

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

ORDER ON IPS DEFENDANTS' MOTION TO DISMISS ISAAC GRAYSON

This matter comes before the Court on Defendants', Indianapolis Public Schools Board of School Commissioners, John L. Stiegelmeyer, Sergeant John Akers, Sandra Petty, and Peggy B. Clarke (collectively "IPS"), Motion to Dismiss Plaintiffs', J.C. and Pamela Crenshaw (collectively "Plaintiffs") claims against Isaac Grayson, pursuant to Federal Rule of Civil Procedure 4(m) ("Rule 4(m)").

Rule 4(m) allows for dismissal of a defendant “[i]f service of the summons and complaint is not made upon a defendant within 120 days after the filing of the complaint.” Fed. R. Civ. P. 4(m). Defendants requested an admission, pursuant to Fed. R. Civ. P. 36, from Plaintiffs that service had not

been perfected upon Defendant Grayson as of June 12, 2006. Def.s' Exh. A. Pursuant to Rule 36, the matter was admitted upon Plaintiffs' failure to timely respond to this request. *F.T.C. v. World Media Brokers*, 415 F.3d 758, 766 (7th Cir. 2005). Further, Plaintiffs have not responded to IPS's Motion to Dismiss. Therefore, because Plaintiff's Complaint was filed on January 6, 2006, and because Plaintiffs have admitted that Defendant Isaac Grayson has not been served with a summons and the complaint, the Court finds that IPS's Motion to Dismiss Isaac Grayson should be granted.

CONCLUSION

Therefore, the Court **GRANTS** IPS's Motion to Dismiss Isaac Grayson as a Defendant in this case, without prejudice.

IT IS SO ORDERED this 18th day of October, 2006.



LARRY J. MCKINNEY, CHIEF JUDGE
United States District Court
Southern District of Indiana

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