

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

NICHOLAS MARLER, et al.,)	
)	
Plaintiffs,)	
)	No. 4:14-CV-1463 CAS
v.)	
)	
THE CITY OF TROY, MISSOURI, et al.,)	
)	
Defendants.)	

ORDER

This action under 42 U.S.C. § 1983 is before the Court on plaintiffs’ motion to appoint a next friend for minor plaintiffs A.M. and H.M. The motion seeks the appointment of the minor plaintiffs’ mother, Angela Marler, as their next friend. For the following reasons, the motion will be denied without prejudice.

The appointment of a next friend is governed by Federal Rule of Civil Procedure 17(c)(2) and 20 C.F.R. § 404.612(c). Rule 17(c)(2) states:

A minor or an incompetent person who does not have a duly appointed representative may sue by a next friend or by a guardian ad litem. The court must appoint a guardian ad litem—or issue another appropriate order—to protect a minor or incompetent person who is unrepresented in an action.

Fed. R. Civ. P. 17(c)(2). In connection with the appointment of representatives for minor parties, this Court looks to Missouri Supreme Court Rule 52.02(c), which establishes different procedures for the appointment of next friends for minors above and below the age of fourteen:

(c) How Appointed. Such appointment shall be made on the petition in writing of such minor if of the age of fourteen years and the written consent of the person proposed to be next friend. If such minor be under the age of fourteen years, the appointment of a next friend may be made upon the written application of a relative or friend of the minor, in which case a notice thereof must be given to the person with whom such minor resides.

Mo. Sup. Ct. Rule 52.02(c).

Plaintiffs' motion for appointment of a next friend fails to state the ages of minors A.M. and H.M. As a result, the Court cannot determine whether plaintiffs have met the procedural requirements of Rule 52.02(c). If either minor plaintiff is fourteen year of age or older, that minor must sign the motion for appointment of next friend and plaintiffs must submit the written consent of the proposed next friend.

Accordingly,

IT IS HEREBY ORDERED that plaintiffs' motion for appointment of next friend is **DENIED without** prejudice. [Doc. 2]

IT IS FURTHER ORDERED that plaintiffs shall promptly file an amended motion for appointment of next friend in compliance with this Order and Missouri Supreme Court Rule 52.02(c).


CHARLES A. SHAW
UNITED STATES DISTRICT JUDGE

Dated this 26th day of August, 2014.