

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 16-cv-00150-GPG

LEILA McCOY,

Plaintiff,

v.

COLORADO DEPT OF HUMAN SERVICES, and
EL PASO COUNTY DEPARTMENT OF HUMAN SERVICES,
REGGIE BICHA, Individually and Professional Capacities, and
RICHARD BENGTTSSON, individually and Professional Capacities,

Defendants.

SECOND ORDER TO AMEND

Plaintiff Leila McCoy currently resides in Colorado Springs, Colorado. She initiated this action by filing a Complaint on January 20, 2016. Plaintiff also submitted an Application to Proceed in District Court Without Prepaying Fees or Costs, which has been granted. On February 1, 2016, the Court entered a detailed order that identified the deficiencies of Plaintiff's Complaint and directed her to file an amended complaint that complied with the Order. On February 8, 2016, Plaintiff filed an Amended Complaint. Along with the Amended Complaint, Plaintiff filed two other pleadings, one titled, "Stipulated Motion for Court to Recognize as Fact," ECF No. 9, and the other titled, "Clarification of Claims . . . ," ECF No. 10. Plaintiff then submitted four exhibits, ECF Nos. 11, 13, 14, and 15, and a Motion to Amend, ECF No. 12.

The Motion to Amend is denied as unnecessary pursuant to Fed. R. Civ. P. 15(a). If Plaintiff intends to assert claims against additional parties she must state all the claims

she intends to present in this action in an Amended Complaint, because “[a]n amended complaint ‘supersedes the pleading it modifies and remains in effect throughout the action unless it subsequently is modified.’” See *Hooten v. Ikard Servi Gas*, No. 12-2179, 2013 WL 1846840 at *4 (10th Cir. May 3, 2013) (quoting *Giles v. United States*, 906 F.2d 1386, 1389 (10th Cir. 1990)).

The Court, therefore, will allow Plaintiff twenty-one days from the date of this Order to amend as set forth above. If Plaintiff fails to amend within twenty-one days the Court will proceed to address the merits of the Complaint filed on February 8, 2016.

As for the several other pleadings that are identified as either exhibits, clarification of claims, or stipulated motion to recognize as fact, the pleadings are no more than a restatement of the claims Plaintiff has already presented to the Court, or additional claims. The Motion for Court to Recognize as Fact, ECF No. 9, and the Clarification of Claims, ECF No. 10, will be denied as moot, because Plaintiff now has been directed to file a proper Amended Complaint. All Exhibits, ECF Nos. 11, 13, 14, and 15, also will not be considered by the Court at this time, because they are restatements of claims already presented or new claims, which Plaintiff must present to the Court in a properly amended complaint. Furthermore, the Motion to Appoint Counsel, ECF No. 8, will be denied as premature.

Plaintiff’s continual filing of additional pleadings borders on being abusive of the judicial process. Courts have “inherent power . . . to regulate their docket, promote judicial efficiency, and deter frivolous filings.” *Martinez v. Internal Revenue Service*, 744 F.2d 71, 73 (10th Cir. 1984). If Plaintiff continues to inundate the Court with additional pleadings that are found to be inappropriate or unnecessary, the Court will consider filing restrictions against Plaintiff. Accordingly, it is

ORDERED that Plaintiff shall have one last opportunity to submit one final Amended Complaint. It is

FURTHER ORDERED that the only proper filing at this time is an Amended Complaint. All other pleadings will be ordered stricken. It is

FURTHER ORDERED that if Plaintiff fails to submit an Amended Complaint within twenty-one days from the date of this Order, as set forth above, the Court will proceed to address the merits of the Complaint filed on February 8, 2016. It is

FURTHER ORDERED that the Motion for Court to Recognize as Fact, ECF No. 9, and the Clarification of Claims, ECF No. 10, are denied as moot. It is

FURTHER ORDERED that the Motion to Appoint Counsel, ECF No. 8, is denied as premature.

DATED March 31, 2016, at Denver, Colorado.

BY THE COURT:

A handwritten signature in black ink, consisting of a stylized 'G' followed by a horizontal line and a small flourish.

Gordon P. Gallagher
United States Magistrate Judge