

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

HARRY A. DAVIS and)
MADONNA S. DAVIS,)
))
Plaintiffs,)
))
v.)
))
ACE HARDWARE)
CORPORATION., et al.,)
))
Defendants.)

Civil Action No. 12-1185-SLR-CJB

REPORT AND RECOMMENDATION

At Wilmington this **11th day of August, 2014.**

WHEREAS, on April 11, 2014, this Court entered an Order granting Defendants’ Motion to Dismiss Plaintiffs’ Complaint for Failure to Comply with Florida’s Asbestos and Silica Compensation Fairness Act (“the Act”), filed pursuant to Rule 12(b)(6), and which informed Plaintiffs that if they did not file an Amended Complaint by June 6, 2014, their claims may be deemed dismissed with prejudice, (D.I. 356); and

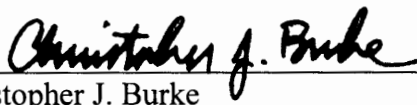
WHEREAS, despite being given a further extension to do so until July 14, 2014, (D.I. 366), Plaintiffs informed the Court that they could not meet the requirements of the Act and therefore could not file an Amended Complaint by the deadline imposed by the Court, and stated that they understood that their failure to do so might require dismissal of this case with prejudice (D.I. 368); and

WHEREAS, Defendants thereafter filed a Motion to Dismiss Plaintiffs’ Complaint for Failure to File an Amended Complaint (“Motion”), (D.I. 369); and

WHEREAS, Plaintiffs filed no response to Defendants’ Motion by August 7, 2014, the

due date set by the Court for a responsive filing, and have otherwise provided no reason why this case should not be dismissed;

NOW THEREFORE, the Court recommends that the District Court order that Defendants' Motion to Dismiss Plaintiffs' Complaint for Failure to File an Amended Complaint (D.I. 369) be GRANTED and that the above-captioned matter be dismissed with prejudice, as to all Defendants.



Christopher J. Burke
UNITED STATES MAGISTRATE JUDGE