

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

ALEXANDER W. NDAULA,	:	
Plaintiff	:	
	:	No. 1:20-cv-1160
v.	:	
	:	(Judge Rambo)
CLINTON COUNTY	:	
CORRECTIONAL	:	
FACILITY, et al.,	:	
Defendants	:	

ORDER

AND NOW, on this 7th day of August 2020, in accordance with the Memorandum issued concurrently with this Order, **IT IS ORDERED THAT:**

1. Plaintiff’s motion for leave to proceed *in forma pauperis* (Doc. No. 6) is **GRANTED**;
2. The complaint (Doc. No. 1) is **DEEMED FILED**;
3. Plaintiff’s § 1983 claims against CCCF and his ADA claims against the individual Defendants and Well Path Care are **DISMISSED WITH PREJUDICE** for failure to state a claim upon which relief may be granted. Plaintiff’s § 1983 claims against the individual Defendants and Well Path Care are **DISMISSED WITHOUT PREJUDICE** for failure to state a claim upon which relief may be granted;
4. Plaintiff may file an amended complaint with respect to his § 1983 claims against the individual Defendants and Well Path Care within thirty (30) days of the date of this Order. If Plaintiff elects to file an amended complaint, Plaintiff is advised to adhere to the standards set forth in the Federal Rules of Civil Procedure and the directives set forth by this Court in its accompanying Memorandum. Specifically, the amended complaint must be complete in all respects. It must be a new pleading which stands by itself without reference to the original complaint or any other documents already filed. The amended complaint should set forth

Plaintiff's claims in short, concise and plain statements as required by Rule 8 of the Federal Rules of Civil Procedure. Each paragraph should be numbered. The amended complaint should specify which actions are alleged as to which defendants and sufficiently allege personal involvement of the defendant in the acts which Plaintiff claims violated his rights. Mere conclusory allegations will not set forth cognizable claims. Importantly, should Plaintiff elect to file an amended complaint, he must re-plead every cause of action in the amended complaint that the Court has found to be adequately pled in the current complaint because the amended complaint will supersede the original complaint. *See Knight v. Wapinsky*, No. 12-cv-2023, 2013 WL 786339, at *3 (M.D. Pa. Mar. 1, 2013) (stating that an amended complaint supersedes the original complaint). Because an amended complaint supersedes the original pleading, all causes of action alleged in the original complaint which are not alleged in an amended complaint are waived. *Id.* (citations omitted). Accordingly, Plaintiff's amended complaint must also set forth his ADA claims against CCCF should he wish to proceed upon them as well. Plaintiff may not amend his § 1983 claims against CCCF and his ADA claims against the individual Defendants and Well Path Care;

5. The Clerk of Court is directed to mail Plaintiff a civil rights complaint form; and
6. The Court will defer service of the complaint for thirty (30) days. If Plaintiff files an amended complaint, it will supersede the original complaint as set forth above. If Plaintiff fails to file an amended complaint within thirty (30) days of the date hereof, the Court will direct service of the original complaint on CCCF.

s/ Sylvia H. Rambo
United States District Judge

CIVIL COMPLAINT FORM TO BE USED BY A *PRO SE* PRISONER

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

_____ :
Full Name of Plaintiff Inmate Number :
_____ :
v. :
_____ :

Civil No. _____
(to be filled in by the Clerk’s Office)

_____ :
Name of Defendant 1 :
_____ :

Demand for Jury Trial
 No Jury Trial Demand

_____ :
Name of Defendant 2 :
_____ :

_____ :
Name of Defendant 3 :
_____ :

_____ :
Name of Defendant 4 :
_____ :

_____ :
Name of Defendant 5 :

(Print the names of all defendants. If the names of all :
defendants do not fit in this space, you may attach :
additional pages. Do not include addresses in this :
section). :

I. NATURE OF COMPLAINT

Indicate below the federal legal basis for your claim, if known.

- Civil Rights Action under 42 U.S.C. § 1983 (state, county, or municipal defendants)
- Civil Rights Action under *Bivens v. Six Unknown Federal Narcotics Agents*, 403 U.S. 388 (1971) (federal defendants)
- Negligence Action under the Federal Tort Claims Act (FTCA), 28 U.S.C. § 1346, against the United States

II. ADDRESSES AND INFORMATION

A. PLAINTIFF

Name (Last, First, MI)

Inmate Number

Place of Confinement

Address

City, County, State, Zip Code

Indicate whether you are a prisoner or other confined person as follows:

- Pretrial detainee
- Civilly committed detainee
- Immigration detainee
- Convicted and sentenced state prisoner
- Convicted and sentenced federal prisoner

B. DEFENDANT(S)

Provide the information below for each defendant. Attach additional pages if needed.

Make sure that the defendant(s) listed below are identical to those contained in the caption. If incorrect information is provided, it could result in the delay or prevention of service of the complaint.

Defendant 1:

Name (Last, First)

Current Job Title

Current Work Address

City, County, State, Zip Code

Defendant 2:

Name (Last, First)

Current Job Title

Current Work Address

City, County, State, Zip Code

Defendant 3:

Name (Last, First)

Current Job Title

Current Work Address

City, County, State, Zip Code

Defendant 4:

Name (Last, First)

Current Job Title

Current Work Address

City, County, State, Zip Code

Defendant 5:

Name (Last, First)

Current Job Title

Current Work Address

City, County, State, Zip Code

III. STATEMENT OF FACTS

State only the facts of your claim below. Include all the facts you consider important. Attach additional pages if needed.

- A. Describe where and when the events giving rise to your claim(s) arose.

- B. On what date did the events giving rise to your claim(s) occur?

- C. What are the facts underlying your claim(s)? (For example: What happened to you? Who did what?)

IV. LEGAL CLAIM(S)

You are not required to make legal argument or cite any cases or statutes. However, state what constitutional rights, statutes, or laws you believe were violated by the above actions. If you intend to assert multiple claims, number and set forth each claim in separate paragraphs. Attach additional pages if needed.

V. INJURY

Describe with specificity what injury, harm, or damages you suffered because of the events described above.

VI. RELIEF

State exactly what you want the court to do for you. For example, you may be seeking money damages, you may want the court to order a defendant to do something or stop doing something, or you may be seeking both types of relief. If you are seeking monetary relief, state your request generally. Do not request a specific amount of money.

VII. SIGNATURE

By signing this complaint, you represent to the court that the facts alleged are true to the best of your knowledge and are supported by evidence, that those facts show a violation of law, and that you are not filing this complaint to harass another person or for any other improper purpose.

Local Rule of Court 83.18 requires *pro se* plaintiffs to keep the court informed of their current address. If your address changes while your lawsuit is being litigated, you must immediately inform the court of the change in writing. By signing and submitting the complaint form, you agree to provide the Clerk's Office with any changes to your address where case-related papers may be served, and you acknowledge that your failure to keep a current address on file with the Clerk's Office may result in dismissal of your case.

Signature of Plaintiff

Date