text
- (15) addresses must be provided for all defendants/respondents in "Section A. Parties" of complaint, petition or habeas application
- (16) other: _____

Furthermore, the Court notes that Mr. Schreiner has referred to Robert E. Schreiner (listed as Robert V. Schreiner in the caption of the Complaint) as a minor in the Application to Proceed in District Court Without Prepaying Fees or Costs. To the extent Mr. Schreiner is acting as a representative for Robert V. (or E.) Schreiner under Fed. R. Civ. P. 17(c), he may elect to sue or defend on behalf of a minor. Mr. Schreiner, however, is not able to assert such claims *pro se* on Robert V. Schreiner's behalf. See *Mann v. Boatright*, 477 F.3d 1140, 1149-50 (10th Cir. 2007) (a legal guardian is not able to bring suit without assistance of counsel) (citing *Meeker v. Kercher*, 782 F.2d 153, 154 (10th Cir. 1986)).

"[I]t is not in the interests of minors or incompetents that they be represented by non-attorneys. Where they have claims that require adjudication, they are entitled to trained legal assistance so their rights may be fully protected." *Mann*, 477 F.3d at 1150 (citing *Cheung v. Youth Orchestra Found. of Buffalo*, 906 F.2d 59, 61 (2d Cir. 1990)). If

Mr. Schreiner desires to proceed *pro se* in this case, Robert V. Schreiner may not proceed as a named plaintiff to this action. Accordingly, it is

ORDERED that Plaintiff 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 forms used in filing an application to proceed in district court without prepaying fees or costs and a civil complaint, along with the applicable instructions, at www.cod.uscourts.gov. To cure any deficiencies, including change of named plaintiffs in the caption of the Complaint, Plaintiff must use Court-approved forms. 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 December 15, 2014, at Denver, Colorado.

BY THE COURT:

s/Gordon P. Gallagher
United States Magistrate Judge