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8 **UNITED STATES DISTRICT COURT**
9 **EASTERN DISTRICT OF CALIFORNIA**
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11 SUKHINDERJEET S. SANDHU,

12 Plaintiff,

13 v.

14 TRANS UNION L.L.C., et al.,

15 Defendants.
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Case No. 1:16-cv-01802-LJO-SAB

ORDER RE STIPULATION TO DISMISS
DEFENDANT EXPERIAN
INFORMATION SOLUTIONS, INC.

ORDER CONTINUING STAY TO
OCTOBER 27, 2017, SETTING
SCHEDULING CONFERENCE FOR
NOVEMBER 21, 2017, AT 10:15 A.M.,
AND DIRECTING CHRISTOPHER
FERGUSON TO FILE PRO HAC VICE
APPLICATION

(ECF Nos. 44, 45)
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20 On April 7, 2017, this action was stayed for the parties to pursue settlement. (ECF No.
21 28.) On October 4, 2017, Plaintiff and Defendant Experian Information Solutions, Inc.
22 (“Defendant Experian”) filed a stipulation dismissing this action with prejudice against
23 Defendant Experian. (ECF No. 44.) On October 4, 2017, the parties filed a joint status report
24 requesting that the stay be continued for an additional thirty days as the parties attempt to resolve
25 this matter. (ECF No. 45.)

26 A plaintiff can dismiss a party without a court order pursuant to Federal Rule of Civil
27 Procedure 41(a)(1)(A)(ii), which provides that a “plaintiff may dismiss an action without a court
28 order by filing a stipulation of dismissal signed by all parties who have appeared.” Fed. R. Civ.

1 P. 41(a)(1)(A)(ii). Here, the stipulation to dismiss Defendant Experian is only signed by Plaintiff
2 and Defendant Experian. There are other defendants who have appeared in this action, and
3 therefore, the stipulation (ECF No. 44) is defective under Rule 41(a)(1).

4 Plaintiff also cannot voluntarily dismiss Defendant Experian pursuant to Rule
5 41(a)(1)(A)(i). “[U]nder Rule 41(a)(1)(A)(i), ‘a plaintiff has an absolute right to voluntarily
6 dismiss his action prior to service by the defendant of an answer or a motion for summary
7 judgment.’ ” Commercial Space Mgmt. Co., Inc. v. Boeing Co., Inc., 193 F.3d 1074, 1077 (9th
8 Cir. 1999) (quoting Wilson v. City of San Jose, 111 F.3d 688, 692 (9th Cir. 1997)). Here,
9 Defendant Experian has filed an answer.

10 The parties may file a stipulation of dismissal of Defendant Experian that is signed by all
11 parties who have appeared, Federal Rule of Civil Procedure 41(a)(1)(A)(ii), or file a motion to
12 dismiss Defendant Experian by court order, Federal Rule of Civil Procedure 41(a)(2). A motion
13 for voluntary dismissal under Rule 41(a)(2) is addressed to the sound discretion of the district
14 court. Hamilton v. Firestone Tire & Rubber Co. Inc., 679 F.2d 143, 145 (9th Cir. 1982). Since
15 the Rule 41(a)(1) stipulation (ECF No. 44) is defective, Defendant Experian remains a party to
16 this action.

17 The parties request that the Court extend the stay thirty days while the parties attempt to
18 resolve this matter. However, this action has been stayed for six months while the parties have
19 attempted to resolve this matter. The Court has not conducted a scheduling conference in this
20 matter yet. Upon a review of the docket in this matter and in light of the fact that the Court must
21 manage its caseload, the Court will only extend the stay in this matter twenty-one days to
22 October 27, 2017. The Court will not continue the stay again. The stay will then be lifted and
23 the case will return to the Court’s active docket. The Court sets a scheduling conference in this
24 matter for November 21, 2017, at 10:15 a.m. before the undersigned in Courtroom 9.

25 The Court notes that Christopher Ferguson has signed the joint status report as an
26 attorney for Defendant Trans Union, L.L.C. Mr. Ferguson indicates that a pro hac vice
27 application is pending. However, there is no pending pro hac vice application in this matter. Mr.
28 Ferguson shall file a pro hac vice application on or before October 11, 2017.

