

***** PUBLIC DOCKET *****

**U.S. District Court
Southern District of Indiana (Indianapolis)
CIVIL DOCKET FOR CASE #: 1:23-cv-00244-RLY-CSW**

OWENS v. MERSHON et al
Assigned to: Judge Richard L. Young
Referred to: Magistrate Judge Crystal S. Wildeman
Cause: 42:1983 Prisoner Civil Rights

Date Filed: 02/07/2023
Jury Demand: Both
Nature of Suit: 555 Prisoner Petitions -
Prison Condition
Jurisdiction: Federal Question

Plaintiff

MICHAEL OWENS

represented by **MICHAEL OWENS**
104328
PENDLETON - CF
PENDLETON CORRECTIONAL
FACILITY
Inmate Mail/Parcels
4490 West Reformatory Road
PENDLETON, IN 46064
PRO SE

V.

Defendant

JOHN MERSHON
Dr.

represented by **Jaclyn Michelle Flint**
RILEY BENNETT EGLOFF LLP
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ATTORNEY TO BE NOTICED

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Defendant

CENTURION MEDICAL PROVIDER

represented by **Jaclyn Michelle Flint**
(See above for address)
ATTORNEY TO BE NOTICED

Laura K. Binford
(See above for address)
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
02/07/2023	<u>1</u>	COMPLAINT against CENTURION MEDICAL PROVIDER, DAUSS, JOHN MERSHON, DENNIS REAGLE, WEXFORD OF INDIANA, filed by MICHAEL OWENS. (No fee paid with this filing) (DRB) (Entered: 02/07/2023)
02/07/2023	<u>2</u>	BRIEF/MEMORANDUM in Support Of Complaint, filed by Plaintiff MICHAEL OWENS. (DRB) (Entered: 02/07/2023)
02/07/2023	<u>3</u>	Notice to File Rule 7.1 Disclosure Statement. (RAGS) (DRB) (Entered: 02/07/2023)
02/07/2023	<u>4</u>	MAGISTRATE JUDGE's NOTICE of Availability to Exercise Jurisdiction issued. (DRB) (Entered: 02/07/2023)
02/10/2023	<u>5</u>	NOTICE to Pro se Litigant - The following information is provided to pro se litigants to inform them about rules and procedures governing how they communicate with the Court. Copy to plaintiff by U.S. Mail. (MEH) (Entered: 02/10/2023)
02/20/2023	<u>6</u>	CONSENT to Jurisdiction to US Magistrate Judge by MICHAEL OWENS. (JRB) (Entered: 02/21/2023)
02/20/2023	<u>7</u>	MOTION for Leave to Proceed in forma pauperis, filed by Plaintiff MICHAEL OWENS. (Attachments: # <u>1</u> Exhibit)(JRB) (Entered: 02/21/2023)
03/09/2023	<u>8</u>	CONSENT to Prisoner E-Service by MICHAEL OWENS located at PENDLETON CF. Pursuant to General Order 2013-1, documents submitted by MICHAEL OWENS to the court for filing will generate a Notice of Electronic Filing that will constitute official service upon registered users of CM/ECF. If any parties to the case are not registered CM/ECF users, the Clerk of the Court will mail the document via U.S. Postal Service on behalf of the inmate. NOTE: The E-Filing Program does not affect the obligation of other parties to serve copies of documents in accordance with the Federal Rules of Civil Procedure. (AAS) (Entered: 03/09/2023)
03/09/2023	<u>9</u>	Submission of Trust Account re Motion Dkt. <u>7</u> , filed by Plaintiff MICHAEL OWENS. (AAS) (Entered: 03/09/2023)
03/13/2023	<u>10</u>	ORDER granting <u>7</u> Motion for Leave to Proceed in forma pauperis to the extent that the plaintiff is assessed an initial partial filing fee of Ten Dollars and Twenty Cents (\$10.20). The plaintiff shall have through April 10, 2023, in which to pay this sum to the clerk of the district court. SEE ORDER. Signed by Judge Richard L. Young on 3/13/23. (JRB) (Entered: 03/13/2023)
04/07/2023	11	RECEIPT #96 for Partial Filing Fee in the amount of \$10.20, paid by Pendleton Correctional Facility for Michael Owens. (LF) (Entered: 04/07/2023)
06/15/2023	<u>12</u>	Order Screening Complaint and Directing Further Proceedings - Plaintiff Michael Owens is a prisoner currently incarcerated at Pendleton Correctional Facility. He filed this civil action alleging claims of medical deliberate indifference in violation of his Eighth Amendment rights. Because Mr. Owens is a "prisoner," this Court has an obligation to screen the complaint before service on the defendants. This summary of claims includes all of the viable claims identified by the Court. All other claims have been dismissed. If Mr. Owens believes that additional claims were alleged in the complaint, but not identified by the Court, he shall have through July 12, 2023, in which to identify those claims. The clerk

