

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 16-cv-00197-GPG

ERNIE LEE CALBART,

Plaintiff,

v.

ZIMMER, INC.,  
ZIMMER HOLDINGS, INC., and  
ZIMMER ORTHOPEDIC SURGICAL PRODUCTS, INC.

Defendants.

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ORDER DIRECTING PLAINTIFF TO CURE DEFICIENCY

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Plaintiff, Ernie Lee Calbart, is in the custody of the Colorado Department of Corrections at the Correctional Facility in Sterling, Colorado. Mr. Calbart initiated this action in the Northern District of Illinois. (ECF No. 1-1). The Northern District of Illinois determined that venue is proper in the District of Colorado and transferred the case to this District on January 26, 2016. (*Id.*). As part of the Court's review pursuant to D.C.COLO.LCivR 8.1(b), the Court has determined that Plaintiff's filing is deficient for the reasons discussed below. Plaintiff will be directed to cure the following if he wishes to pursue any claims in this Court in this action at this time. Any papers that Plaintiff files in response to this Order must include the civil action number on this Order.

**28 U.S.C. § 1915 Motion and Affidavit:**

- (1)  is not submitted
- (2)  is not on correct form
- (3)  is missing certified copy of prisoner's trust fund statement for the 6-month period immediately preceding this filing
- (4)  is missing certificate showing current balance in prison account
- (5)  is missing required financial information

- (6) \_\_\_ is missing authorization to calculate and disburse filing fee payments
- (7) \_\_\_ is missing an original signature by the prisoner
- (8) \_\_\_ is not on proper form
- (9) \_\_\_ names in caption do not match names in caption of complaint, petition or habeas application
- (10) X other: Plaintiff may pay the \$400.00 filing fee instead of submitting a § 1915 motion and affidavit

**Complaint, Petition or Application:**

- (11) \_\_\_ is not submitted
- (12) \_\_\_ is not on proper form
- (13) \_\_\_ is missing an original signature by the prisoner
- (14) \_\_\_ is missing page nos. \_\_\_\_
- (15) \_\_\_ uses et al. instead of listing all parties in caption
- (16) \_\_\_ names in caption do not match names in text
- (17) \_\_\_ addresses must be provided for all defendants/respondents in “Section A. Parties” of complaint, petition or habeas application
- (18) \_\_\_ other:

Accordingly, it is

ORDERED that if Plaintiff desires to proceed with this action at this time, he shall cure the deficiency designated above **within 30 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 Plaintiff shall file a Prisoner’s Motion for Leave to Proceed Pursuant to 28 U.S.C. § 1915 on the court-approved forms, or pay the \$400.00 filing fee, in order to cure the deficiency in this action. Plaintiff may obtain copies of the court-approved forms at [www.cod.uscourts.gov](http://www.cod.uscourts.gov). It is

FURTHER ORDERED that if Plaintiff fails to cure the designated deficiencies **within 30 days from the date of this Order** the action may be dismissed without further notice.

DATED January 27, 2016, at Denver, Colorado.

BY THE COURT:

s/ Gordon P. Gallagher  
United States Magistrate Judge