

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

MICKEY R. JONES,

Plaintiff,

v.

Case No: 2:13-cv-843-FtM-38CM

GMAC MORTGAGE LLC and
EQUIFAX INFORMATION
SERVICES, LLC,

Defendants.

_____ /

ORDER¹

This matter comes before the Court on Joint Stipulation of Dismissal with Prejudice ([Doc. #32](#)) filed on March 13, 2014. [Federal Rule of Civil Procedure 41\(a\)\(1\)\(A\)](#), allows a plaintiff to dismiss a case without a court order. The Rule reads in pertinent part:

Subject to Rules 23(e), 23.1, 23.2 and 66 and any applicable federal statute, the plaintiff may dismiss an action without a court order by filing:

- (i) A notice of dismissal before the opposing party serves either an answer or a motion for summary judgment; or
- (ii) A stipulation of dismissal signed by all parties who have appeared.

[Fed. R. Civ. P. 41\(a\)\(1\)\(A\)](#).

In this instance, Plaintiff Mikey R. Jones and Defendant Equifax Information Services, LLC indicate that this matter is dismissed with prejudice, with regard to

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Defendant Equifax Information Services, LLC only. This stipulation of dismissal is signed by these two parties but not Defendant GMAC Mortgage, LLC. Accordingly, this notice is insufficient to dismiss this matter against Defendant Equifax Information Services, LLC pursuant to [Rule 41\(a\)\(1\)](#). Nonetheless, the Court will construe the notice as a [Rule 41\(a\)\(2\)](#) motion. And upon consideration of the motion, the Court will dismiss this matter with prejudice with regard to Defendant Equifax Information Services, LLC. Each party is to bear its own costs. The Court notes that a controversy remains between Plaintiff Mickey R. Jones and Defendant GMAC Mortgage, LLC.

Accordingly, it is now

ORDERED:

- (1) Pursuant to [Rule 41\(a\)\(2\)](#), this action is **DISMISSED with prejudice** with regard to Defendant Equifax Information Services, LLC **only**.
- (2) The Clerk is directed to terminate Defendant Equifax Information Services, LLC from this action.
- (3) This matter is **STAYED** pursuant to the remaining Defendant GMAC Mortgage, LLC's Suggestion of Bankruptcy. (See [Doc. #22](#)).
- (4) The Clerk is directed to add a stay flag to the docket.
- (5) Defendant GMAC Mortgage, LLC shall inform the Court in writing as soon as its bankruptcy proceeding is completed.

DONE and ORDERED in Fort Myers, Florida this 17th day of March, 2014.


SHERI POLSTER CHAPPELL
UNITED STATES DISTRICT JUDGE

Copies: All Parties of Record