

---

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

---

CHRISTIAN NADAL and ROBBIE  
BASCUE,

Plaintiffs,

v.

UNITED STATES OF AMERICA,

Defendant.

**MEMORANDUM DECISION AND  
ORDER DENYING [7] MOTION FOR  
EXTENSION OF TIME**

Case No. 4:18-cv-00001-DN

District Judge David Nuffer

---

Plaintiffs seek an extension of time to serve Defendant in this matter.<sup>1</sup> As part of their Motion, Plaintiffs attach waivers of service that were purportedly mailed to the U.S. Attorney General and U.S. Attorney General for the District of Utah.<sup>2</sup> These waivers have not been executed and to date, proof of service by a method allowed under Rule 4 of the Federal Rules of Civil Procedure has not been filed.<sup>3</sup>

Plaintiffs' Motion is procedurally improper. This case was dismissed without prejudice on September 5, 2018 and the case is closed.<sup>4</sup> In a prior response, Plaintiffs assert that they believed the federal court was the defendant and therefore, service was either not required or accomplished by filing their complaint.<sup>5</sup> Plaintiffs make other arguments, including allegations that the President of the United States, U.S. Attorney, and Clerk of the Court were aware of

---

<sup>1</sup> Notice of Service of Complaint Notice of Service of Waiver of Service of Summons ("Motion"), [docket no. 7](#), filed Sept. 24, 2018.

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> Order Dismissing Case Without Prejudice, [docket no. 5](#), entered Sept. 5, 2018.

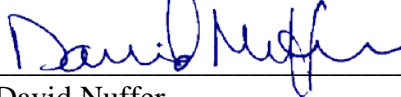
<sup>5</sup> Response to Court Order Dismissing Case Without Prejudice Motion – Defendants Have Been Served ("Response"), [docket no. 6](#), filed Sept. 13, 2018.

issues raised in the complaint based upon correspondence sent before this case was initiated and after.<sup>6</sup> Petitioners assert that the case should be reinstated and the time for service extended due to “their lack of knowledge of the Court Rules.”<sup>7</sup> None of these arguments is a basis for reinstating the case. “A document filed *pro se* is ‘to be liberally construed[.]’”<sup>8</sup> However, it is not the proper function of the district court to act as an advocate for a *pro se* litigant.<sup>9</sup> “[The Tenth Circuit] has repeatedly insisted that ‘*pro se* litigants follow the same rules of procedure that govern other litigants.’”<sup>10</sup> This includes Rule 4 governing service.

IT IS HEREBY ORDERED that Plaintiffs’ Motion<sup>11</sup> is DENIED. Notably Plaintiffs are not without recourse. Plaintiffs’ action was dismissed without prejudice. They are free to re-file their complaint, pay the filing fee, and comply with the Federal Rules of Civil Procedure in the newly initiated proceeding.

Dated September 28, 2018.

BY THE COURT:



David Nuffer  
United States District Judge

---

<sup>6</sup> Response at 1-3, [docket no. 6](#).

<sup>7</sup> Motion at 2, [docket no. 7](#).

<sup>8</sup> *Erickson v. Pardus*, 551 U.S. 89, 94 (2007) (citing *Estelle v. Gamble*, 429 U.S. 97, 106 (1976)).

<sup>9</sup> *Hall v. Bellmon*, 935 F.2d 1106, 1110 (10th Cir. 1991).

<sup>10</sup> *Nielsen v. Price*, 17 F.3d 1276, 1277 (10th Cir. 1994).

<sup>11</sup> *Id.*