

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 15-cv-01985-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.)

ZACHARY LOUIS MARNER,

Plaintiff,

v.

TOM MELEGRANO, Compri Consulting Executive,
COMPRI CONSULTING,
BOEING CORPORATION, D/B/A JEPPESEN SANDERSON,
MARK VAN TINE, Boeing Corporation, D/B/A Jeppesen Sanderson Executive,

Defendants.

SECOND ORDER DIRECTING PLAINTIFF TO CURE DEFICIENCIES

Plaintiff, Zachary Louis Marnar, resides in Aurora, Colorado. On September 10, 2015, he submitted *pro se* a Complaint (ECF No. 1). On September 15, 2015, the Court determined that the submitted document was deficient and ordered Plaintiff to cure certain designated deficiencies within thirty days if he wished to pursue to his claims. (ECF No. 3). Specifically, the Court ordered Plaintiff to submit an Application to Proceed in District Court Without Prepaying Fees or Costs or, in the alternative to pay the \$400.00 filing fee. Additionally, the Court directed Plaintiff to submit a Complaint on the current court-approved complaint form and also that the names in the caption should match the names in the text of the complaint.

On October 7, 2015, and then again on October 9, 2015, Plaintiff submitted Applications to Proceed in District Court Without Prepaying Fees or Costs (Long Form). (ECF No. 4 and 5). However, these documents did not cure all of the designated deficiencies.

As it appears Plaintiff was attempting to comply with the Court's order, he will be given one last opportunity to cure the following designated deficiencies 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 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: in the alternative, Mr. Marner may pay the \$400.00 filing fee.

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 the 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 of Complaint (although numerous employees are named, the two defendants, Tom Melegano and Mark Van Tine, are not mentioned in the text of the Complaint).
- (15) addresses must be provided for all defendants/respondents in "Section A. Parties" of complaint, petition or habeas application
- (16) other:

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, and rejected constitutional challenges to such rules. 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).

It appears that Mr. Marner's claims are based on employment discrimination under Title VII. If so, Mr. Marner should use the court-approved Title VII Complaint form, along with the applicable instructions, which can be found on the court's website at www.cod.uscourts.gov. If Mr. Marner's action is not based on employment discrimination, he should use the court-approved General Complaint form, also found on the court's website. Accordingly, it is

ORDERED that Plaintiff cure the deficiencies designated above **within twenty-one days from the date of this Order**. It is

FURTHER ORDERED that Plaintiff shall obtain the Court-approved forms used in filing either a Title VII Complaint or a General Complaint, along with the applicable instructions, at www.cod.uscourts.gov, and use the appropriate form to cure the above noted deficiencies. It is

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

DATED October 26, 2015, at Denver, Colorado.

BY THE COURT:

s/Gordon P. Gallagher
United States Magistrate Judge