

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

Plaintiff,

v.

Case No.

Defendant.

_____ /

FCRA FAST-TRACK SCHEDULING ORDER

Under Federal Rule of Civil Procedure 16, the Court finds it necessary to implement a schedule tailored to meet the circumstances of this case, which was brought under the Fair Credit Report Act and/or other related state law consumer protection statutes. Consistent with the just, speedy, and inexpensive administration of justice, it is **ORDERED** that the initial disclosures and Case Management Report requirements of Rule 26(a)(1) and Local Rule 3.05 are stayed, and the parties must comply with the following schedule and directives:

1. No later than **[90 DAYS AFTER THE DATE OF THE ORDER]**, Plaintiff¹ must serve on Defendant all documents in Plaintiff's possession, custody, or control that relate to the credit/consumer report(s) at issue, including:

- a. documents and/or other relevant evidence showing why Plaintiff disputes a reported statement or information relating to Plaintiff's credit history;
- b. documents and/or other relevant evidence showing that Plaintiff (i) notified Defendant of the disputed statement or information, and the basis for the

¹ If there is more than one plaintiff or defendant, the singular reference to plaintiff or defendant includes the plural.

inaccuracy, including an applicable exclusion to disclosure; (ii) requested an investigation and/or reinvestigation; and (iii) Defendant continues to publish and disseminate the disputed statement or information despite its inaccuracy;

c. written correspondence, including court documents, pertaining to Defendant's alleged failure to investigate or reinvestigate; and

d. documents and/or other relevant evidence showing any actual damages.

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

2. No later than **[120 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 credit or consumer report, including:

a. documents and/or other relevant evidence showing that Defendant verified or investigated the accuracy of the reported statement or information before notice of a dispute and before disclosure or dissemination, or disclosed it for permissible purposes;

b. documents and/or other relevant evidence showing that Defendant verified or reinvestigated the accuracy of the statement or information after notice of the dispute;

c. written correspondence, including court documents, demonstrating cooperation and participation in an investigation or reinvestigation;

d. documents and/or other relevant evidence showing that Defendant promptly corrected or stopped furnishing inaccurate statements or

information once notified by the consumer of an inaccuracy and verification of the inaccuracy; and

- e. documents and/or other relevant evidence showing that Defendant provided notice of a dispute to any consumer reporting agency requesting disclosure of any statement or information.

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

3. Notwithstanding Paragraphs 1 and 2 or another Court order, all discovery is **STAYED**.

4. This action is **REFERRED** to mediation. The mediation must be conducted as outlined in this Order and the Local Rules. By **[150 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 **[160 DAYS AFTER THE DATE OF THE ORDER]**. But the parties may not mediate until they exchange the information required by this Scheduling Order in Paragraphs 1 and 2.
- b. *Cancelling Mediation*: Once a mediation date is set, neither party may cancel the mediation without first obtaining leave of Court, even if the parties have settled before mediation.
- c. *Rescheduling Mediation*: Once the mediation has been scheduled, the parties may reschedule mediation only with the Court's permission. So, for example, if the parties cannot complete the document exchange and

interrogatory answers before the scheduled mediation, they must file a motion. In moving the Court to reschedule mediation, counsel must include the proposed date for mediation. The Court may deny any motion to reschedule the mediation for a date beyond this Order's mediation deadline. If the Court allows the parties to reschedule mediation, the parties may still be required to pay the mediator's cancellation fee.

- d. *Extension of Mediation:* An extension of the mediation deadline also requires a Court order and is increasingly disfavored as the mediation deadline approaches. Before moving to extend the deadline, the moving party must consult both the mediator and opposing counsel to determine an agreed day and time for the rescheduled mediation.
- e. *General Rules on Mediation:* In addition to the Local Rules' requirements for mediation, the Court requires:
 - i. Case Summary: At least five 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. To coordinate the mediation, the mediator may set an abbreviated scheduling conference before 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.
- vi. Results of Mediation: Lead counsel must file a notice informing the Court of the results of mediation within **twenty-four hours** after the conclusion of mediation.

5. If mediation does not result in settlement, the parties must conduct a case management meeting immediately after the mediation to jointly prepare the attached Fast-Track Case Management Report. Within **twenty-four hours** of the conclusion of

mediation, the parties must separately file a:

- a. completed fast-track case management report; and
- b. joint notice outlining the legal issues to be resolved at summary judgment and/or the factual matters for trial.

This case will be set for trial approximately 180 days after the mediation conference.

6. After reviewing the Fast-Track Case Management Report, the Court will decide if a preliminary pretrial conference (“PPTC”) is required. If a PPTC is required, the Court will set a hearing about one week after the mediation conference. Lead counsel must appear in person and be prepared to discuss the claims, defenses, and any unique aspects of the case.

7. If the parties wish to voluntarily consent to the assigned Magistrate Judge, 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]**.

Attachment:

Fast-Track Case Management Report

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

Plaintiff,

v.

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

Defendant.

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FCRA FAST TRACK CASE MANAGEMENT REPORT

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

DEADLINE	AGREED DATE
Rule 26(a)(1) Mandatory Initial Disclosures	<input type="checkbox"/> Exchanged <input type="checkbox"/> To be exchanged by <i>Select Date</i>
Corporate Disclosure Statement Complete	<input type="checkbox"/> Filed and served by all parties <input type="checkbox"/> Not filed by _____ <input type="checkbox"/> Amended certificate to be filed by <i>Select Date</i>
Discovery [Court recommends 2 months after the mediation conference]	<i>Select Date</i>
Dispositive and <i>Daubert</i> Motions [Court recommends 3 months after the mediation conference]	<i>Select Date</i>
Meeting in Person to Prepare Joint Final Pretrial Statement [Court recommends 3 weeks before the Final Pretrial Conference]	<i>Select Date</i>

DEADLINE	AGREED DATE
Joint Final Pretrial Statement, Motions <i>in Limine</i>, 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 5 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"/> Yes <input type="checkbox"/> No
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 <input type="checkbox"/> No

Date: _____

Signature of Counsel or *Pro Se* Litigant:

_____	_____
_____	_____
_____	_____