

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

Plaintiff,

v.

Case No.

Defendant.

_____ /

FAST-TRACK SCHEDULING ORDER

Under Rules 1 and 16 of the Federal Rules of Civil Procedure, the Court finds it necessary to implement a schedule tailored to meet the circumstances of this case, which was brought under one or more of the following statutes: the Telephone Consumer Protection Act (as amended by the Junk Fax Prevention Act) (TCPA), the Fair Debt Collection Practices Act (FDCPA), the Real Estate Settlement Procedures Act (RESPA), the Florida Consumer Collection Practices Act (FCCPA), and/or other state law consumer protection statutes. Consistent with the just, speedy, and inexpensive administration of justice, it is **ORDERED** that Rule 26(a)(1)'s initial disclosures, Rule 26(f)'s discovery conference, Local Rule 3.05's case management report, and the Discovery Plan's requirements are **STAYED**.¹ The parties are **DIRECTED** to follow the below deadlines and directives—no extensions of time will be granted absent good cause:

1. No later than **[90 DAYS AFTER THE DATE OF THE ORDER]**, Plaintiff² must serve on Defendant all documents in Plaintiff's possession, custody, or control that

¹ The parties are free to stipulate to exchanging Rule 26(a)(1) initial disclosures on their own.

² If there is more than one plaintiff or defendant, the singular reference to plaintiff or defendant includes the plural.

relate to the telephone calls, faxes, text messages, letters, or other debt collection/solicitation activities in question including (but not limited to):

- a. telephone records, call logs, facsimile confirmations, voice recordings, and account notations for any telephone calls, faxes, or text messages Plaintiff contends Defendant made;
- b. documents and/or other relevant evidence showing that Plaintiff had the applicable telephone at the time Defendant allegedly made the telephone calls or texts in question;
- c. documents and/or other relevant evidence showing that Plaintiff either (i) did not consent to Defendant making the telephone calls or sending the text messages or faxes in question; and/or (ii) revoked consent before Defendant made those telephone calls, or sent the text messages or faxes;
- d. documents and/or other relevant evidence on Plaintiff's prior complaints to Defendant about Defendant making the unwanted telephone calls, texts, or faxes; and
- e. written correspondence, including court documents, pertaining to Defendant's alleged debt collection efforts.

Upon producing the information to Defendant, Plaintiff must file a Certificate of Compliance with the Court.

2. No later than **[90 DAYS AFTER THE DATE OF THE ORDER]**, Defendant must serve on Plaintiff all documents in Defendant's possession, custody, or control that relate to the telephone calls, faxes, text messages, letters, or other debt collection/solicitation activities in question, including (but not limited to):

- a. telephone records, facsimiles, call logs, and voice recordings about the telephone calls Plaintiff contends Defendant made, including notations made by Defendant's representative or employee during the telephone call(s);
- b. documents showing Plaintiff consented to Defendant making the telephone calls, sending the text messages, or faxes in question;
- c. documents and/or other relevant evidence pertaining to Plaintiff's prior complaints to Defendant about Defendant making the unwanted telephone calls, sending the unwanted text messages, or faxes; and
- d. written correspondence, including court documents, pertaining to Defendant's alleged debt collection efforts.

Upon producing the information to Plaintiff, Defendant must file a Certificate of Compliance with the Court.

3. Other than the limited discovery required by this Order, all other discovery is **STAYED**. Counsel may serve, however, subpoenas on telecommunications entities so accurate information may be gathered. If the parties serve subpoenas for telephone records, they should do so as early as possible and should work together to facilitate the process. Although the Local Rules prohibit filing discovery, a subpoena issued to a telecommunications entity must be electronically filed so the Court may monitor the information's facilitation. The parties must also notify the Court when the information requested in the subpoena is furnished.

4. On or before **[120 DAYS AFTER THE DATE OF THE ORDER]**, Plaintiff must file its Answers to the Court's Interrogatories. Then on or before **[134 DAYS AFTER**

THE DATE OF THE ORDER], Defendant must file its Answers to the Court's Interrogatories. The Interrogatories are attached.

5. This action is **REFERRED** to mediation. The mediation must be conducted as outlined in this Order and the Local Rules. By **[141 DAYS AFTER THE DATE OF THE ORDER]**, lead counsel must file a joint notice that identifies the mediator and the agreed date and time of mediation.