		is directed to terminate Medical Director Dauss and Warden Dennis Reagle as defendants on the docket. The clerk is directed pursuant to Fed. R. Civ. P. 4(c)(3) to issue process to defendants Dr. John Mershon, Wexford of Indiana, LLC, and Centurion in the manner specified by Rule 4(d). Process shall consist of the complaint, dkt <u>1</u> , applicable forms (Notice of Lawsuit and Request for Waiver of Service of Summons and Waiver of Service of Summons), and this Order. The clerk is directed to serve Centurion employee Dr. John Mershon electronically. The clerk is directed to serve Centurion and Wexford of Indiana, LLC, electronically. (See Order.) Signed by District Judge Richard L. Young on 6/15/2023. (JSR) (Entered: 06/15/2023)
06/15/2023	<u>13</u>	NOTICE of Lawsuit & Waiver Issued by Clerk upon: 1) Dr. John Mershon, 2) Wexford of Indiana, LLC, and 3) Centurion. (JSR) (Entered: 06/15/2023)
06/15/2023	<u>14</u>	Documents to be Sent via Electronic Notice - re <u>12</u> Order, <u>13</u> NOTICE of Lawsuit & Waiver Issued by Clerk, <u>1</u> Complaint. Electronic Notice to Wexford and Centurion. (JSR) (Entered: 06/15/2023)
06/27/2023	<u>15</u>	WAIVER OF SERVICE Returned Executed, filed by WEXFORD OF INDIANA. WEXFORD OF INDIANA waiver sent on 6/15/2023. (Shores-Scisney, Sarah) (Entered: 06/27/2023)
06/27/2023	<u>16</u>	NOTICE of <i>Limited Appearance</i> , filed by Defendant WEXFORD OF INDIANA (Shores-Scisney, Sarah) (Entered: 06/27/2023)
06/27/2023	<u>17</u>	NOTICE of <i>Limited Appearance</i> , filed by Defendant WEXFORD OF INDIANA (Bitner, Douglass) (Entered: 06/27/2023)
06/29/2023	<u>18</u>	NOTICE of Appearance by Laura K. Binford on behalf of Defendants CENTURION MEDICAL PROVIDER, JOHN MERSHON. (Binford, Laura) (Entered: 06/29/2023)
06/29/2023	<u>19</u>	NOTICE of Appearance by Jaclyn Michelle Flint on behalf of Defendants CENTURION MEDICAL PROVIDER, JOHN MERSHON. (Flint, Jaclyn) (Entered: 06/29/2023)
06/29/2023	<u>20</u>	WAIVER OF SERVICE Returned Executed, filed by JOHN MERSHON, CENTURION MEDICAL PROVIDER. JOHN MERSHON waiver sent on 6/15/2023; CENTURION MEDICAL PROVIDER waiver sent on 6/15/2023. (Binford, Laura) (Entered: 06/29/2023)
06/29/2023	<u>21</u>	Rule 7.1 Disclosure Statement by CENTURION MEDICAL PROVIDER. (Binford, Laura) (Entered: 06/29/2023)
08/11/2023	<u>22</u>	ANSWER to <u>1</u> Complaint and <i>Affirmative Defenses</i> , filed by CENTURION MEDICAL PROVIDER, JOHN MERSHON.(Binford, Laura) (Entered: 08/11/2023)
08/14/2023	<u>23</u>	ANSWER to <u>1</u> Complaint , <i>Jury Demand and Affirmative Defenses</i> , filed by WEXFORD OF INDIANA.(Shores-Scisney, Sarah) (Entered: 08/14/2023)
08/14/2023	<u>24</u>	MOTION for Judgment on the Pleadings , filed by Defendant WEXFORD OF INDIANA. (Attachments: # <u>1</u> Exhibit A - Affidavit of Joe Ebbitt, # <u>2</u> Text of Proposed Order)(Shores-Scisney, Sarah) (Entered: 08/14/2023)
09/05/2023	<u>25</u>	Notice of Reassignment of Case to Magistrate Judge Crystal S. Wildeman. Magistrate Judge Tim A. Baker is no longer assigned to this case. Please include the new case number (1:23-cv-00244-RLY-CSW), which includes the initials of the newly assigned judge, on all future filings in this matter. (CJD) (Entered: 09/05/2023)
10/05/2023	<u>26</u>	ORDER GRANTING DEFENDANT WEXFORD OF INDIANA'S MOTION FOR JUDGMENT ON THE PLEADINGS - Plaintiff Michael Owens brings this civil rights action alleging claims of medical deliberate indifference during his incarceration at Pendleton Correctional Facility ("Pendleton"). Defendant Wexford of Indiana, LLC

