

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA
SOUTHEASTERN DIVISION

Rodney J. Ireland, et al.,)
)
Plaintiffs,)
)
-vs-)
)
Maggie D. Anderson, Executive Director,)
North Dakota Department of Human)
Services, et al.,)
)
Defendants.)

Case No. 3:13-cv-3

**ORDER ADOPTING REPORT AND
RECOMMENDATION**

The Court has received a Report and Recommendation from the Honorable Karen K. Klein, United States Magistrate Judge, pursuant to 28 U.S.C. § 636, recommending that Plaintiffs’ motion for leave to file a Second Amended Complaint be granted; that Defendants’ motion to dismiss the First Amended Complaint on the basis of Plaintiffs’ failure to respond be denied; and that the Court find the motion to dismiss moot.¹

Defendants have filed an objection to the Report and Recommendation,² expressing concern that the Report and Recommendation could be interpreted as making factual findings and legal conclusions on the merits of the claims. The Court has reviewed the Report and Recommendation and conducted a *de novo* review of Defendants’ objections. The undersigned does not believe that there has been any formal factual findings or legal conclusions. Nothing in the Report and Recommendation has a preclusive effect. The statements made in the Report and Recommendation were necessary to provide context for the motion.

Upon consideration, the Court hereby adopts the magistrate judge’s analysis contained in the

¹ Doc. #99.

² Doc. #100.

Report and Recommendation. For the reasons stated therein, Plaintiffs' motion for leave to file a Second Amended Complaint³ is **GRANTED**. The Second Amended Complaint shall be filed forthwith. Defendants' motion to dismiss⁴ the First Amended Complaint on the basis that Plaintiffs failed to respond is **DENIED**. The Court further finds that Defendants' motion to dismiss has been rendered **MOOT**.

IT IS SO ORDERED.

Dated this 25th day of July, 2014.

/s/ Ralph R. Erickson
Ralph R. Erickson, Chief Judge
United States District Court

³ Doc. #82.

⁴ Doc. #51.