- a. *Scheduling Mediation*: The parties must mediate no later than **[155 DAYS AFTER THE DATE OF THE ORDER]**. Neither party may cancel or reschedule a mediation conference without the Court's permission. And motions to extend the mediation deadline are strongly disfavored and will be granted only in extraordinary circumstances.
- b. *General Rules on Mediation*: In addition to the Local Rules' mediation requirements, the Court orders:
 - i. Case Summary: At least **5 business days** before the scheduled mediation, each party must email the mediator and opposing counsel a brief written summary of the facts and issues. The mediator and parties must treat each summary as a confidential communication and must not disclose the summary or its content.
 - ii. Mediator's Authority: The mediator may confer privately with any counsel, individual party, corporate or municipal representative, or claims professional for any proper purpose in the mediator's discretion. The mediation must continue until adjourned by the mediator. No participant may compel the early conclusion of a

mediation because of travel or another engagement. Only the mediator may declare an impasse or end the mediation.

- iii. Attendance: All counsel, parties, corporate representatives, and any other required claims professionals must be present at the mediation with full authority to negotiate a settlement. Absent exigent circumstances and the Court's leave, lead counsel must appear in person at the mediation. Failure to do so may cause sanctions. The Court does not allow mediation by telephone or video conference.
- iv. Attorneys' Fees: For cases in which statutory attorneys' fees may be claimed, counsel should be prepared to discuss reasonable attorneys' fees and have that information in hand at the mediation.
- v. Paying the Mediator: The parties must pay the mediator at the mediator's prevailing hourly rate, which, unless otherwise agreed by counsel, the parties must bear equally and pay immediately after the mediation.

6. By **[DATE 158 DAYS FROM DATE OF ORDER]**, lead counsel must jointly advise the Court of the mediation's result. If the case does not settle, the parties must file—**by the same date**—the attached Fast-Track Case Management Report and a joint notice outlining the legal issues for summary judgment and factual matters for trial. This case will be set for trial about 180 days after the mediation conference.

7. After reviewing the Fast-Track Case Management Report, the Court may hold a preliminary pretrial conference. If it does, the Court will set a hearing about one week after mediation. Lead counsel must appear in person and be prepared to discuss

the claims, defenses, and any unique aspects of the case.

8. If the parties wish to voluntarily consent to the assigned Magistrate Judge handling some or all future proceedings, they must sign and file the form titled, “[Notice, Consent, and Reference of a Civil Action to a Magistrate Judge](#)” found on the Court’s website. Any party may withhold consent with no adverse consequences.

DONE and **ORDERED** in Fort Myers, Florida on this [\[DAY\]](#) day of [\[MONTH YEAR\]](#).

Attachments:

Court’s Interrogatories to Plaintiff

Court’s Interrogatories to Defendant

Fast-Track Case Management Report

COURT'S INTERROGATORIES TO PLAINTIFF

1. What kind of communications are at issue? Telephone calls placed to a land line, or to a cellular phone? Letters mailed to a residence? Facsimile transmissions? Please be specific.
2. How many calls, letters, or other communications are at issue? For instance, if you allege telephone calls were placed in violation of the TCPA, how many calls were placed?
3. When did the communications take place?
4. If telephone calls are at issue, do you allege that Defendant used an automatic dialer?
5. If telephone calls are at issue, do you allege that Defendant used a live person or a recorded voice to transmit the relevant information?
6. If telephone calls are at issue, do you allege that the calls were placed to a telephone registered in your name? If not, to whom is the account registered?
7. Do you have a prior business relationship with Defendant?
8. Did you sign any document in which you consented to be contacted by Defendant?
9. Do you intend to pursue a class action?

(Plaintiff's Signature)

STATE OF FLORIDA
COUNTY OF *Select County*

BEFORE ME, the undersigned authority, on this day, personally appeared _____, who being first duly sworn, and _____ who is personally known to me or who produced _____ as identification, deposes and says that he/she has read the foregoing Answers to Interrogatories, knows the contents of same, and to the best of his/her knowledge and belief, the same are true and correct.

SWORN TO AND SUBSCRIBED before me on this *Select Date*.

NOTARY PUBLIC

Signature of Person Taking Acknowledgment

Print Name:

Title:

Notary Public Serial No. (if any):

Commission Expires:

Notary Stamp:

COURT'S INTERROGATORIES TO DEFENDANT

1. How many telephone calls, letters or other mailings, or facsimiles do your records show as made or sent during the period alleged by Plaintiff?
2. If telephone calls are at issue, were the calls made by an automatic dialer?
3. If telephone calls are at issue, was a prerecorded voice used?
4. Did you ever receive documented prior consent to contact Plaintiff?
5. Did you ever receive documented revocation of a consent to contact Plaintiff?
6. Before the Complaint was filed, were you ever placed on notice that Plaintiff had retained counsel regarding the debt alleged to be at issue?
7. What is your capacity regarding the debt alleged to be at issue? For example, are you the owner of a note, a servicer, or both?

