

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 15-cv-01437-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.)

SERGEY NOVITSKIY,

Plaintiff,

v.

USA,

Defendant.

SECOND ORDER DIRECTING PLAINTIFF TO CURE DEFICIENCIES

On July 7, 2015, Plaintiff, Sergey Novitskiy, a resident of Aurora, Colorado, filed *pro se* a Complaint against the United States. (ECF No. 1). He has been granted leave to proceed in forma pauperis. (ECF No. 7). On July 10, 2015, the Court ordered Plaintiff to cure certain designated deficiencies and file an amended complaint if he wished to pursue his claims. (ECF No. 4). On August 7, 2015, Plaintiff filed an Amended Complaint (ECF No. 5) and a Letter (ECF No. 6). In the Letter, Plaintiff explained that he mistakenly submitted the Amended Complaint without signing or dating it and he also failed to include his address.

The court must construe the Amended Complaint liberally because Mr. Novitskiy 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.

As part of the Court's initial review pursuant to D.C.COLO.LCivR 8.1(a), the Court finds that the Amended Complaint is still deficient. It appears that Plaintiff was attempting to cure the deficiencies, so he will be afforded one last opportunity to cure the designated deficiencies noted below if he wishes to pursue his claims

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

- (1) ___ is not submitted
- (2) ___ is not on proper form (must use the Federal Court's current form)
- (3) ___ is missing original signature by Plaintiff
- (4) ___ is missing affidavit
- (5) ___ affidavit is incomplete
- (6) ___ affidavit is not properly notarized
- (7) ___ names in caption do not match names in caption of complaint, petition or application
- (8) ___ other:

Complaint or Petition:

- (9) ___ is not submitted
- (10) ___ is not on proper form (must use the current court-approved form)
- (11) X is missing an original signature by the Plaintiff (as well as a date).
- (12) X is incomplete (Complaint submitted does not include a page 7).
- (13) ___ uses et al. instead of listing all parties in caption
- (14) ___ names in caption do not match names in text of Complaint (names in caption should match the names listed as Parties in Section A)
- (15) ___ addresses must be provided for all defendants/respondents in "Section A. Parties" of complaint, petition or habeas application
- (16) ___ other:

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 the Plaintiff shall obtain the court-approved form for filing a General Complaint, along with the applicable instructions, at

www.cod.uscourts.gov. Plaintiff shall use the form in curing the deficiencies noted. It is

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

DATED: August 25, 2015, at Denver, Colorado.

BY THE COURT:

s/ Gordon P. Gallagher
United States Magistrate Judge