

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 15-cv-02214-GPG

**ZACHARY MARNER;**  
**NEVAEH MARNER;** and  
**MACKENZIE WHITE,**

Plaintiffs,

v.

**ALAN JOHNSON**, Resident, City of Aurora, Colorado, in his individual capacity;  
**KIM SIMAO**, Resident, City of Aurora, Colorado, in her individual capacity;  
**STEVEN (I) EVANS**, Officer, City of Aurora, Colorado in his professional and individual capacities; and  
**MICHAEL (I) QUIRK**, Officer, City of Aurora, Colorado in his professional and individual capacities;

Defendants.

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**ORDER OF DISMISSAL**

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On October 6, 2015, Plaintiff, Zachary Marner, submitted to the court his Eighth *pro se* action in this Court (ECF No. 1). As part of the court's review pursuant to D.C.COLO.LCivR 8.1(b), the court determined that Mr. Marner's pleadings were deficient. In an order entered on October 7, 2015, Magistrate Judge Gordon P. Gallagher directed Plaintiffs to cure certain deficiencies if they wished to pursue his claims. Specifically, Magistrate Judge Gallagher informed Plaintiffs to file an amended complaint in accordance with the directives within his order (ECF No. 5). That Order specifically informed Plaintiffs that this action would be dismissed without further notice if they failed to file an amended complaint within thirty days.

Plaintiffs have failed to file an amended complaint within the time allowed. Nor have they filed anything else in this matter. Therefore, the action will be dismissed without prejudice for failure to prosecute and for failure to follow a court order.

The Court also certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal from this Order is not taken in good faith, and, therefore, *in forma pauperis* status is denied for the purpose of appeal. See *Coppedge v. United States*, 369 U.S. 438 (1962). If Plaintiffs file a notice of appeal they must also pay the full \$505 appellate filing fee or file a motion to proceed *in forma pauperis* in the Tenth Circuit within thirty days in accordance with Fed. R. App. P. 24. Accordingly, it is

**ORDERED** that the Complaint and the action are dismissed without prejudice pursuant to Fed. R. Civ. P. 41(b) for failure to file an amended complaint, failure to comply with this Court's October 7, 2015 Order, and for failure to prosecute. It is

**FURTHER ORDERED** that leave to proceed *in forma pauperis* on appeal is denied.

DATED at Denver, Colorado, this 13<sup>th</sup> day of November, 2015.

BY THE COURT:

s/Lewis T. Babcock  
LEWIS T. BABCOCK, Senior Judge  
United States District Court