		("Wexford") has moved for judgment on the pleadings, and Mr. Owens has not filed a response. For the reasons discussed in this Order, Wexford's motion for judgment on the pleadings, dkt. <u>24</u> , is GRANTED. (See Order.) Signed by District Judge Richard L Young on 10/5/2023. (CW) (Entered: 10/05/2023)
11/13/2023	<u>27</u>	EMERGENCY MOTION for Temporary Stay, filed by Plaintiff MICHAEL OWENS. (DWH) (Entered: 11/13/2023)
12/08/2023	<u>28</u>	ORDER denying <u>27</u> Motion to Stay and Directing Further Proceedings - The Court will issue a scheduling order by separate order. If Mr. Owens is unable to meet any of the deadlines in that order, he may file a subsequent motion to extend a particular deadline. Any such motion should include the requested length of time. SEE ORDER. Signed by Magistrate Judge Crystal S. Wildeman on 12/8/2023. (JRB) (Entered: 12/08/2023)
12/08/2023	<u>29</u>	ORDER SETTING PRETRIAL SCHEDULE AND DISCUSSING DISCOVERY IN PRISONER LITIGATION: This Order sets the schedule for how this action shall proceed. Part I sets forth the pretrial deadlines. Part II discusses various aspects of discovery. Facilitating the discovery process can be difficult, and this Order is issued in an effort to help explain and streamline the process for the parties. The parties should carefully read this Order. *SEE ORDER FOR ADDITIONAL INFORMATION*. Dispositive Motions due by 7/8/2024. Discovery due by 6/6/2024. Signed by Magistrate Judge Crystal S. Wildeman on 12/8/2023.(JRB) (Entered: 12/08/2023)
12/08/2023	<u>30</u>	ORDER SETTING INITIAL DISCOVERY CONFERENCE - This case is set for an Initial Discovery Conference on March 5, 2024, at 11:00 a.m. (Eastern), with Magistrate Judge Crystal S. Wildeman. The Court will contact counsel through the Court's electronic filing system with the call-in information to be used to participate in the conference. The Court will contact staff at Pendleton Correctional Facility by separate email to obtain/provide the call-in information needed to connect Mr. Owens to the conference. SEE ORDER. Signed by Magistrate Judge Crystal S. Wildeman on 12/8/2023.(JRB) (Entered: 12/08/2023)
12/08/2023	<u>31</u>	ORDER to Make Inmate Available - via Telephone. Warden of Pendleton Correctional Facility ordered to make MICHAEL OWENS Available - via Telephone for court proceeding on 3/5/2024. SEE ORDER. Signed by Magistrate Judge Crystal S. Wildeman on 12/8/2023.(JRB) (Entered: 12/08/2023)
02/05/2024	<u>32</u>	NOTICE of Service of Initial Disclosures , filed by Defendants CENTURION MEDICAL PROVIDER, JOHN MERSHON. (Flint, Jaclyn) (Entered: 02/05/2024)
03/06/2024	<u>34</u>	MINUTE ORDER for proceedings held before Magistrate Judge Crystal S. Wildeman: Status Conference held on 3/5/2024. Status Conference set for 7/8/2024 at 10:00 AM (Eastern Time) in Telephonic before Magistrate Judge Crystal S. Wildeman. Signed by Magistrate Judge Crystal S. Wildeman. (TMB) (Entered: 03/06/2024)
03/06/2024	<u>35</u>	ENTRY Directing Development of Exhaustion Defense and Issuing Partial Stay. **SEE ORDER**Signed by Magistrate Judge Crystal S. Wildeman on 3/5/2024.(TMB) (Entered: 03/06/2024)
03/06/2024	<u>36</u>	ORDER to Make Inmate Available - via Telephone. Warden of Pendleton Correctional Facility ordered to make Michael Owens Available - via Telephone for court proceeding on 7/8/2024 at 10:00 a.m. Signed by Magistrate Judge Crystal S. Wildeman on 3/5/2024. (TMB) (copy sent via email to Pendleton CF staff) (Entered: 03/06/2024)
03/22/2024	<u>37</u>	Submission of Initial Disclosures, filed by Plaintiff MICHAEL OWENS. (Attachments: # <u>1</u> Exhibit) (JSR) (Entered: 03/22/2024)
04/19/2024	<u>38</u>	MOTION for Extension of Time to May 17, 2024 in which to <u>35</u> Entry to file MSJ on exhaustion defense, filed by Defendants CENTURION MEDICAL PROVIDER, JOHN

