

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

MYRON DIXON and DAMIAN HAYES,)	
)	
Plaintiffs,)	
)	CIVIL ACTION
v.)	
)	No. 05-2443-KHV
BETHESDA LUTHERAN HOMES AND)	
SERVICES, INC.,)	
)	
Defendant.)	
_____)	

ORDER

This matter is before the Court on Defendant's Motion To Dismiss Plaintiffs' Claims And Supporting Memorandum Of Law (Doc. #23) filed August 29, 2006. Pursuant to D. Kan. Rule 6.1(d)(2), plaintiffs had until September 21, 2006 to file a response to defendant's motion to dismiss. To date, plaintiffs have not responded. Pursuant to D. Kan. Rule 7.4, "[i]f a respondent fails to file a response within the time required by Rule 6.1(d), the motion will be considered and decided as an uncontested motion, and ordinarily will be granted without further notice." For this reason and substantially the reasons set forth in Defendant's Motion To Dismiss Plaintiffs' Claims And Supporting Memorandum Of Law (Doc. #23) filed August 29, 2006 and the Notice And Order To Show Cause (Doc. #28) filed September 28, 2006,¹ the Court sustains defendants' motion.

¹ On September 28, 2006, Magistrate Judge James P. O'Hara ordered plaintiffs to show cause in writing on or before October 9, 2006 why this case should not be dismissed with prejudice for failure to comply with discovery, failure to respond to defendant's motion to dismiss and for lack of prosecution under Fed. R. Civ. P. 41(b). To date, plaintiffs have not responded to the show cause order.

IT IS THEREFORE ORDERED that Defendant's Motion To Dismiss Plaintiffs' Claims And Supporting Memorandum Of Law (Doc. #23) filed August 29, 2006 be and hereby is **SUSTAINED**. Plaintiffs' claims are dismissed with prejudice for failure to comply with discovery and for lack of prosecution.

Dated this 12th day of October, 2006 at Kansas City, Kansas.

s/ Kathryn H. Vratil
KATHRYN H. VRATIL
United States District Judge