

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

Civil Action No. 15-cv-01914-GPG

JAMES E. JENNINGS,

Plaintiff,

v.

MICHELLE K. LEE, Deputy Under Secretary of Commerce for Intellectual Property and
Director of the United States Patent and Trademark Office, in her official
capacity,

Defendant.

ORDER OF DISMISSAL

On September 3, 2015, Plaintiff, a resident of Louisville, Colorado, initiated this action by filing *pro se* a Title VII Complaint. (ECF No. 1). On September 10, 2015, the Court determined that the Complaint was deficient and ordered Plaintiff to cure certain designated deficiencies within thirty days if he wished to pursue his claims. (ECF No. 3). Specifically, the Court ordered Plaintiff to: (1) submit a § 1915 Motion or pay the \$400 filing fee, and (2) to submit his complaint on the current court-approved Title VII Complaint Form.

In response, Plaintiff paid the filing fee in full (ECF No. 5) and submitted an Amended Complaint (ECF No. 4). However, the Court determined the Amended Complaint was still deficient. On October 15, 2015, the Court ordered Plaintiff to cure certain designated deficiencies within thirty days. (ECF No. 6). Specifically, the Court ordered Plaintiff to file his complaint on the current court-approved form and to provide

an address for the Defendant. (*Id.*) Plaintiff was warned that if he failed to cure the designated deficiencies within the time allowed, the action would be dismissed without further notice.

On October 29, 2015, Plaintiff filed an Amended Complaint. (ECF No. 7). However, the Amended Complaint failed to cure the designated deficiencies as described in Magistrate Judge Gallagher's October 15, 2015 Order. The Amended Complaint is not on the current court-approved form and it also fails to provide an address for the defendant.

As Magistrate Judge Gallagher informed Plaintiff, Local Civil Rules 1.2 and 5.1(c) for this Court require *pro se* litigants to use the Court-approved forms found on the Court's website. The United States Court of Appeals for the Tenth Circuit repeatedly has upheld the requirement that *pro se* litigants comply with local court rules requiring use of proper Court-approved forms. See *Georgacarakos v. Watts*, 368 F. App'x 917, 918-19 (10th Cir. 2010) (district court did not abuse its discretion in dismissing civil rights action without prejudice for federal prisoner's noncompliance with local rules requiring use of proper court-approved form to file complaint and district court's order to comply). Plaintiff has failed – after two specific orders – to file his complaint on the court-approved form. Accordingly, his amended complaint and this action will be dismissed for failure to follow a court order.

Furthermore, the Court 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 Amended Complaint (ECF No. 7) and the action are dismissed without prejudice pursuant to Rule 41(b) of the Federal Rules of Civil Procedure because Mr. Jennings failed to comply with a court order and local rules. 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 13th day of November, 2015.

BY THE COURT:

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