

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Judge Christine M. Arguello**

Civil Action No. 09-cv-00388-CMA-CBS

SUE ANN W.R. WEBSTER,
RON ALEXANDER JOHNSON,
CHRISTOPHER PAUL JOHNSON, and
THE ESTATE OF ALEXANDER JOHNSON, JR.,

Plaintiffs,

v.

SANDRA K. SHOCKLEY, f/k/a Sandra K. Johnson,
THE UNITED STATES OF AMERICA,
THE UNITED STATES DEPARTMENT OF HOMELAND SECURITY, a Department
of the United States of America,
JANET NAPOLITANO, SECRETARY, and
THE UNITED STATES COAST GUARD,

Defendants.

ORDER REGARDING PLAINTIFFS' MOTION TO REOPEN

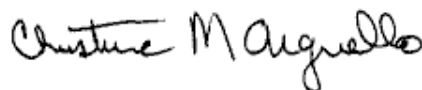
This matter is before the Court on a Notice of Decision and Motion to Reopen (Doc. # 31), filed by Plaintiffs Ron Alexander Johnson, Christopher Paul Johnson and the Estate of Alexander Johnson and Defendant Sandra K. Shockley ("Movants"). Defendants the United States of America, the United States Department of Homeland Security, Janet Napolitano as Secretary, and the United States Coast Guard ("USCG") responded on December 28, 2010. (Doc. # 32.) The Movants' Motion is DENIED on grounds that it is premature.

This case arises from a dispute concerning the non-payment of military retirement benefits. On October 13, 2009, the Court, *sua sponte*, issued an Order of Administrative Closure, which closed the case “subject to reopening by the filing of Notice indicating that the Department of Defense’s Office of General Counsel has issued a decision on the issue of whether any accrued and unpaid military retirement pay . . . is due and owing.” (Doc. # 30.) Since the administrative closure of this case, the Movants have sought to exhaust their administrative remedies. The Movants acknowledge that, in August 2010, they filed briefs in rebuttal to an Administrative Report issued by the USCG’s Office of Claims and Litigation and that their rebuttal briefs are still pending. (Doc. # 31 at 3.) Therefore, the Movants have not exhausted their administrative remedies.

Accordingly, IT IS ORDERED THAT the Notice of Decision and Motion to Reopen (Doc. # 31) is DENIED with leave to refile once the Movants have exhausted their administrative remedies.

DATED: January 4, 2011

BY THE COURT:



CHRISTINE M. ARGUELLO
United States District Judge