

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

LUCAS WALL,

Plaintiff,

v.

CENTERS FOR DISEASE
CONTROL AND PREVENTION,
et al.,

Defendants.

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

**FEDERAL DEFENDANTS' MOTION FOR LEAVE TO FILE A COMBINED
25-PAGE REPLY BRIEF ON OR BEFORE SEPTEMBER 30, 2021**

Federal Defendants respectfully request leave to file one combined 25-page reply brief, on or before September 30, 2021, in support of their motions to dismiss and for summary judgment. As good cause, Federal Defendants offer the following:

1. Plaintiff filed this action just over two months ago, on June 7, 2021. ECF No. 1. Plaintiff's complaint runs over 200 pages and includes 210 exhibits.

2. On August 9, 2021—the original answer deadline—Federal Defendants moved to dismiss. ECF No. 125. That motion to dismiss was combined with a cross-motion for summary judgment, and an opposition to Plaintiff's motion for summary judgment, in one 70-page brief. *See* ECF No. 105. Federal Defendants also filed three different certified administrative records on that date. *See* ECF No. 113.

3. Plaintiff likewise obtained leave of the Court to file one combined 47-page opposition to Federal Defendants' dispositive motions and reply in support of his motion for summary judgment. ECF No. 105. Plaintiff filed that combined brief early, on August 18, 2021. Plaintiff's combined brief raises several new arguments that do not appear in the complaint or in any prior filings.¹ Plaintiff's combined brief was also accompanied by 218 new exhibits, totaling over 1,500 additional pages.

4. Federal Defendants thus respectfully request leave to file a reply in support of their motion to dismiss because (1) Plaintiff has challenged important public-health policies of significance to the Executive Branch, (2) Plaintiff has submitted hundreds of exhibits over thousands of pages, and (3) Plaintiff raised several new arguments for the first time in his latest brief. This would also promote efficiency, as Federal Defendants already intend to file a reply (as of right) in support of their motion for summary judgment. *See* Local Rule 3.01(d).

5. Federal Defendants also respectfully request leave to combine their replies in support of their motions to dismiss and for summary-judgment into one filing of 25 pages or less. The additional pages are requested for the same reasons as above.

6. Federal Defendants also respectfully request a brief period of additional time to prepare their reply brief. The additional time is sought for the same reasons as above, but also to allow sufficient time for review within the Executive Branch, and to

¹ *See, e.g.*, ECF No. 130 at 2 ("The FTTM and ITTR are *orders*, not *regulations*."), *id.* at 23-26 ("[T]he FTMM is illegal because it forces Americans to use a medical device (face masks), most of which are approved by FDA under Emergency Use Authorization.").

avoid conflicts with the pre-existing professional obligations of counsel. In the coming days and weeks, undersigned counsel has several significant pre-existing litigation deadlines, including multiple briefs, and two preliminary-injunction hearings in other substantial matters. Plaintiff's early filing unexpectedly altered counsel's anticipated schedule for preparing a reply. And this case would still be primed for faster resolution than would be typical in a case like this (in part because Federal Defendants moved to dismiss on the original answer deadline).

7. This request would not meaningfully prejudice any other party. Plaintiff notes in his latest filing that he recently "rebooked [his] flight to Germany for Sept. 12," and states that it is "critical this Court vacate these policies before Sept. 12." ECF No. 130 at 34 n.18, 43. But even on the current schedule, there is no realistic possibility that judgment would be entered before September 12, particularly given Plaintiff's desire for oral argument, and the likelihood that some party files objections to the forthcoming Report & Recommendation. And there is no justification for any atypical urgency, given that the Court has already denied Plaintiff's TRO motion, ECF No. 28, and Plaintiff abandoned his efforts to obtain a preliminary injunction.

LOCAL RULE 3.01(g) CERTIFICATION

Pursuant to Local Rule 3.01(g), on August 20, 2021, counsel for the Federal Defendants conferred with all other parties (or their counsel) by email or phone. Counsel for Defendants GOAA and LYNX each reported that they do not oppose this motion. Plaintiff reported (by email and over the phone) that he opposes this motion.

Dated: August 20, 2021

Respectfully submitted,

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Counsel for the Federal Defendants

CERTIFICATE OF SERVICE

Although Plaintiff is proceeding *pro se*, he has been authorized by the Court to use the CM/ECF system. ECF No. 14. Accordingly, Plaintiff(along with counsel for all other parties) will receive service of this filing through the CM/ECF system.

/s/ Stephen M. Pezzi
STEPHEN M. PEZZI
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