

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 15-cv-1270-LTB

ZACHARY MARNER,

Plaintiff,

v.

**SWEDISH MEDICAL CENTER;
MARY M. WHITE;
BEACON MEDICAL SERVICES, INC;
DENNIS M. BECK;
WAKEFIELD AND ASSOCIATES, INC.; and
JAMES H. TERRELL,**

Defendants.

ORDER OF DISMISSAL

Plaintiff Zachary Marner resides in Wheat Ridge, Colorado. On June 15, 2015, he filed a complaint against six entities and individuals alleging violations of the Fair Debt Reporting Act (FDRA) and the Fair Debt Collection Practices Act (FDCPA). The Court has granted Mr. Marner leave to proceed pursuant to 28 U.S.C. § 1915 (ECF No. 4). Following this Court's June 16, 2015 Order, Plaintiff filed an Amended Complaint on July 9, 2015 (ECF No. 6).

On August 24, 2015, Magistrate Judge Gordon P. Gallagher ordered Mr. Marner to file a second amended complaint. Magistrate Judge Gallagher determined the claims in the Amended Complaint were deficient for the same reasons specified in his prior order directing Mr. Marner to file an amended complaint. In both of his Orders Magistrate Judge Gallagher provided specific and detailed instructions to Mr. Marner regarding the pleading requirements of Rule 8 and the factual allegations necessary to support the claims he is asserting (ECF Nos. 5 & 7). Mr. Marner was warned that the action would be dismissed

without further notice if he failed to file a second amended complaint within thirty days.

Mr. Marner has failed to file a second amended complaint within the time allowed. Furthermore, the Court agrees that the prior pleadings in this action do not provide a short and plain statement of Mr. Marner's claims against the named Defendants showing he is entitled to relief as required under Rule 8. Therefore, the action will be dismissed without prejudice for failure to prosecute and comply with the Federal Rules of Civil Procedure and a court order. The Court also certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith and therefore *in forma pauperis* status will be denied for the purpose of appeal. See *Coppedge v. United States*, 369 U.S. 438 (1962). If Plaintiff files a notice of appeal he also must pay the full \$505 appellate filing fee or file a motion to proceed *in forma pauperis* in the United States Court of Appeals for the Tenth Circuit within thirty days in accordance with Fed. R. App. P. 24. Accordingly, it is

ORDERED that the Complaint (ECF No. 1), the Amended Complaint (ECF No. 6), and the action are dismissed without prejudice pursuant to Rule 41(b) of the Federal Rules of Civil Procedure because Mr. Marner failed to prosecute and comply with the Federal Rules of Civil Procedure and a court order. It is

FURTHER ORDERED that leave to proceed *in forma pauperis* on appeal is denied without prejudice to the filing of a motion seeking leave to proceed *in forma pauperis* on appeal in the United States Court of Appeals for the Tenth Circuit.

DATED at Denver, Colorado, this 30th day of September, 2015.

BY THE COURT:

s/Lewis T. Babcock
LEWIS T. BABCOCK, Senior Judge
United States District Court