

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
BRUNSWICK DIVISION

WEBSTER BIVENS,
BERNADETTE BIVENS,
CHELSEA BIVENS,
CHYNNA BIVENS,

Plaintiffs,

v.

208CV026

SHIRLEY ROBERTS, et al.,

Defendants.

ORDER

In a prior Order this Court dismissed all claims against certain defendants who had filed motions under F.R.Civ.P. 12(b)(6) and 12(c). Doc. # 197. The Court dismissed plaintiffs' 18 U.S.C. § 1962 (RICO) and 42 U.S.C. § 1983 claims with prejudice, finding that plaintiffs had failed to state a claim on which relief could be granted. The Court also dismissed plaintiffs' state-law fraud claims without prejudice to plaintiffs' right to raise those claims in state court.

Defendants J. Thomas Whelchel, John P. McQuigg, and the Whelchel & McQuigg Law Firm were added to this suit in plaintiffs' Revised Second Amended Complaint, doc. # 188, and were not among the defendants who had filed a motion to dismiss. They now file a motion asking the Court to clarify whether all parties named as defendants in this proceeding have been dismissed. Doc. # 199.

As the defects in plaintiffs' RICO and § 1983 claims apply to all defendants (the Court found that there was no RICO pattern of racketeering activity and that none of the defendants were state actors for § 1983 purposes), the complaint is **DISMISSED** as

to all the parties.¹ The Clerk is instructed to enter judgment for all defendants in this case including those in default.

This 13th day of April 2009.



B. AVANT EDENFIELD, JUDGE
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA

¹ As was the case in its prior Order, doc. # 197, the state fraud claims are dismissed without prejudice.