

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

HENRY UNSELD WASHINGTON,	)	
	)	Civil Action No. 11 - 1046
Plaintiff,	)	
	)	District Judge Terrence F. McVerry
v.	)	Chief Magistrate Judge Lisa Pupo Lenihan
	)	
LOUIS S. FOLINO, <i>et al.</i> ,	)	ECF No. 207
	)	
Defendants.	)	

**MEMORANDUM ORDER**

Pending before the Court is Plaintiff's Motion to Amend Amended Complaint. The court has been trying to work with Plaintiff to get this case to a point where it can proceed. While this most recent effort at an amendment to the complaint is appreciated, it unfortunately falls short. Following an Order of Court, Plaintiff filed an Amended Complaint on August 23, 2013. However, this Amended Complaint is still difficult to comprehend and not likely to survive the pending motions to dismiss.

This Motion to Amend Complaint that will be denied without prejudice due to a number of deficiencies. It appears that the Plaintiff has tried to streamline his complaint, which the Court appreciates; however it is not in a position to be filed. Although he has eliminated 21 defendants, by the court's count, he has added 16. There are no allegations as to what actions any of the Defendants are alleged to have committed that violated Plaintiff's rights. Plaintiff needs to allege which Defendants were involved in the allegations set forth. On the last page of the filing, Plaintiff refers to paragraphs of his Amended Complaint filed in August for each of the new

Defendants. However, if this Second Amended Complaint is filed, the prior Amended Complaint will no longer be operative. Any proposed Second Amended Complaint must contain all allegations against all Defendants and specify which Defendants were involved in which allegations so that they can properly defend themselves.

There are also 2 defendants regarding which the court has questions. Jones, C.O. is named in the first complaint but is not listed as a new Defendant and is not on the list of Defendants that are being dropped. In the Amended Complaint there was a Defendant Kulk. In the proposed Second Amended Complaint there is a Defendant Kulik.

Therefore, although this motion is denied, it is denied without prejudice in the hope that Plaintiff can redraft it. Plaintiff is given 30 days to file a Motion for Leave to File a Second Amended Complaint with a Proposed Second Amended Complaint attached, which the Court will then consider. Due to the fact that this case is almost 3 years old and is still not past the complaint stage, no extensions will be granted and the court will rule on the pending motions to dismiss if a satisfactory Second Amended Complaint is not filed. Therefore,

**IT IS HEREBY ORDERED** that Plaintiff's Motion to Amend (ECF No. 207) is **DENIED without prejudice**.

**AND IT IS FURTHER ORDERED** that, pursuant to Rule 72.C.2 of the Local Rules of Court, Plaintiff is allowed fourteen (14) days from the date of this order to appeal this order to a District Judge. Failure to appeal within fourteen (14) days will constitute waiver of the right to appeal.

Dated: January 10, 2014



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Lisa Pupo Lenihan

Chief United States Magistrate Judge

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Counsel of Record