

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

**MARIA PETER, M.P.,¹
JULIKA BERGER, and
J.B.,**

Plaintiffs,

v.

**SUSAN DIANE WOJCICKI, WILLIAM
HENRY GATES, STEPHANE BANCEL,
and ALBERT BOURIA,**

Defendants.

Case No. 21-4096-DDC-TJJ

MEMORANDUM AND ORDER

On December 30, 2021, plaintiffs filed a Complaint pro se, asserting claims of negligence against defendants Susan Diane Wojcicki, William Henry Gates, Stephane Bancel, and Albert Bourla. Doc. 1. Only plaintiff Maria Peter filed a Motion to Proceed Without Prepayment of Fees. On January 6, 2022, Magistrate Judge Teresa J. James explained to plaintiffs that all four plaintiffs must file motions to proceed in forma pauperis or pay the filing fee. Doc. 5. And Judge James warned plaintiffs: failing to file the necessary motions or pay the filing fee may lead the court to dismiss their case. *Id.* Plaintiffs never responded, and the filing fee remained unpaid.

¹ In their filings, plaintiffs use the full names of plaintiffs M.P. and J.B. But plaintiffs' filings also indicate that plaintiffs M.P. and J.B. are minor children. By rule, the court must use the minors' initials. See Fed. R. Civ. P. 5.2(a)(3); U.S. District Court for the District of Kansas, *Administrative Procedure for Filing, Signing, and Verifying Pleadings and Papers by Electronic Means in Civil Cases* § II.I. (2018), <http://ksd.uscourts.gov/index.php/rules/> (requiring courts to, in "accordance with Fed. R. Civ. P. 5.2 and to address the privacy concerns created by Internet access to court documents, . . . modify or partially redact . . . [m]inors' names" by using "the minors' initials").

On February 28, 2022, Judge James issued a Report and Recommendation. It reported plaintiffs' failures to comply with either option and recommended that the court dismiss plaintiffs' Complaint. It also recommended that the court should deny plaintiff Maria Peter's Motion to Proceed Without Prepayment of Fees as moot. Doc. 7. Judge James's Report and Recommendation explained to plaintiffs that they could file any objections to the Report and Recommendation within fourteen days. *Id.* at 1. Plaintiffs never objected. On March 23, 2022, the court adopted Judge James's Report and Recommendation, denied plaintiff Maria Peter's Motion to Proceed Without Prepayment of Fees as moot, and dismissed this case without prejudice. Doc. 8. The court entered a Judgment the same day. Doc. 9.

On May 4, 2022—months after their warning about their filing deficiencies and six weeks after the court entered Judgment—plaintiff Julika Berger filed a Motion to Proceed Without Prepayment of Fees (Doc. 10), and plaintiff Maria Peter filed a second Motion to Proceed Without Prepayment of Fees (Doc. 11). Plaintiff Julika Berger's motion explains that plaintiff J.B. is her minor child. Doc. 10 at 2. And plaintiff Maria Peter's motion explains that plaintiff M.P. is her minor child. Doc. 11 at 2. Now, the court denies both motions for two reasons.

First, the motions are late. Judge James informed plaintiffs of the deficiencies in their filings in early January and gave plaintiffs more than a month either to file the requisite motions or pay the filing fee. Doc. 5. In March, plaintiffs also had an opportunity to object to Judge James's Report and Recommendation. But plaintiffs never filed anything. While plaintiffs proceed pro se and the court thus construes their filings liberally, they still must comply with the court's procedural rules and orders. *Cf. Ogden v. San Juan Cnty.*, 32 F.3d 452, 455 (10th Cir. 1994).

Second, based on the information in the motions, neither plaintiff has shown a financial inability to pay the required filing fee. Plaintiffs currently are employed and have net monthly salaries that exceed their listed monthly expenses. Both have money in bank accounts, and Ms. Peter owns a vehicle. Neither lists any debts or financial obligations. Because plaintiffs' monthly incomes exceed their monthly expenses, the court finds that plaintiffs Julika Berger and Maria Peter have sufficient financial resources to pay the filing fee. Thus, the court concludes that plaintiffs' belated attempts to proceed with this action—after the court gave them several opportunities to solve the problems with their filings—are insufficient.

IT IS THEREFORE ORDERED BY THE COURT that plaintiff Maria Peter's Motion to Proceed Without Prepayment of Fees (Doc. 10) is denied.

IT IS FURTHER ORDERED that plaintiff Julika Berger's Motion to Proceed Without Prepayment of Fees (Doc. 11) is denied.

IT IS SO ORDERED.

Dated this 26th day of May, 2022, at Kansas City, Kansas.

s/ Daniel D. Crabtree
Daniel D. Crabtree
United States District Judge