

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

AMERICAN FEDERATION OF
GOVERNMENT EMPLOYEES, AFL-
CIO,

Plaintiff,

v.

DONALD J. TRUMP, *et al.*,

Defendants.

Consolidated Case No. 1:18-cv-01261-
KBJ

**NOTICE OF NON-PARTY AMERICAN
FEDERATION OF GOVERNMENT
EMPLOYEES LOCAL 3399's FAILURE
TO MEET AND CONFER AND FAILURE
TO COMPLY WITH LOCAL RULE 7(M)**

NATIONAL FEDERATION OF
FEDERAL EMPLOYEES, FD-1,
IAMAW, AFL-CIO, *et al.*,

Plaintiffs,

v.

DONALD J. TRUMP, *et al.*,

Defendants.

AMERICAN FEDERATION OF
STATE, COUNTY AND
MUNICIPAL EMPLOYEES, AFL-
CIO, *et al.*,

Plaintiffs,

v.

DONALD J. TRUMP, *et al.*,

Defendants.

NATIONAL TREASURY
EMPLOYEES UNION,

Plaintiff,

v.

DONALD J. TRUMP, *et al.*,

Defendants.

At 11:13 p.m. on Wednesday, September 19, 2018—without the barest effort to confer with Defendants’ counsel beforehand—non-party American Federation of Government Employees Local 3399 filed a contempt motion against the United States Department of Veterans Affairs, also a non-party to this litigation. ECF No. 59. On first read, AFGE 3399’s motion appears to concern a local, discrete dispute between it and VA management at a VA Medical Center in Missouri. In an effort to bring that singular dispute within this Court’s jurisdiction, though, AFGE 3999 alleges that certain local management actions violate the terms of this Court’s August 24, 2018 Order enjoining “the President’s subordinates within the Executive Branch . . . from implementing or giving effect to any of the . . . executive order provisions” invalidated by the Court’s summary judgment decision. *See* ECF No. 57. It is unclear at best whether that is so. But because AFGE 3399 made no effort to meet and confer with Defendants’ counsel to sort out its allegations before moving for contempt, and likewise included no meet-and-confer statement in its contempt motion or supporting brief, the Court should summarily deny the motion under Local Rule 7(m) and Section 5(a)(viii) of its General Order.¹ *See* ECF No. 7.

¹ Should the Court not summarily deny or dismiss AFGE 3399’s contempt motion for AFGE 3399’s failure to meet-and-confer and failure to comply with Local Rule 7(m), Defendants will respond substantively to AFGE 3399’s allegations at the time specified by the Local Rules or order of the Court.

The Local Rules and this Court's General Order alike emphasize that parties that contemplate filing a non-dispositive motion must meet and confer before doing so, and must inform the court that they have done so. Local Civil Rule 7(m) requires that counsel meet and confer before filing "any nondispositive motion in a civil action[.]" LCvR 7(m) (emphasis added). This is not a *pro forma* requirement, but rather one grounded in principles of sound judicial economy: counsel "shall discuss the anticipated motion with opposing counsel in a good-faith effort to determine whether there is any opposition to the relief sought and, if there is, to narrow the areas of disagreement." *Id.* And should a party before this Court file such a motion without taking those steps, Section 5(a)(viii) of the General Order makes clear the consequences: "[t]he Court will summarily deny motions that are subject to LCvR 7(m) but do not contain the requisite statement." General Order § 5(a)(viii), ECF No. 7.

Despite the clarity of Local Rule 7(m) and this Court's General Order, AFGE 3399 has failed to satisfy its meet-and-confer obligations and has violated both Local Rule 7(m) and General Order Section 5(a)(viii). According to AFGE 3399's motion, the underlying dispute has been developing since at least August 27, 2018, when local union officials began corresponding with local management following this Court's summary judgment decision and order. ECF No. 59 ¶ 8. Yet at no point during that process did AFGE 3399 counsel reach out to Defendants' counsel to discuss the local dispute, including whether it might fall within the scope of this Court's August 24 Order and whether counsel and the underlying entities might be able to "narrow the areas of disagreement." LCvR 7(m). Not until after AFGE 3399 had filed its contempt motion late in the evening of September 19 did Defendants' counsel even become aware of the local dispute.

AFGE 3399's wholesale failure to abide by its meet-and-confer obligations before seeking contempt warrants summary denial of its motion. Local Rule 7(m) and this Court's General Order

recognize the importance of pre-filing conferral among parties as a general matter. And given the local, factually specific nature of the dispute underlying AFGE 3399's motion, requiring its counsel to confer with Defendants' counsel before filing would serve even greater utility here, as the process would have permitted Defendants' counsel at least some opportunity to come up to speed on the facts and explore whether any disagreement might be resolved or, at a minimum, narrowed before AFGE 3399 sought to invoke this Court's jurisdiction. By the same token, forcing Defendants to substantively respond to contempt allegations by a non-party union against a non-party federal agency when they have had no opportunity to familiarize themselves with the underlying facts, much less explore possible resolutions, would ill serve the interests of judicial economy. AFGE 3399's decision to seek contempt without first taking the steps necessary to serve those interests violates Local Rule 7(m) and Section 5(a)(viii) of this Court's General Order, and accordingly warrants summary denial of its motion.

Dated: September 20, 2018

Respectfully submitted,

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