

10:27 am, Dec 18, 2025

JEFFREY P. COLWELL, CLERK

The United States District Court District of Colorado 901 19th St, Denver, CO 80294 (303) 844-3433 Plaintiff: Joshua Abrams v. Defendant(s): Division of Unemployment Insurance, et al	▲ COURT USE ONLY ▲
Joshua Abrams, Pro Se abramslive@gmail.com 720-910-4829 P.O. Box 761 Loveland CO 80539	Case Number: 1:24-cv-03390 Division: Courtroom
PLAINTIFF'S MOTION FOR STATUS CONFERENCE	

Plaintiff Joshua Abrams, proceeding pro se, respectfully moves this Court pursuant to D.C.COLO.LCivR 7.1 and the inherent authority of the Court to manage its docket under Fed. R. Civ. P. 16(a), for a status conference regarding Plaintiff's pending Motion to Amend Judgment. A conference is necessary to address a critical disconnect in the record where controlling legal authority and dispositive evidence, specifically regarding the futility of administrative remedies, were "mooted" without review, creating a manifest injustice that the pending Rule 59(e) motion seeks to correct.

I. BACKGROUND

1. This case, filed on December 6, 2024, alleges systemic constitutional and statutory violations in the Colorado Department of Labor and Employment's (CDLE) unemployment insurance administration, including due process deprivations, ADA/§504 discrimination, and First Amendment retaliation. The Court dismissed the claims on September 2, 2025, entering judgment and mooted several pending motions, including Plaintiff's Motion to Leave to Supplement Complaint. Plaintiff's timely Rule 59(e) motion, filed September 22, 2025, remains pending, tolling appellate deadlines under Fed. R. App. P. 4(a)(4). The case has seen several months of inactivity, partially attributable to the October 1 to November 12, 2025 government

shutdown, which delayed federal court operations. As a pro se, indigent, and disabled litigant, Plaintiff faces ongoing irreparable harm, including eviction risk and health deterioration, justifying urgent clarification.

II. CERTIFICATE OF CONFERRAL PURSUANT TO D.C.COLO.LCIVR 7.1(a)

2. On December 17, 2025, Plaintiff conferred with Defendants' counsel via email regarding this motion. Defendants objected, stating the dismissal was proper, deficiencies cannot be cured by amendment, and a conference would not be productive. This conferral was made in good faith, but the objection underscores the need for judicial clarification.

III. GROUNDS FOR CONFERENCE

3. The Court's September 2, 2025 Dismissal Order dismissed Plaintiff's claims primarily for failure to exhaust administrative remedies. However, in that same Order, the Court denied as "moot" Plaintiff's Supplemental Notice Against Dismissal and in Support of Emergency Injunctions (filed on or around August 28, 2025).

That "mooted" filing contained Exhibit B, a CDLE Notice of Reconsideration dated March 31, 2023, stating that Plaintiff's administrative appeal was "CANCELED" by the agency itself as a reconsidered decision had been issued. This document is dispositive: it proves that Plaintiff could not exhaust remedies because the agency actively foreclosed them, creating a procedural loop that perpetuated the systemic unconstitutional deficiencies and dead ends. By mooted the filing that contained the proof of exhaustion futility, the Court inadvertently removed evidence that would have defeated the dismissal argument, resulting in clear legal error and manifest injustice warranting reconsideration under Rule 59(e) (*Servants of Paraclete v. Does*, 204 F.3d 1005 (10th Cir. 2000) (overlooking record evidence reversible)).

4. As detailed in Plaintiff's contemporaneously filed Notice of Supplemental Authority, the Supreme Court's decision in *Williams v. Reed*, 142 S. Ct. 1234 (2025), prohibits federal courts from requiring exhaustion of state remedies where the state's process creates a "procedural dead-end" or "illusory remedy."

5. The combination of *Williams* (controlling law) and Exhibit B (record evidence of a canceled appeal) creates a scenario where dismissal for non-exhaustion is a clear error of law. A status conference would allow the Court to clarify whether it intends to review this overlooked evidence and authority as part of the Rule 59(e) reconsideration, or if Plaintiff must proceed to the Tenth Circuit to address the exclusion of this material, thereby preserving the record for appellate review.

6. The Dismissal Order dismissed individual capacity claims "with prejudice" based on Qualified Immunity, citing a failure to plead personal participation. However, Plaintiff's Second Amended Complaint (attached to the Rule 59(e) motion) cures this by detailing the specific policy-making acts of Defendants Barela and Fitzgerald that created the systemic "funnels" blocking Plaintiff's rights. A conference is requested to determine if the Court will review the curative amendment, consistent with the "freely give leave" standard of Fed. R. Civ. P. 15(a)(2), or if the "with prejudice" designation stands despite the cured pleadings, to facilitate efficient resolution.

IV. CONCLUSION

The current posture of the case presents a procedural paradox: the case was dismissed for reasons (exhaustion) that the record evidence (Exhibit B) disproves, but that evidence was "mooted" by the dismissal itself while ignoring controlling law and valid motions to amend. Plaintiff respectfully requests a status conference to affirm that this evidence and the controlling *Williams* authority are properly before the Court for its Rule 59(e) review.

Respectfully submitted,

Joshua Abrams

Date: 12-17-2025 | ☐ Petitioner/Plaintiff

Joshua Abrams, Pro Se

CERTIFICATE OF SERVICE & AUTHENTICITY

I certify the filings are true and accurate to the best of my knowledge done in good faith and under acknowledgement of perjury. & That on 12-17-2025 a true and accurate copy of this filing were served on Defendants by: E-filed, lauren.davison@coag.gov & Stephen.woolsey@coag.gov