

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION**

LUCAS WALL,

Plaintiff,

v.

**CENTERS FOR DISEASE
CONTROL & PREVENTION *et al.***

Defendants.

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Case No. 6:21-cv-975-PGB-DCI

District Judge Paul Byron

Magistrate Judge Daniel Irick

PLAINTIFF’S RESPONSE TO ORDER TO SHOW COMPLIANCE

COMES NOW plaintiff, *pro se*, and responds to the Court’s Order to Show Compliance (Doc. 142) issued Aug. 27. The Court mistakenly wrote: “Plaintiff has failed to file a Case Management Report within the time required by Local Rule 3.02(b)” and directed me “to file a written response within fourteen (14) days from the date of this Order why this case should not be dismissed, pursuant to Local Rule 3.10, for lack of prosecution due to the non-filing of a Case Management Report...”

All parties conferred earlier this month regarding the need for a Case Management Report. On Aug. 19, we filed a Joint Notice of Compliance with Court Order (Doc. 30) Regarding Determination of Exemption to Filing Case Management Report. Doc. 131. The Court appears to have overlooked this joint notice, as it did not cite the notice in its Order to Show Compliance.

All parties “hereby certify that, in compliance with this Court’s directions in the Order dated June 17, 2021 (Doc. 30), they have consulted Local Rule 3.02 and conferred with each other, and have determined that this action falls under the exception in Local Rule 3.02(d)(2): an action for review on an administrative record that is not under the Employee Retirement Income Security Act of 1974. Accordingly, pursuant to Local Rule 3.02(a), no case management conference or case management report is required of the parties at this time.” *Id.*

This case should not be dismissed for lack of prosecution because all parties complied with the Court’s Order that “The parties are DIRECTED to consult Local Rule 3.02 to determine whether this action requires a case management conference and case management report (CMR), or if it falls under one of the exceptions listed in Local Rule 3.02(d).” Doc. 30 at 2. Furthermore, there is clearly no lack of prosecution of this case as all parties, including myself, have filed documents multiple times a week throughout the pendency of this case.

If the Court believes the parties erred in determining that this lawsuit is exempt from a Case Management Report, it should order us to hold a Case Management Conference and then file a report. Dismissal under Rule 3.10 for failure to prosecute would be wholly inappropriate and detrimental to justice when the parties have complied with Local Rule 3.02 and are far along in briefing several dispositive motions.

Certification of Consultation

Although no consultation with the defendants is required for this response, I discussed this matter via e-mail with them anyway Aug. 27 to ensure all remain in agreement with the joint notice filed Aug 19. Doc. 131.

I hereby certify that Stephen Pezzi, counsel for the Federal Defendants; David Wood, counsel for the Defendant Central Florida Regional Transportation Authority; and Sally Culley, counsel for Defendant Greater Orlando Aviation Authority, all confirm their clients' position on the need for a Case Management Report is unchanged since the parties' joint notice filed Aug. 19

Respectfully submitted this 28th day of August 2021.

Lucas Wall

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