

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION**

RANDY HOLTON,

Plaintiff,

v.

Case No: 8:23-cv-804-CEH-NHA

COLLIER COUNTY CODE  
ENFORCEMENT,

Defendant.

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**ORDER**

This matter comes before the Court *sua sponte*. On August 15, 2023, Plaintiff Randy Holton filed a Unilateral Proposed Consent to Trial by U.S. Magistrate Judge. Doc. 5. Pursuant to Fed. R. Civ. P. 73(b)(1), the Parties may file a statement consenting to referral to a magistrate judge “only if all parties have consented to the referral.” Accordingly, Plaintiff’s unilateral proposed consent (Doc. 5) is hereby **STRICKEN**.

Further, the Federal Rules of Civil Procedure provide that: “[i]f a defendant is not served within 90 days after the complaint is filed, the court—on motion or on its own after notice to the plaintiff—must dismiss the action without prejudice against that defendant or order that service be made within a specified time.” Fed. R. Civ. P. 4(m). Plaintiff filed his complaint in this matter on April 19, 2023. *See* Doc. 1. Now, well over 90 days later, the record lacks any indication that Plaintiff served the defendant in this matter within the time prescribed by Rule 4(m). If Plaintiff has in fact

served the defendant, his failure to file proof of service ignores the Middle District of Florida's Local Rules. *See* M.D. Fla. R. 1.10(a) (proof of service must be filed within 21 days).

Accordingly, it is **ORDERED** that Plaintiff must **SHOW CAUSE** by a written response filed within **TWENTY-ONE (21) DAYS** of the date of this order indicating why the Court should not dismiss Plaintiff's claims, without prejudice, for failing to timely effect service. **Failure to respond will result in the dismissal of Plaintiff's claims, without prejudice, without further notice.**

**DONE** and **ORDERED** in Tampa, Florida on February 2, 2024.

  
Charlene Edwards Honeywell  
United States District Judge

Copies furnished to:

Counsel of Record  
Unrepresented Parties