

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 17-cv-02248-MEH

RAMONA PROCTOR,

Plaintiff,

v.

CITIBANK, N.A.,

Defendant.

ORDER

Michael E. Hegarty, United States Magistrate Judge.

Before the Court is Defendant's Motion for More Definite Statement [filed September 21, 2017; ECF No. 9]. The Court finds that it requires no further briefing to adjudicate the motion.

The Court agrees with Defendant that the Complaint, as stated, "fails to address the essential who, what, where, when, why and how questions that make up the bare minimum requirements of Rule 8's notice pleading standard, which apply in this action now that it is pending in federal court." Mot. ¶ 3 (citing Fed. R. Civ. P. 8(a); *see also Bell Atl. Corp. v. Twombly*, 550 U.S. 544 (2007), and *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) ("[t]hreadbare recitals of the elements of a cause of action, supported by mere conclusory statements, do not suffice."). Plaintiff's "Alias [Amended] Notice of Claim," filed in the Combined Court for Delta County, Colorado, states in its entirety:

Defamation
Negligent enablement of Identity Fraud
Violation of the Fair Credit Reporting Act

ECF No. 1-2. Plaintiff seeks damages in the amount of \$5,000.00. *Id.* Although it appears the Plaintiff pleads a violation that may be sufficient to assert this Court's subject matter jurisdiction (*i.e.*, the Fair Credit Reporting Act), the Court finds the pleading is otherwise "so vague and

ambiguous that the [Defendant] cannot reasonably prepare a response.” Fed. R. Civ. P. 12(e).

Therefore, the Court will **grant** the motion as follows.¹ The Clerk of the Court is directed to provide a form General Complaint with a copy of this order to the Plaintiff for her completion. Plaintiff is directed to the Court’s website at www.cod.uscourts.gov for instructions. *See also* “Guide to Civil Lawsuits for Pro Se Parties.”² The Plaintiff shall file her General Complaint in this action **on or before October 25, 2017**. If the Plaintiff fails to comply with this order, the Court may strike the pleading and/or dismiss the action without further notice.

In light of this order, the Scheduling Conference currently set for October 23, 2017 is **vacated and rescheduled to November 20, 2017 at 10:45 a.m.** in Courtroom A-501, on the fifth floor of the Alfred A. Arraj United States Courthouse located at 901 19th Street, Denver, Colorado. If this date is not convenient, the parties shall confer and contact my Chambers to obtain an alternate date. All parties must be present if they wish to change the conference date by telephone; otherwise, any party seeking to change the conference date must file a motion. Absent exceptional circumstances, no request for rescheduling will be entertained unless made **five business days prior** to the date of the conference.

Lawyers whose offices are located outside of the Denver metropolitan area may appear at scheduling conferences by telephone. Please contact Chambers at (303) 844-4507 at least five business days prior to the scheduling conference to arrange appearance by telephone. Lawyers appearing by telephone must ensure that the proposed Scheduling Order is filed electronically and

¹The undersigned has issued an order on this matter because motions of this sort do not appear in the list of pretrial matters that require submission of a recommendation. *See Barnhardt v. Scottsdale Ins. Co.*, No. 1:13CV637, 2013 WL 5524806, at *1 n. 1 (M.D.N.C. Oct. 4, 2013) (citing 28 U.S.C. § 636(b)(1)(A) and (B)); *see also Lynch v. McDonough*, No. 03CV556A(F), 2005 WL 1561454, at *1 n. 1 (W.D.N.Y. July 1, 2005) (ruling that “request for a more definite statement pursuant to Fed. R. Civ. P. 12(e) is nondispositive”).

²If the Plaintiff has additional questions, she may call the Clerk’s Office at (303) 844-3433.

by email no later than five business days prior to the scheduling conference, in accordance with the instructions in this minute order.

It is further ORDERED that the parties shall complete and file the Magistrate Judge Consent Form (ECF No. 5) on or before October 31, 2017.

It is further ORDERED that counsel for the parties and any unrepresented non-prisoner parties in this case are to hold a meeting and jointly prepare a proposed Scheduling Order in accordance with Fed. R. Civ. P. 26(f) on or before **October 30, 2017**. Pursuant to Fed. R. Civ. P. 26(d), only requests pursuant to Fed. R. Civ. P. 34 may be submitted before the Rule 26(f) meeting, unless otherwise ordered or directed by the Court. Pursuant to Fed. R. Civ. P. 34(b)(2)(A), responses to such discovery requests must be submitted no later than 30 days after the Rule 26(f) meeting, unless the parties stipulate or the Court orders otherwise.

The parties shall prepare the proposed Scheduling Order in accordance with the form which may be downloaded from the Standardized Order Forms section of the Court's website, found at <http://www.cod.uscourts.gov>.

The parties shall file the proposed Scheduling Order with the Clerk's Office, and in accordance with District of Colorado Electronic Case Filing ("ECF") Procedures, **no later than five (5) business days** prior to the scheduling conference. **The proposed Scheduling Order is also to be submitted in a useable format (i.e., Word or WordPerfect only) by email to Magistrate Judge Hegarty at *hegarty_chambers@cod.uscourts.gov*.**

Parties not participating in ECF shall file their proposed Scheduling Order on paper with the clerk's office. However, if any party in this case is participating in ECF, it is the responsibility of that party to file the proposed scheduling order pursuant to the District of Colorado ECF Procedures.

Please note that the Court will set the deadline for all motions raised pursuant to Fed.

R. Evid. 702, 703, and 704 on the same date as the dispositive motions deadline.

Any out-of-state counsel shall comply with D.C. Colo. LAttyR 3 prior to the Scheduling Conference.

The parties are further advised that they shall not assume that the Court will grant the relief requested in any motion. Failure to appear at a Court-ordered conference or to comply with a Court-ordered deadline which has not be vacated by Court order may result in the imposition of sanctions.

In addition, **before filing a motion relating to a discovery dispute, the movant must request a conference with the Court** by submitting an email, copied to all parties, to *hegarty_chambers@cod.uscourts.gov*. See Fed. R. Civ. P. 16, cmt. 2015 Amendment.

Finally, the parties or counsel attending the Conference should be prepared to informally discuss the case to determine whether early alternative dispute resolution is appropriate. There is no requirement to submit confidential position statements/letters to the Court at the Scheduling Conference nor to have the parties present.

Anyone seeking entry into the Alfred A. Arraj United States Courthouse will be required to show a valid photo identification. See D.C. Colo. LCivR 83.2(b).

For the foregoing reasons, Defendant's Motion for More Definite Statement [filed September 21, 2017; ECF No. 9] is **granted** as set forth herein.

ORDERED and dated this 22nd day of September, 2017, in Denver, Colorado.

BY THE COURT:



Michael E. Hegarty
United States Magistrate Judge