

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

HAROLD BRYAN WILSON, and RILEY
NICOLE SHADLE,

Plaintiffs,

vs.

JASON GEERDES, FRED BRITTEN,
CATHY SHEAIR, and SCOTT FRAKES,

Defendants.

8:16CV524

ORDER

This matter is before the Court on (1) plaintiff Harold Bryan Wilson’s (“Wilson”) Motion for Preliminary Injunction and/or Temporary Restraining Order and Motion to Add Additional Defendant (Filing No. 15); (2) Riley Nicole Shadle’s (“Shadle” and with Wilson, “plaintiffs”) Motion for Reconsideration (Filing No. 24) of the denial of a prior request for a preliminary injunction; and (3) Wilson’s Motion for Temporary Restraining Order and Preliminary Injunction (Filing No. 27). All three motions were filed pro se before the plaintiffs were represented by counsel. Also pending before the Court is defendants Jason Geerdes, Fred Britten, Cathy Sheair, and Scott Frakes’s (collectively, “defendants”) Motion to Dismiss (Filing No. 42) for failure to state a claim. *See* Fed. R. Civ. P. 12(b)(6).

On March 31, 2017, the Court appointed Michael D. Gooch (“Gooch”) as counsel for the plaintiffs in light of the important and novel issues potentially presented in this case and “to facilitate one operative pleading from Plaintiffs as well as any subsequent joint filings.” Gooch entered his appearance the same day (Filing Nos. 47 and 48).

The Court stayed all pending motions, until the case could be removed from the pro se docket and reassigned.¹ Before appointing counsel and entering the stay, the Court

¹Upon reassignment, the magistrate judge ruled on five of the plaintiffs’ other pending motions.

noted the plaintiffs had failed to comply with Federal Rule of Civil Procedure 11(a) in filing their Complaint because Wilson apparently signed the Complaint for Shadle. The Court decided not to rule on the issue until the case progressed further.

In their Motion to Dismiss, the defendants question Shadle's status as a party because Shadle failed to sign the operative pro se Complaint. Among other things, the defendants ask the Court to "strike the Complaint to the extent it purports to be Shadle's pleading and/or enter an order formalizing the dismissal of Shadle, without prejudice, in light of Shadle's non-party status." Because of the stay, the plaintiffs and their counsel have not had an opportunity to respond to the defendants' Motion to Dismiss.

Based on the foregoing,

IT IS ORDERED:

1. Plaintiff Harold Bryan Wilson's Motion for Preliminary Injunction and/or Temporary Restraining Order and Motion to Add Additional Defendant (Filing No. 15) is denied without prejudice to refiling, if appropriate, through court-appointed counsel.
2. Plaintiff Riley Nicole Shadle's Motion for Reconsideration (Filing No. 24) is denied without prejudice to refiling, if appropriate, through court-appointed counsel.
3. Wilson's Motion for Temporary Restraining Order and Preliminary Injunction (Filing No. 27) is denied without prejudice to refiling, if appropriate, through court-appointed counsel.
4. The stay is lifted. The plaintiffs shall have until May 26, 2017, to respond to the defendants' Motion to Dismiss.

Dated this 26th day of April, 2017.

BY THE COURT:

s/ Robert F. Rossiter, Jr.
United States District Judge