

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 16-cv-00292-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.)**

CLEOPHUS MORRIS II, and  
SHERDYNE CORNISH,

Plaintiff,

v.

[NO NAMED DEFENDANT],

Defendant(s).

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ORDER DIRECTING PLAINTIFFS TO CURE DEFICIENCIES  
AND TO PROVIDE BASIS FOR FEDERAL JURISDICTION

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Plaintiffs, Cleophus Morris II and Sherdyne Cornish, reside in Denver, Colorado. They initiated this action by filing, *pro se*, a document titled "First Claim for Relief and Supporting Factual Allegations" (ECF No. 1). Plaintiff Cornish has also submitted an Application to Proceed in District Court without Prepaying Fees or Costs on the court-approved form. (ECF No. 3).

Pursuant to review under D.C.COLO.LCivR 8.1(a), the Court has determined that the submitted documents are deficient as described in this order. Plaintiffs will be directed to cure the following if they wish to pursue their claims. Any papers that Plaintiffs file in response to this order must include the civil action number noted above in the caption of this order.

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

- (1)  is not submitted for Plaintiff Cleophus Morris II (each Plaintiff must submit a separate Application to Proceed in District Court without Prepaying Fees or Costs).
- (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 in support of application is not signed and dated under declaration of perjury
- (7)  names in caption do not match names in caption of complaint, petition or application
- (8)  other: Plaintiff Cleophus Morris II may pay the \$400.00 filing fee instead of submitting an Application to Proceed in District Court without Prepaying Fees or Costs.

**Complaint or Petition:**

- (9)  is not dated
- (10)  is not on proper form (must use the court's current "Complaint" form)
- (11)  is missing an original signature by the Plaintiff
- (12)  is incomplete (pleading does not provide the jurisdictional basis for the Plaintiff's claims).
- (13)  uses et al. instead of listing all parties in caption
- (14)  names in caption do not match names in text of Complaint
- (15)  addresses must be provided for all defendants/respondents in "Section A. Parties" of complaint, petition or habeas application
- (16)  other: Plaintiffs do not name any Defendants.

Plaintiffs are reminded that when completing the Complaint form, they must state the basis for the Court's subject matter jurisdiction over each asserted claim. See 28 U.S.C. §§ 1331, 1332. With regard to Plaintiff Morris II's request, in conjunction with claim two, that the Court order his receipt of an inheritance from his father's estate, the Court observes that Mr. Morris Sr.'s will is being probated in a Louisiana state court. (ECF No. 1 at 6). The probate exception to federal jurisdiction "reserves to state probate courts the probate or annulment of a will and the administration of a decedent's estate; it also precludes federal courts from endeavoring to dispose of property that is in the custody of a state probate court." *Marshall v. Marshall*, 547 U.S. 293, 311-312

(2006). Therefore, in the Complaint, Plaintiffs must allege facts to show that their second claim for relief pertains to a matter “outside those confines and otherwise within federal jurisdiction.” *Id.* at 312. Accordingly, it is

ORDERED that Plaintiff, Cleophus Morris II, file, **within thirty (30) days from the date of this order**, an Application to Proceed in District Court without Prepaying Fees or Costs on the court-approved form, or pay the \$400.00 filing fee. It is

FURTHER ORDERED that the Plaintiffs file, **within thirty (30) days from the date of this order**, a Complaint on the court-approved Complaint form in which they assert a basis for federal jurisdiction over each asserted claim for relief. It is

FURTHER ORDERED that Plaintiffs shall obtain copies of the court-approved forms for filing a Complaint and an Application to Proceed in District Court without Prepaying Fees or Costs at [www.cod.uscourts.gov](http://www.cod.uscourts.gov). Alternatively, Plaintiffs may obtain copies of the court-approved forms in person from the Clerk of the Court at 90119<sup>th</sup> Street, Denver, Colorado. It is

FURTHER ORDERED that, if Plaintiffs fail to cure the deficiencies noted above, or fail to state a proper federal jurisdictional basis over the claims asserted in the Complaint, the action may be dismissed without further notice.

DATED February 9, 2016, at Denver, Colorado.

BY THE COURT:

s:/ Gordon P. Gallagher

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United States Magistrate Judge