

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 14-cv-02625-MEH

ALFRED TRUJILLO, and
JOE L. RIVAS, on behalf of themselves and others similarly situated,

Plaintiffs,

v.

MACHOL & JOHANNES, LLC,

Defendant.

MINUTE ORDER

Entered by Michael E. Hegarty, United States Magistrate Judge, on October 2, 2014.

Plaintiffs' Motion for Class Certification with Request for Deferred Ruling Pending Completion of Class Discovery [filed October 1, 2014; docket #7] is **denied without prejudice** as premature. The record reflects Defendant has not yet been served in this action, and, therefore, does not have an opportunity to respond to this motion. Additionally, plaintiffs have failed to comply with D.C. Colo. LCivR 7.1(a), which states,

Before filing a motion, counsel for the moving party or an unrepresented party shall confer or make reasonable good faith efforts to confer with any opposing counsel or unrepresented party to resolve any disputed matter. The moving party shall describe in the motion, or in a certificate attached to the motion, the specific efforts to fulfill this duty.

The cases cited by the Plaintiffs do not persuade the Court that it should provide an exception to the local conferral rules by addressing their motion at this time. The Court directs Plaintiffs to *Lucero v. Bureau of Collection Recovery, Inc.*, 639 F.3d 1239 (10th Cir. 2011), which is not cited in their motion and is contrary to *Damasco v. Clearwire*, 662 F.3d 891 (7th Cir. 2011), the case upon which Plaintiffs rely. Rejecting conclusions made by the Third, Fifth, and Seventh Circuits, the Tenth Circuit found "a nascent interest attaches to the proposed class upon the filing of a class complaint such that a rejected offer of judgment for statutory damages and costs made to a named plaintiff does not render the case moot under Article III." *Lucero*, 639 F.3d at 1249.

The Court will address a briefing schedule for a class certification motion at the Scheduling Conference on December 8, 2014.