		MERSHON. (Attachments: # <u>1</u> Text of Proposed Order)(Flint, Jaclyn) (Entered: 04/19/2024)
04/24/2024	<u>39</u>	ORDER - Pending before the Court is Defendants' motion to extend the deadline for filing a summary judgment motion on the issue of exhaustion of administrative remedies. The Court finds good cause for the requested extension, and the motion, Dkt. <u>38</u> , is granted to the extent that Defendants shall have through May 17, 2024, in which to either: (See Order.) Signed by Magistrate Judge Crystal S. Wildeman on 4/24/2024. (JSR) (Entered: 04/25/2024)
05/06/2024	<u>40</u>	NOTICE <i>Regarding Settlement Conference</i> , filed by Defendants CENTURION MEDICAL PROVIDER, JOHN MERSHON, re <u>29</u> Order Setting Pretrial Schedule and Discussing Discovery in Prisoner Litigation. (Flint, Jaclyn) (Entered: 05/06/2024)
05/20/2024	<u>41</u>	NOTICE <i>of Withdrawal of Exhaustion of Administrative Remedies Affirmative Defense</i> , filed by Defendants CENTURION MEDICAL PROVIDER, JOHN MERSHON (Flint, Jaclyn) (Entered: 05/20/2024)
06/12/2024	<u>42</u>	ENTRY ADDRESSING WITHDRAWAL OF EXHAUSTION DEFENSE, LIFTING PARTIAL STAY, AND DIRECTING FURTHER PROCEEDINGS - Defendants have notified the Court that it is withdrawing the affirmative defense of failure to exhaust administrative remedies. See Dkt. <u>41</u> . Accordingly, the partial stay issued at Docket No. <u>35</u> is LIFTED. The Court will issue a separate pretrial scheduling order governing how this action shall proceed. Signed by Magistrate Judge Crystal S. Wildeman on 6/12/2024. (SWM) (Entered: 06/12/2024)
06/12/2024	<u>43</u>	ORDER SETTING PRETRIAL SCHEDULE AND DISCUSSING DISCOVERY IN PRISONER LITIGATION: This Order sets the schedule for how this action shall proceed. Part I sets forth the pretrial deadlines. Part II discusses various aspects of discovery. Facilitating the discovery process can be difficult, and this Order is issued in an effort to help explain and streamline the process for the parties. The parties should carefully read this Order. *SEE ORDER FOR ADDITIONAL INFORMATION*. Dispositive Motions due by 1/13/2025. Discovery due by 12/11/2024. Signed by Magistrate Judge Crystal S. Wildeman on 6/12/2024.(SWM) (Entered: 06/12/2024)
06/14/2024	<u>44</u>	SCHEDULING ORDER: Telephonic Discovery Conference set for 8/22/2024 at 9:30 AM (Eastern Time) before Magistrate Judge Crystal S. Wildeman. The Court will contact counsel through the Court's electronic filing system with the call-in information to be used to participate in the conference. The Court will contact staff at Pendleton Correctional Facility by separate email to obtain/provide the call-in information needed to connect Mr. Owens to the conference. See Order for details. Signed by Magistrate Judge Crystal S. Wildeman on 6/14/2024.(LBT) (Entered: 06/17/2024)
06/14/2024	<u>45</u>	ORDER to Make Inmate Available - via Telephone. Warden of Pendleton Correctional Facility ordered to make MICHAEL OWENS, #104328, Available - via Telephone for court proceeding on 8/22/2024 at 9:30 AM. Signed by Magistrate Judge Crystal S. Wildeman on 6/14/2024.(LBT) (Entered: 06/17/2024)
08/12/2024	<u>46</u>	NOTICE of Service of Initial Disclosures <i>Re-Service of Initial Disclosures</i> , filed by Defendants CENTURION MEDICAL PROVIDER, JOHN MERSHON. (Flint, Jaclyn) (Entered: 08/12/2024)
08/23/2024	<u>48</u>	MINUTE ORDER for proceedings held before Magistrate Judge Crystal S. Wildeman: Discovery Conference held on 8/22/2024. Initial Discovery Conference reset for 9/17/2024 at 09:30 AM (Eastern Time) Telephonic before Magistrate Judge Crystal S. Wildeman. Signed by Magistrate Judge Crystal S. Wildeman. (TMB) (Entered: 08/23/2024)

