

UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF
FLORIDA, FORT MYERS DIVISION

Eric Newberg, Billy Dewayne Burr, and Christopher A. Lorch v.
Wellpath Recovery Solutions and Melinda Masters

Newberg · No. 2:20-cv-646-KCD-NPM (consolidated) · Decided January 7, 2026

SUMMARY

The United States District Court for the Middle District of Florida dismissed the consolidated actions without prejudice under Federal Rule of Civil Procedure 41(b) for failure to prosecute and failure to comply with a court order. The plaintiffs failed to file a required pretrial narrative statement or respond to an order to show cause concerning their apparent abandonment of the case.

CASE DETAILS

COURT	United States District Court for the Middle District of Florida, Fort Myers Division
WRITING FOR THE COURT	Kyle C. Dudek
JURISDICTION	United States District Court for the Middle District of Florida, Fort Myers Division
DECIDED	January 7, 2026
DOCKET	2:20-cv-646-KCD-NPM (consolidated)
DISPOSITION	dismissed
PROCEDURAL POSTURE	After partially granting and partially denying defendants' motion for summary judgment, the court directed plaintiffs to file a pretrial narrative statement. Plaintiffs failed to comply, failed to respond to an order to show cause, and the court dismissed the consolidated action without prejudice for failure to prosecute.
STANDARD OF REVIEW	Dismissal under Rule 41(b) for failure to prosecute or disregard of a court order is reviewed for abuse of discretion.
PRECEDENTIAL VALUE	unpublished district court order
PARTIES	Eric Newberg, Billy Dewayne Burr, Christopher A. Lorch v. Wellpath Recovery Solutions, Melinda Masters

TOPICS

civil procedure

sanctions

civil rights

prisoners rights

PRACTICE AREAS

civil procedure

civil rights

prisoner civil rights

QUESTIONS PRESENTED

1. Whether plaintiffs' failure to comply with the court's pretrial order and failure to respond to the order to show cause warranted involuntary dismissal under Federal Rule of Civil Procedure 41(b).

HOLDINGS

1. A plaintiff's failure to comply with a court order and failure to respond to an order to show cause, particularly after being warned that dismissal would result, warrants involuntary dismissal under Federal Rule of Civil Procedure 41(b).

KEY QUOTATIONS

“upon disregard of an order, especially where the litigant has been forewarned, generally is not an abuse of discretion.”

FACTUAL BACKGROUND

The court had directed the three plaintiffs to file and serve a pretrial narrative statement by December 8, 2025. Plaintiffs failed to file the statement, failed to advise the court about settlement discussions, and did not seek appointment of counsel. After the court issued an order to show cause warning that the action could be dismissed for failure to prosecute, plaintiffs neither responded nor requested additional time.

PROCEDURAL HISTORY

On October 22, 2025, the court granted in part and denied in part defendants' motion for summary judgment and ordered plaintiffs to file and serve a pretrial narrative statement by December 8, 2025. Plaintiffs did not file the statement, notify the court of settlement discussions, seek appointment of counsel, or respond to the court's December 10, 2025 order to show cause. The court concluded that plaintiffs had abandoned their remaining claims and dismissed the case under Federal Rule of Civil Procedure 41(b).

DISPOSITION

dismissed

CASES CITED

- Moon v. Newsome, 863 F.2d 835, 837 (11th Cir. 1989)

OPINION

UNITED STATES DISTRICT COURT MIDDLE DISTRICT OF FLORIDA FORT MYERS
DIVISION 2:20-cv-646-KCD-NPM (consolidated) ERIC NEWBERG, Plaintiff, v. WELLPATH
RECOVERY SOLUTIONS and MELINDA MASTERS, Defendants.
_____/ BILLY DEWAYNE BURR, Plaintiff, v.
WELLPATH RECOVERY SOLUTIONS and MELINDA MASTERS, Defendants.
_____/ CHRISTOPHER A. LORCH, Plaintiff, v.
WELLPATH RECOVERY SOLUTIONS and MELINDA MASTERS, Defendants. / ORDER
DISMISSING CASE On October 22, 2025, the Court granted in part and denied in part
Defendants' motion for summary judgment.

(Doc. 58.) The Court directed Plaintiffs to file with the Court and serve upon Defendants a pretrial narrative statement. (Id. at 23.) The statement was due by December 8, 2025. The Court also advised the parties to "strongly consider settlement discussions," and to alert the Court if they engaged in such talks.

The Court told Plaintiffs that, upon motion, it would consider requesting counsel to represent them at settlement discussions and/or trial. (Id.) Plaintiffs did not file a pretrial narrative statement, advise that they intended to engage in settlement discussions, or seek the appointment of counsel.

On December 10, 2025, the Court determined that Plaintiffs had abandoned this action and instructed them to show cause why the case should not be dismissed for failure to comply with its order. (Doc. 59.) The Court cautioned Plaintiffs that it would dismiss the case for failure to prosecute if they did not timely and satisfactorily explain their apparent abandonment of the case.

(Id. at 2.) Plaintiffs have neither responded to the Court's order to show cause nor asked for additional time to do so. Plaintiffs' failure to respond to the Court's order indicates that they have abandoned their remaining claims. This failure to prosecute warrants dismissal under Rule 41(b) of the Federal Rules of Civil Procedure. See Fed. R. Civ. Pro. 41(b) (allowing for the involuntary dismissal of an action if the plaintiff fails to prosecute his claims or follow a court order).

And dismissal under Rule 41(b) "upon disregard of an order, especially where the litigant has been forewarned, generally is not an abuse of discretion." *Moon v. Newsome*, 863 F.2d 835, 837 (11th Cir. 1989). Accordingly, it is ORDERED: 1. This case is DISMISSED without prejudice. 2.

The Clerk is DIRECTED to enter judgment, deny any pending motions as moot, terminate any deadlines, and close this case. ENTERED in Fort Myers, Florida on January 7, 2026.
KyleC.Dudek ==~> United States District Judge