

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Magistrate Judge Kathleen M. Tafoya

Civil Action No. 09–cv–00040–WJM–KMT

GERALD HANSEN ELLER,

Plaintiff,

v.

EXPERIAN INFORMATION SOLUTIONS, INC., a foreign corporation, and
TRANSUNION LLC, a foreign corporation,

Defendants.

MINUTE ORDER

ORDER ENTERED BY MAGISTRATE JUDGE KATHLEEN M. TAFOYA

This matter is before the court on “Plaintiff’s Motion to Dismiss Defendant Experian Information Solution, Inc.’s Motion for Summary Judgment” (Doc. No. 136, filed June 17, 2010). The court construes Plaintiff’s motion as a request for an extension of time to respond to Experian’s Motion for Summary Judgment (Doc. No. 122).

Plaintiff claims that he “was never properly ‘served’ a Motion for Summary Judgment and only received some kind of electronic receipt copy from this Court back in late April [of 2010].” (*Id.* at 1.) The electronic receipt to which Plaintiff refers was the public entry for Experian’s exhibits supporting its Motion for Summary Judgment which were filed under seal. (See Doc. No. 127.) In response, Experian claims that it believed Plaintiff would be served electronically via the court’s electronic filing system. (Doc. No. 138, filed July 16, 2010.) Upon learning that Plaintiff had not been served, Experian immediately served Plaintiff with a copy of its Motion and all supporting documents. (*Id.* & Doc. No. 139.) Plaintiff responded to this service by stating that he “withholds the right to respond and/or reply within 21 days of this Court’s Denial of Plaintiff’s Motion to Dismiss Defendants Summary Judgment.” (Doc. No. 137, filed July 17, 2011.)

The Motion is GRANTED. Plaintiff shall respond to Experian's Motion for Summary Judgment (Doc. No. 122) no later than May 5, 2011. To the extent Plaintiff seeks "dismissal" of Experian's Motion for Summary Judgment, the court will consider the merits of Experian's Motion after Plaintiff has filed his response and Experian has filed a reply.

Dated: April 14, 2011.