

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 18-cv-02190-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.)**

RAYMOND R. SCHWAB, and  
AMELIA D. SCHWAB,

Plaintiffs,

v.

KRIS KOBACH, in his individual and official capacity,  
KANSAS DEPARTMENT OF CHILDREN AND FAMILIES,  
KIM YOXELL, in her individual and official capacity,  
ANGIE SUTHER, in her individual and official capacity,  
PHYLISS GILMORE, in her individual and official capacity,  
THERESA FREED, in her individual and official capacity,  
KENDRA BAKER, in her individual and official capacity,  
RANDY DEBENHAM, in his individual and official capacity,  
BLAKE ROBINSON, in his individual and professional capacity,  
ANDREW VINDUSKA, in his individual and professional capacity,  
MIRANDA JOHNSON, in her individual and professional capacity,  
LORA INGLES, in her individual and professional capacity,  
BARRY WILKERSON, in his individual and professional capacity,  
BETHANY FIELDS, in her individual and professional capacity,  
RILEY COUNTY POLICE DEPARTMENT,  
CARLA SCHWARTZ, in her individual and professional capacity,  
JULIA GOGGINS, in her individual and professional capacity,  
KVCA, 501c3 Nonprofit Organization,  
RHONDA EISENBAREGER, in her individual and professional capacity,  
DEJA JACKSON, in her individual and professional capacity,  
PATHWAYS FAMILY SERVICES, LLC,  
PAWNEE MENTAL HEALTH SERVICE,  
SUNFLOWER CASA PROJECT, 501c3 nonprofit entity,  
ST. FRANCIES COMMUNITY SERVICES, a 501c3 nonprofit entity,  
KATHY BOYD, in her individual and professional capacity,  
LAURA PRICE, in her individual and professional capacity,  
KAYLEE POSSEN, in her individual and professional capacity,  
ANTHONY ALLISON, in his individual capacity,  
MICHELLE ALLISON, in her individual capacity, AND  
AMANDA ALLISON-BALLARD, in her individual capacity, and

DOES 1-10 inclusive,  
Defendants.

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ORDER DIRECTING PLAINTIFFS TO CURE DEFICIENCY AND TO SHOW CAUSE

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Plaintiffs, who reside in Loveland, Colorado, initiated this action on August 27, 2018 by filing, *pro se*, an Initial Complaint (ECF No. 1) asserting claims under 42 U.S.C. § 1983 and the Kansas Tort Claims Act, K.S.A. §75-6101, *et seq.* Each Plaintiff also filed an Application to Proceed in District Court Without Prepaying Fees or Costs (Long Form). See ECF Nos. 2 and 3.

As part of the Court's review pursuant to D.C.COLO.LCivR 8.1(a), the Court has determined that one of the submitted documents is deficient as described in this Order. Plaintiffs will be directed to cure the following if they wish to pursue any claims in this action. Any papers that Plaintiffs file in response to this Order must include the civil action number on this Order.

**Complaint, Petition, or Application:**

- (1)  is not submitted
- (2)  is not on proper form (Plaintiffs must file a Complaint on the Court's approved form)
- (3)  does not contain a date of signature
- (4)  is missing page nos.
- (5)  uses et al. instead of listing all parties in caption
- (6)  names in caption do not match names in text
- (7)  addresses must be provided for all defendants in "Section A. Parties" of the complaint

Additionally, Plaintiffs are ordered to show cause in writing why this action should not be dismissed for improper venue or transferred to the appropriate judicial district.

Section § 1391(b) of Title 28 United States Code sets forth the rules that govern venue in federal courts. In general, a civil action may be brought in:

(1) a judicial district in which any defendant resides, if all defendants are residents of the State in which the district is located;

(2) a judicial district in which a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of property that is the subject of the action is situated; or

(3) if there is no district in which an action may otherwise be brought as provided in this section, any judicial district in which any defendant is subject to the court's personal jurisdiction with respect to such action.

28 U.S.C. § 1391(b).

Section 1406(a) further provides that "[t]he district court of a district in which is filed a case laying venue in the wrong division or district shall dismiss, or if it be in the interest of justice, transfer such case to any district or division in which it could have been brought." 28 U.S.C. § 1406(a). "A court may *sua sponte* cure jurisdictional and venue defects by transferring a suit under the federal transfer statutes, 28 U.S.C. §§ 1406(a) and 1631, when it is in the interest of justice." *Trujillo v. Williams*, 465 F.3d 1210, 1222 (10th Cir. 2006).

It appears that all Defendants reside in Kansas, and Plaintiffs' allegations concern events giving rise to their claims as occurring in Kansas. Furthermore, the Complaint does not contain any allegations to indicate that any acts complained of occurred in the District of Colorado. Thus, venue does not appear proper.

Accordingly, it is

ORDERED that Plaintiffs cure the deficiency designated above **within thirty days from the date of this order**. It is

FURTHER ORDERED that Plaintiffs shall obtain the Court-approved Complaint form, along with the applicable instructions, at [www.cod.uscourts.gov](http://www.cod.uscourts.gov), and use that form to cure the above noted deficiency. It is

FURTHER ORDERED that Plaintiffs show cause in writing **within thirty (30) days of this order**, why this action should not be dismissed without prejudice for improper venue or transferred to the judicial district where venue is proper. It is

FURTHER ORDERED that if Plaintiffs fail to comply **within thirty days from the date of this order**, the action will be dismissed or transferred without further notice.

DATED , at Denver, Colorado.

BY THE COURT:

A handwritten signature in black ink, consisting of a stylized 'G' followed by a horizontal line and a small flourish.

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Gordon P. Gallagher  
United States Magistrate Judge