

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
NORTHERN DIVISION**

VICTORIA WHITTINGTON, et al.,)

Plaintiffs,)

v.)

No. 2:13-CV-16-DDN

MARK ISGRIG, et al.,)

Defendants.)

MEMORANDUM AND ORDER

This matter is before the Court upon review of plaintiffs' amended complaint [Doc. #5] under 28 U.S.C. § 1915A.¹

Pursuant to 28 U.S.C. § 1915A, the "court shall review before docketing if feasible or, in any event, as soon as practicable after docketing, a complaint in a civil action in which a prisoner seeks redress from a governmental entity or officer or employee of a governmental entity." The Court is to dismiss the complaint, or any portion, if it is frivolous, malicious, fails to state a claim upon which relief can be granted, or seeks monetary relief against a defendant who is immune from such relief.

¹On March 12, 2013, this Court granted plaintiffs thirty days to file an amended complaint [Doc. #4]. Plaintiffs timely filed an amended complaint on April 12, 2013 [Doc. #5].

In reviewing a pro se complaint under § 1915A, the Court must give the complaint the benefit of a liberal construction. *Haines v. Kerner*, 404 U.S. 519, 520 (1972). The Court must also weigh all factual allegations in favor of the plaintiff, unless the facts alleged are clearly baseless. *Denton v. Hernandez*, 504 U.S. 25 (1992).

A review of the amended complaint indicates that plaintiffs' 42 U.S.C. § 1983 and pendent state-law claims survive frivolity review and should not be dismissed at this time.

In accordance with the foregoing,

IT IS HEREBY ORDERED that, pursuant to this Court's differentiated case management system, this case is assigned to Track 5B (prisoner actions-standard).

IT IS FURTHER ORDERED that defendants shall reply to the amended complaint within the time provided by the applicable provisions of Rule 12(a) of the Federal Rules of Civil Procedure. *See* 42 U.S.C. § 1997e(g)(2).²

/S/ David D. Noce
UNITED STATES MAGISTRATE JUDGE

Signed on April 12, 2013.

²The Court notes that because plaintiffs paid the filing fee, they are responsible for serving defendants. *See* Fed. R. Civ. P. 4(m).