08/23/2024	<u>49</u>	ORDER to Make Inmate Available - Warden of Pendleton Correctional Facility ordered to make Michael Owens #104328 Available - via Telephone for court proceeding on 9/17/2024 at 9:30 A.M. Signed by Magistrate Judge Crystal S. Wildeman on 8/23/2024. (See Order.) (BAA) (Entered: 08/23/2024)
09/06/2024	<u>50</u>	SCHEDULING ORDER: On the Court's own motion, due to a scheduling conflict at Pendleton Correctional Facility, the Telephonic Initial Discovery Conference set for September 17, 2024, at 9:30 a.m. (EST), is hereby VACATED and RESET for 9/19/2024 at 10:30 AM (Eastern Time) before Magistrate Judge Crystal S. Wildeman. The information needed by counsel to participate in this telephonic conference will be provided by a separate notification. The Court has coordinated rescheduling this conference with Pendleton Correctional Facility and provided them with the call-in information needed to connect Mr. Owens to the conference. Signed by Magistrate Judge Crystal S. Wildeman on 9/6/2024.(LBT) (Entered: 09/06/2024)
09/20/2024	<u>52</u>	MINUTE ORDER for proceedings held before Magistrate Judge Crystal S. Wildeman: Discovery Conference held on 9/19/2024. The court adopted the deadlines in its Order Setting Pretrial Schedule and Discussing Discovery in Prisoner Litigation. (Dkt. No. <u>43</u>). The Clerk of Court is DIRECTED to include a copy of the order along with this minute entry. The deadline for plaintiff to serve his settlement demand is extended up to and including October 4, 2024. Plaintiff is reminded that if he seeks information from non-parties, he will need to petition the court for a subpoena. Signed by Magistrate Judge Crystal S. Wildeman. (Attachments: # <u>1</u> Order Setting Schedule for Discovery and Other Pretrial Matters in Prisoner Litigation (dkt <u>43</u>))(TMB) (Entered: 09/20/2024)
10/04/2024	<u>53</u>	MOTION for Settlement Conference, filed by Plaintiff MICHAEL OWENS. (KAA) (Entered: 10/08/2024)
10/11/2024	<u>54</u>	MOTION to Withdraw Attorney Appearance , filed by Defendants JOHN MERSHON, WEXFORD OF INDIANA. (Attachments: # <u>1</u> Text of Proposed Order)(Bitner, Douglass) (Entered: 10/11/2024)
10/11/2024	<u>55</u>	NOTICE of Service of Expert Witness Disclosure, filed by Defendants CENTURION MEDICAL PROVIDER, JOHN MERSHON (Flint, Jaclyn) (Entered: 10/11/2024)
10/15/2024	<u>56</u>	ORDER granting <u>54</u> Motion to Withdraw Attorney Appearance. Attorney Douglass R. Bitner withdrawn. Signed by Magistrate Judge Crystal S. Wildeman on 10/15/2024. (TPS) (Entered: 10/15/2024)
11/12/2024	<u>57</u>	NOTICE Regarding Settlement Conference, filed by Defendants JOHN MERSHON, CENTURION MEDICAL PROVIDER (Flint, Jaclyn) (Entered: 11/12/2024)
01/13/2025	<u>58</u>	Exhibit List Preliminary, filed by Defendants JOHN MERSHON, CENTURION MEDICAL PROVIDER, Witness List Preliminary, filed by Defendants JOHN MERSHON, CENTURION MEDICAL PROVIDER. (Flint, Jaclyn) (Entered: 01/13/2025)
01/13/2025	<u>59</u>	MOTION for Summary Judgment , filed by Defendants JOHN MERSHON, CENTURION MEDICAL PROVIDER. (Flint, Jaclyn) (Entered: 01/13/2025)
01/13/2025	<u>60</u>	Designation of Evidence re <u>59</u> MOTION for Summary Judgment , filed by Defendants JOHN MERSHON, CENTURION MEDICAL PROVIDER. (Attachments: # <u>1</u> Exhibit 1 - Affidavit of Baugh - Attachment A - Med Recs 1-404, # <u>2</u> Exhibit 2 - Declaration of John Mershon)(Flint, Jaclyn) (Entered: 01/13/2025)
01/13/2025	<u>61</u>	BRIEF/MEMORANDUM in Support re <u>59</u> MOTION for Summary Judgment , filed by Defendants JOHN MERSHON, CENTURION MEDICAL PROVIDER. (Flint, Jaclyn) (Entered: 01/13/2025)

