**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA
NORTHERN DIVISION**

DEBRA JACKSON, *et al.***,** **Plaintiffs,**	**)** **)** **)**
v.	**)** **CIVIL ACTION NO. 14-00023-KD-N**
	)
CITY OF SELMA, ALABAMA, *et al.***,** **Defendants.**	**)** **)**

ORDER

This action is before the Court on the "Motion to Appoint an Administrator *Ad Litem* or, in the Alternative, Motion to Amend Complaint" (Doc. 15) filed by the Plaintiffs.

The Complaint names as a defendant in this action the "Estate of Dwight Moorer, by and through its Personal Representatives, Catherine Moorer and Denise Perry Grayson, as the Administratrix of the Estate . . ." (Doc. 1 at 4, ¶ 11. See also id. at 1, Case Style). On April 14, 2014, Catherine Moorer and Denise Perry Grayson filed a joint *pro se* motion to dismiss (Doc. 13), representing, *inter alia*, that "neither Moorer nor Grayson serves as a personal representative or administrator for the Estate of Dwight Moorer" and that "in fact, Moorer and Grayson are unaware of any estate that has been opened on behalf of the late Dwight Moorer and currently have no plans to do so themselves . . ." (Id. at 1, ¶¶ 3-4). On April 24, 2014, the Plaintiffs filed the present motion to appoint (Doc. 15), requesting that an administrator *ad litem* be appointed under Ala. Code § 43-2-250 to represent the Estate of Dwight Moorer in this action. Alternatively, the Plaintiffs request leave to amend the Complaint "to replace the Estate of Dwight Moorer with Catherine Moorer and Denise Grayson individually as the possessors of Dwight Moorer's property and assets." (Id. at 2).

Ala. Code § 43-2-250 states: "When, in any proceeding in any court, the estate of a deceased person must be represented, and there is no executor or administrator of such estate, or

he is interested adversely thereto, it shall be the duty of the court to appoint an administrator ad litem of such estate for the particular proceeding, without bond, whenever the facts rendering such appointment necessary shall appear in the record of such case or shall be made known to the court by the affidavit of any person interested therein." "Such administrator *ad litem* must be allowed for his services such compensation as the judge of probate or judge of the circuit court appointing him may direct, to be taxed and collected as part of the costs of the proceedings, either out of the estate represented by him, or out of the general fund administered therein or out of any party to the action who may be taxed therewith, as the court may direct." Ala. Code § 43-2-256.

The administrator *ad litem* statute appears to contemplate that an action involving an unrepresented estate be filed in state court. This Court does not have a "general fund" or any other ability to pay for the services of an administrator *ad litem*. Thus, it is **ORDERED** that the motion to appoint (Doc. 15) is **DENIED**, with leave for the Plaintiffs to refile their request with an explanation as to how the administrator *ad litem* will be paid for services rendered in this action. The Plaintiff's alternative motion to be allowed to amend the complaint (Doc. 15) is also **DENIED** as futile, as the Plaintiffs have stated no viable claim against either Moorer or Grayson in their motion to amend over which this Court would have supplemental jurisdiction. See Hall v. United Ins. Co. of Am., 367 F.3d 1255, 1262-63 (11th Cir. 2004) ("[A] district court may properly deny leave to amend the complaint under Rule 15(a) when such amendment would be futile.").

The Plaintiffs' "Motion for Extension of Time to Respond to Motion to Dismiss" (Doc. 16) is **GRANTED in part**, as follows: The Plaintiffs shall file their response to Moorer and Grayson's Motion to Dismiss (Doc. 13) on or before **Wednesday, May 14, 2014**. Moorer and

Grayson may file a reply in support of their motion no later than **Wednesday, May 21, 2014**.

At that time, briefing will be closed, and the motion will be taken under submission.

DONE and **ORDERED** this the **30th** day of **April 2014**.

/s/ Kristi K. DuBose
KRISTI K. DuBOSE
UNITED STATES DISTRICT JUDGE