Willis v. Cavalry Investments, LLC et al Doc. 64

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
AUGUSTA DIVISION

BRENDA WILLIS, on behalf of herself and all others similarly situated, Plaintiff, v. CAVALRY INVESTMENTS, LLC and CAVALRY PORTFOLIO SERVICES, LLC, Defendants.	*	CV 114-227

O R D E R

Plaintiff filed this putative class-action lawsuit in 2014 alleging that Defendants violated the Fair Debt Collections Practices Act by filing proofs of claim on stale debts in bankruptcy proceedings. While this case was pending, the Supreme Court granted certiorari in Midland Funding, LLC v. Johnson, 137 S. Ct. 1407 (2017), and decided that the filing of a proof of claim on a time-barred debt does not violate the FDCPA. Following the Supreme Court's decision in Midland Funding, the Court ordered Plaintiff to explain why this case should not be dismissed. (Doc. 61.) In response, