
**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION**

CELESTE KIRBY,

Plaintiff,

vs.

SUZANNE LARSON, et al.,

Defendants.

Case No. 2:15 cv 602 DN

REPORT AND RECOMMENDATION

Judge David Nuffer

Magistrate Judge Brooke C. Wells

On August 25, 2015, Plaintiff Celeste Kirby who is acting *pro se*, filed a Complaint alleging violations of her rights under the Americans with Disabilities Act.¹ She alleges *inter alia* extortion, negligence, discrimination, IIED, fraud and fraud in the inducement. Defendants moved to dismiss the complaint with prejudice.² That motion was filed on January 13, 2016, and to date Plaintiff has filed no response.

On February 19, 2016, the undersigned entered an Order to Show Cause directing Plaintiff to show good cause on or before February 29, 2016 as to why the Motion to Dismiss

¹ [Docket no. 3.](#)

² [Docket no. 13.](#)

should not be granted.³ As of the date of this decision Plaintiff has filed no response to the court's order.

Local rule 7-1(b)(3)(A) provides that a memorandum opposing a motion to dismiss filed under Rule 12(b), 12(c) and 56 of the Federal Rules “must be filed within twenty-eight (28) days after service of the motion”⁴ Plaintiff has not opposed Defendants motion and it appears she has not intentions of doing so. Attached to Defendants motion is an August 2015 email from Plaintiff that states “I allow defendant to dismiss and will pursue legal action against the individuals involved. Thank you –Celeste Kirby[.]”⁵

In situations where a party does not respond to a motion local rule 7-1 provides that a “[f]ailure to respond timely to a motion may result in the court’s granting the motion without further notice.”⁶ Accordingly, based upon the local rules, Plaintiffs failure to respond to the court’s order to show cause and no opposition being filed to the Motion to Dismiss, the court RECOMMENDS that the motion be GRANTED and this case be dismissed with prejudice.

Copies of the foregoing report and recommendation are being sent to all parties who are hereby notified of their right to object. Parties must file any objection to the Report and Recommendation within ten (10) days after receiving it. Failure to object may constitute a waiver of objections upon subsequent review.

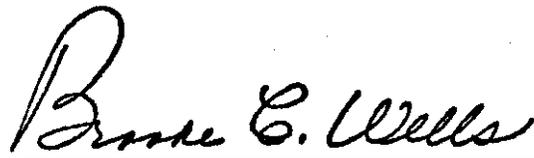
³ [Docket no. 14.](#)

⁴ DUCivR 7-1(b)(3)(A).

⁵ Ex. A. Defendants Motion to Dismiss, [docket no. 13-1.](#)

⁶ DUCivR 7-1(d).

DATED this 15th day of March 2016.

A handwritten signature in black ink that reads "Brooke C. Wells". The signature is written in a cursive style with a large initial 'B'.

Brooke C. Wells
United States Magistrate Judge