

**UNITED STATES DISTRICT COURT  
FOR THE Northern District of Illinois – CM/ECF LIVE, Ver 6.3.3  
Eastern Division**

Leoncio Elizarri, et al.

Plaintiff,

v.

Case No.: 1:17-cv-08120

Honorable Steven C. Seeger

Sheriff of Cook County, et al.

Defendant.

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**NOTIFICATION OF DOCKET ENTRY**

This docket entry was made by the Clerk on Monday, November 16, 2020:

MINUTE entry before the Honorable Steven C. Seeger: The motion for class certification (Dckt. No. [92]) is hereby denied without prejudice. During the hearing on December 6, 2019, the parties agreed to complete additional discovery before Defendants would respond to the motion. See 12/6/19 Tr; 12/6/19 Order (Dckt. No. [96]). The Court later stayed discovery, and held the motion for class certification in abeyance, in light of ongoing settlement negotiations. (Dckt. Nos. [105], [117]) The parties recently completed a settlement conference but did not settle. (Dckt. No. [125]) The landscape of the case has changed, perhaps materially, since Plaintiffs filed the motion for class certification. Plaintiffs requested certification of a class of "[a]ll persons transferred to the Illinois Department of Corrections from the Cook County Jail whose property remains in the custody of the Sheriff of Cook County." *Id.* But in recent months, Defendants have returned all of the property belonging to the named Plaintiffs. (Dckt. Nos. [95], [97], [121], [127]) On October 28, 2020, the parties filed a Joint Status Report and confirmed that "Defendants have returned all the property belonging to the named plaintiffs." (Dckt. No. [127]) The return of the property raises the question whether the named Plaintiffs could be adequate class representatives. A named plaintiff must be a member of the class to be the class representative. That rule comes from the text of Rule 23(a) itself. "One or more members of a class may sue or be sued as representative parties on behalf of all members...." See Fed. R. Civ. P. 23(a); see also *Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338, 348 (2011) ("[A] class representative must be part of the class...."); *Sali v. Corona Regional Med. Ctr.*, 909 F.3d 996, 1007 (9th Cir. 2018) ("A named plaintiff must be a member of the class she seeks to represent...."); *James Wm. Moore, et al., Moore's Federal Practice* § 23.21[2] (3d ed. 1999) ("For a class action to proceed, the court must apply the class definition to each proposed class representative and find that the class representative is a member of that class."). The Joint Status Report also revealed that "Plaintiffs may also seek to amend the operative complaint (and add additional plaintiffs)." (Dckt. No. [127]) By November 23, 2020, the parties must meet and confer and propose a schedule for the balance of the case, including deadlines for the filing of an amended complaint (if any), a motion for class certification, and dispositive motions. This Order does not, in and of itself, grant leave to file an amended complaint. Instead, the Court is simply requiring a proposed schedule with a deadline to seek leave to file an amended complaint. The proposed schedule must assume that the fact discovery deadline of January 29, 2021

(Dckt. No. [128]) will remain in place. Mailed notice. (jjr, )

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