

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

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ANFERNEE WALKER and )  
 NICOLE HARGER, )  
*on behalf of minor child,* )  
 )  
 Plaintiffs, )  
 )  
 v. )  
 )  
 SCOTT W. SCHMOELLER, )  
*in his individual and* )  
*official capacity, et al.,* )  
 )  
 Defendants. )

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Civil Action No. 17-2100 (ABJ)

**MEMORANDUM OPINION**

This matter was removed to this Court from the Superior Court of the District of Columbia (“Superior Court”) pursuant to 28 U.S.C. §1446. The Court will dismiss the case without prejudice for lack of subject matter jurisdiction since the action was no longer pending at the time it was removed. *See* Fed.R.Civ.P. 12(h)(3) (requiring the court to dismiss an action “at any time” it determines that subject matter jurisdiction is wanting).

The Superior Court dismissed the case on October 06, 2017. *See* Dkt. # 4 at 2, 6. (“Plaintiff having failed to file an affidavit evidencing service on the defendant within the time frame allowed by Rule 4 (m), the Clerk hereby enters a dismissal of the complaint without prejudice.”). Defendants did not file a Notice of Removal with this Court until October 10, 2017, four days after the case had already been dismissed. *See* Dkt. # 1.

Therefore, this Court has no subject matter jurisdiction since the action was not pending at the time of its removal, and the case will be dismissed without prejudice. *See*

28 U.S.C. § 1446(b)(1) (“A defendant or defendants desiring to remove any civil action from a State court shall file in the district court of the United States for the district and division within which such action is *pending*. . .”) (emphasis added). A separate order of dismissal accompanies this Memorandum Opinion.

**SO ORDERED.**

A handwritten signature in black ink that reads "Amy B. Jackson". The signature is written in a cursive style and is positioned above a solid horizontal line.

AMY BERMAN JACKSON  
United States District Judge

DATE: October 25, 2017