

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

L.P.O.E., Inc. and DiMa Corporation,

Civil No. 10-4133 (RHK/LIB)

Plaintiffs,

ORDER

vs.

The City of Duluth, Minnesota,
City of Hermantown,

Defendants.

Based upon the Report and Recommendation of United States Magistrate Judge Leo I. Brisbois, to which no Objections have been interposed with respect thereto, and after an independent review of the files, records and proceedings in the above-entitled matter, **IT IS ORDERED:**

1. The Report and Recommendation (Doc. No. 14) is **ADOPTED**; and
2. This action is **DISMISSED WITHOUT PREJUDICE** against the City of Hermantown for failure to serve the Defendant City of Hermantown and for lack of prosecution.

Dated: May 11, 2011

s/Richard H. Kyle
RICHARD H. KYLE
United States District Judge