(Defendant's Signature)

STATE OF FLORIDA
COUNTY OF Select County

BEFORE ME, the undersigned authority, on this day, personally appeared _____, who being first duly sworn, and _____ who is personally known to me or who produced _____ as identification, deposes and says that he/she has read the foregoing Answers to Interrogatories, knows the contents of same, and to the best of his/her knowledge and belief, the same are true and correct.

SWORN TO AND SUBSCRIBED before me on this Select Date.

NOTARY PUBLIC

Signature of Person Taking Acknowledgment

Print Name:

Title:

Notary Public Serial No. (if any):

Commission Expires:

Notary Stamp:

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

Plaintiff,

v.

Case No. 2: -cv- -FtM-38

Defendant.

_____ /

FAST TRACK CASE MANAGEMENT REPORT³

The parties agree to these dates and discovery plan under Federal Rule of Civil Procedure 26 and Local Rule 3.05:

DEADLINE	AGREED DATE
Corporate Disclosure Statements [Due immediately upon each party's first appearance]	Plaintiff filed on <u>Select Date</u> Defendant filed on <u>Select Date</u>
Rule 26(a)(1) Initial Disclosures [Court recommends 1 to 2 weeks after mediation]	<input type="checkbox"/> Exchanged <input type="checkbox"/> To be exchanged by <u>Select Date</u>
Discovery [Court recommends 2 months after the mediation conference]	<u>Select Date</u>
Dispositive and <i>Daubert</i> Motions [Court recommends 3 months after the mediation conference]	<u>Select Date</u>
Meeting in Person to Prepare Joint Final Pretrial Statement	<u>Select Date</u>

³ This Fast Track Case Management Report applies only to cases brought under the Telephone Consumer Protection Act (as amended by the Junk Fax Prevention Act) (TCPA), the Fair Debt Collection Practices Act (FDCPA), the Real Estate Settlement Procedures Act (RESPA), the Florida Consumer Collection Practices Act (FCCPA), and/or other state law consumer protection statutes.

DEADLINE	AGREED DATE
[Court recommends 3 weeks before the Final Pretrial Conference]	
Motions in Limine [Court recommends 3 days before the Joint Final Pretrial Statement and Trial Briefs deadline]	Select Date
Joint Final Pretrial Statement and Trial Briefs [Court recommends 2 weeks before the Final Pretrial Conference]	Select Date
Final Pretrial Conference	Select Date
Monthly Trial Term [Cases are scheduled for a monthly trial term—not a specific date. The Court recommends 6 months after the mediation conference]	Month Year
Estimated Length of Trial	Select days
Jury or Non-Jury	Select
All Parties Consent to the Assigned Magistrate Judge	<input type="checkbox"/> For all purposes including trial <input type="checkbox"/> For some purposes like class certification, summary judgment, <i>Daubert</i> , or other motions (please list) <input type="checkbox"/> For no other purpose beyond authority granted by statute, rule, and referral
All Parties Request a Settlement Conference with the Non-Assigned Magistrate Judge	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Likely to Request in Future
Notice of Pendency of Other Actions Completed and Attached (Attachment A)	<input type="checkbox"/> Yes

Date: Select Date

Signature of Counsel or *Pro Se* Litigant:

_____	_____
_____	_____
_____	_____

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

Attachment A: Notice of Pendency of Other Actions

Under Local Rule 1.04(d), all counsel of record and unrepresented parties must promptly inform the Court and other parties of the existence of any similar or successive cases pending before any court or administrative agency.⁴ But, for removal cases, the parties need not identify the original state-court proceeding in this Notice.

I certify that the above-captioned case:

- ☐ **IS** related to pending or closed civil or criminal case(s) previously filed in this Court, or any other federal or state court, or administrative agency as indicated below:
- _____
- _____
- _____
- _____
- ☐ **IS NOT** related to any pending or closed civil or criminal case filed with this Court, or any other federal or state court, or administrative agency.

Dated: [Click to enter a date.](#)

Signature: _____
Plaintiff(s) Counsel or *Pro Se* Party

[Address and Telephone]

Signature: _____
Defendant(s) Counsel or *Pro Se* Party

[Address and Telephone]

⁴ All counsel and unrepresented parties have a continuing duty to promptly inform the Court and parties of any **additional or new** similar or successive cases by filing an Amended Notice of Pendency of Related Actions.