01/13/2025	<u>62</u>	NOTICE <i>Regarding Right to Respond to and Submit Evidence in Opposition to Motion for Summary Judgment</i> , filed by Defendants JOHN MERSHON, CENTURION MEDICAL PROVIDER, re <u>59</u> MOTION for Summary Judgment . (Flint, Jaclyn) (Entered: 01/13/2025)
01/14/2025	<u>63</u>	ORDER ON PLAINTIFF'S MOTION FOR SETTLEMENT CONFERENCE - denying <u>53</u> Plaintiff Michael Owens's Motion for Settlement Conference. As intended, Defendants filed a Motion for Summary Judgment which is now pending. (Id.); (Dkt. <u>59</u>). Therefore, the court declines to set a settlement conference at this time. See Order. Signed by Magistrate Judge Crystal S. Wildeman on 1/14/2025. (KAA) (Entered: 01/14/2025)
01/17/2025	<u>64</u>	MOTION for Extension of Time, filed by Plaintiff MICHAEL OWENS. (KAA) (Entered: 01/21/2025)
01/22/2025	<u>65</u>	ORDER granting <u>64</u> Motion for Extension of Time. The court being duly advised hereby GRANTS the Motion to the extent that Mr. Owens has up to and including March 13, 2025, to file a response to Defendants' Motion for Summary Judgment (Dkt. <u>59</u>). (Dkt. <u>64</u>). Signed by Magistrate Judge Crystal S. Wildeman on 1/23/2025. (TPS) (Entered: 01/23/2025)
04/09/2025	<u>66</u>	MOTION to Appoint Counsel, filed by Plaintiff MICHAEL OWENS. (JRB) (Entered: 04/09/2025)
09/04/2025	<u>67</u>	Order Granting in Part and Denying in Part Defendants' Motion for Summary Judgment and Granting Plaintiff's Motion to Assist in Recruiting Counsel - Defendants' motion for summary judgment, dkt. <u>59</u> , is granted in part and denied in part. Defendant Centurion's motion for summary judgment is granted. Defendant Dr. Mershon's motion for summary judgment is denied. Partial final judgment will not issue at this time. The magistrate judge is asked to hold a settlement conference. The court prefers that Mr. Owens be represented by counsel for the remainder of this action. Accordingly, his motion for assistance with recruiting counsel, dkt. <u>66</u> , is granted. The court will attempt to recruit counsel to represent him for the remainder of this case. SEE ORDER. Signed by District Judge Richard L Young on 09/04/2025. Copy to Plaintiff via US Mail. (AAS) (Entered: 09/05/2025)

Case #: 1:23-cv-00244-RLY-CSW