

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Judge William J. Martínez**

Civil Action No. 11-cv-01034-WJM-CBS

JAMES (I) CLEARY,
JAMES CLEARY, as Parent and Natural Guardian Suing on Behalf of his Ten Minor
Children,
MAUREEN (I) CLEARY, and
MAUREEN CLEARY, as Parent and Natural Guardian Suing on Behalf of her Ten Minor
Children,

Plaintiffs,

v.

COUNTY OF DOUGLAS, COLORADO, THE,
LESA (I) ADAME,
LESA ADAME, Deputy John Doe,
MONICA (I) GILDNER,
MONICA GILDNER,
ANGELA (I) WEBB,
ANGELA WEBB.
TINA (I) ABNEY, and
TINA ABNEY, in their individual and in their official capacities,

Defendants.

ORDER DISMISSING ACTION WITHOUT PREJUDICE

This matter is before the Court *sua sponte*. Plaintiffs originally filed this action on April 19, 2011. (ECF No. 1.) On April 21, 2011, this Court entered an Order Referring Case to Magistrate Judge Craig B. Shaffer. (ECF No. 3.) The Order Referring Case directed Plaintiffs to effect service of the summons and complaint on Defendants pursuant to Rule 4 of the Federal Rules of Civil Procedure no later than 30 days from April 21, 2011. (*Id.*)

On May 18, 2011, Plaintiffs filed a Motion for Enlargement of Time to effect service of process, requesting an additional 60 days within which to effect service. (ECF No. 4.) On May 20, 2011, the Court granted the Motion in full, directing Plaintiffs to effect service on or before July 21, 2011. (ECF No. 5.)

On July 18, 2011, Plaintiffs filed a second Motion for Enlargement of Time to effect service of process, this time seeking an additional 30 days within which to effect service. (ECF No. 6.) On July 19, 2011, the Court granted this second Motion in full, directing Plaintiffs to effect service on or before August 21, 2011. (ECF No. 7.)

On August 19, 2011, Plaintiffs filed a third Motion for Enlargement of Time to effect service of process, this time seeking an additional 90 days within which to effect service. (ECF No. 8.) On August 22, 2011, the Court granted the Motion in part, providing Plaintiffs an additional 30 days within which to effect service, and stating, “Service of process must be completed on or before September 20, 2011, **no further extensions will be granted. This action will be dismissed without prejudice if service of process is not completed by September 20, 2011.**” (ECF No. 9 (emphasis in part in original, in part added).)

As of November 30, 2011, nothing has been filed with the Court indicating that Plaintiffs have effected service of the summons and complaint on Defendants in compliance with Federal Rule of Civil Procedure 4.

In accordance with the foregoing, it is hereby ORDERED that this action is DISMISSED WITHOUT PREJUDICE for failure to effect service of process as required

by Federal Rule of Civil Procedure 4. See *Constien v. United States*, 628 F.3d 1207, 1216-17) (10th Cir. 2010).

Dated this 1st day of December, 2011.

BY THE COURT:

A handwritten signature in blue ink, appearing to read 'William J. Martínez', is written over a horizontal line.

William J. Martínez
United States District Judge