

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
MIAMI DIVISION

Magistrate Judge: O'Sullivan

MARIE JEANNE JEAN, in her )  
individual capacity, and as parent )  
and legal Guardian for minors, )  
VLADIMIR PIERRE and )  
MICHELLEDA PIERRE )  
Plaintiffs, )  
vs. )  
CARL DORELIEN, )  
Defendant. )  
\_\_\_\_\_ )

CASE NO: 03-20161-CIV-KING

**MOTION TO DISMISS: LACK OF JURISDICTION OVER  
THE PERSON AND INSUFFICIENCY OF SERVICE OF  
PROCESS, INSUFFICIENCY OF PROCESS**

COMES NOW the Defendant, CARL DORELIEN, by and through his undersigned counsel, pursuant to FRCP 12(b)(2)(4) and (5) and Local Rule 7.1, moves this Court to dismiss the complaints filed herein and states:

1. Defendant, CARL DORELIEN, was never personally served a copy of any of the three complaints filed herein.
2. The process server did not deliver a copy of the summons or complaint originally filed herein to the Defendant, CARL DORELIEN, but left it in a separate, adjacent room to where the Defendant was present but said room and the complaint and summons were not accessible

to the Defendant, CARL DORELIEN. Copies were not left with an individual of suitable age or any agent authorized by law to receive service.

3. Defendant, CARL DORELIEN, was incarcerated at Krome Detention Center at the time the process server allegedly served the summons and complaint.

4. The next day after the alleged service of process, the Defendant, CARL DORELIEN, was deported to Haiti where he was immediately jailed until the day in March, 2004 that the democratically elected president of Haiti abandoned his post and country.

5. Defendant, CARL DORELIEN, was never served a copy of any complaint or summons filed herein.

**WHEREFORE**, the Defendant, CARL DORELIEN, requests this Court dismiss the complaints filed herein or require the plaintiffs to properly serve the Defendant, CARL DORELIEN.

**MEMORANDUM**

FRCP 4(e) requires service on an individual in any judicial district of the United States to be:

1) Pursuant to the law of the state in which the district court is located, herein Florida, or;

2) By delivering a copy of the summons and complaint to the individual personally or by leaving copies thereof at the individual's dwelling house or usual place of abode with some

**CASE NO: 03-20161-CIV-KING**

person of suitable age and discretion residing therein or by delivering a copy of the summons and complaint to an agent authorized by appointment or by law to receive service of process.

Herein none of the above were complied with.

No attempt has been made by the Plaintiffs to comply with FRCP 4(f).

Without proper service of process this court has no jurisdiction of Defendant, CARL DORELIEN.

**WHEREFORE**, the Defendant, CARL DORELIEN, prays this court dismiss the complaints filed herein.

**I HEREBY CERTIFY** that a true and correct copy of the above and foregoing was mailed on this 25th day of March, 2004, to: See Attached List.

**LAW OFFICES OF KURT R. KLAUS, JR.**

Attorney for the Defendant  
3191 Coral Way, Suite 402-A  
Miami, Florida 33145  
Tel: (305) 461-4447

BY: 

\_\_\_\_\_  
KURT R. KLAUS, JR.

Fla. Bar No: 299804

**Service List**

(Names and Addresses of Counsel)

**Case No: 03-20161-CIV-KING**

**Counsel for Plaintiffs:**

Matthew J. Eisenbrandt, Esq.  
The Center of Justice and Accountability  
870 Market Street  
Suite 684  
San Francisco, CA 94102  
Tel: (415) 544-0444

Stephen F. Rosenthal, Esq.  
Podhurst, Orseck, Josefsberg, Eaton,  
Meadow, Olin & Perwin  
25 West Flagler Street, Suite 800  
Miami, Florida 33130-1780  
Tel: (305) 358-2800  
Fax: (305)358-2382

Dwayne E. Williams, Esq.  
Holland & Knight, LLP  
701 Brickell Avenue, Suite 3000  
Miami, Florida 33131  
Tel: (305) 374-8500  
Fax: (305) 789-7799

Thomas E. Bishop, Esq.  
Holland & Knight, LLP  
50 North Laura Street, Suite 3900  
Jacksonville, Florida 32202

John Andres Thornton, Esq.  
9 Island Avenue, Suite 2005  
Miami Beach, Florida 33139  
Tel: (305) 532-6851  
Fax: (305) 532-6851