

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

**MARIA PETER, MICHAEL PETER,)
JULIA BERGER and)
JAROLIN BERGER,)
)
Plaintiffs,)
v.)
)
SUSAN DIANE WOJCICKI, WILLIAM)
HENRY GATES, STEPHANE BANCEL,)
and ALBERT BOURIA,)
)
Defendants.)**

Case No. 5:21-cv-04096-DDC-TJJ

REPORT AND RECOMMENDATION

NOTICE

Within fourteen (14) days after being served with a copy of this Report and Recommendation, pursuant to 28 U.S.C. § 636(b)(1) and Fed. R. Civ. P. 72(b)(2), Plaintiffs may file written objections to this Report and Recommendation. A party must file any objections within the fourteen-day period if that party wants to have appellate review of the proposed findings of fact, conclusions of law, or recommended disposition. If no objections are timely filed, no appellate review will be allowed by any court.

REPORT AND PROPOSED FINDINGS

The Court issues this Report and Recommendation following Plaintiffs' failure to comply with the Order dated January 6, 2022 regarding Plaintiff Maria Peter's Motion to Proceed Without Prepayment of Fees (ECF No. 3). As of January 6, 2022, Plaintiffs Michael Peter, Julia Berger, and Jarolin Berger had not sought permission to proceed *in forma pauperis*, nor had any of the four Plaintiffs paid the filing fee. Federal law governs the commencement of a civil action in this court. Under the applicable statutes, this case can commence when (1) the clerk of court

receives payment in the amount of \$402.00 as the filing fee for any civil action under 28 U.S.C. § 1914, or (2) the court enters an order granting every Plaintiff permission to proceed *in forma pauperis* after each Plaintiff has submitted his or her own affidavit containing the information required by 28 U.S.C. § 1915(a) which demonstrates the Plaintiff's inability to pay the filing fee.

In its January 6, 2022 Order, the Court imposed a deadline of February 11, 2022 for Plaintiffs to satisfy either avenue available to them.¹ In addition to imposing a deadline, the Court alerted Plaintiffs that failure to comply by February 11, 2022 may result in the dismissal of this action.²

The record in this case shows no activity on the part of any Plaintiff after their December 30, 2021 filings of the complaint and Maria Peter's Motion to Proceed Without Prepayment of Fees. The undersigned therefore finds Plaintiffs have not taken steps necessary for this civil action to proceed. Accordingly, the undersigned recommends to the District Judge that Plaintiff's Complaint be dismissed and Plaintiff Maria Peter's Motion to Proceed Without Prepayment of Fees be denied as moot.

RECOMMENDATION

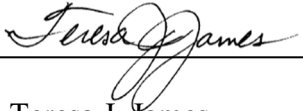
IT IS THEREFORE RECOMMENDED THAT Plaintiffs' Complaint be dismissed and Plaintiff Maria Peter's Motion to Proceed Without Prepayment of Fees (ECF No. 3) be denied as moot.

¹ ECF No. 5.

² *Id.*

Respectfully submitted.

Dated this 28th day of February, 2022 at Kansas City, Kansas.

A handwritten signature in cursive script that reads "Teresa J. James". The signature is written in black ink and is positioned above a solid horizontal line.

Teresa J. James
U. S. Magistrate Judge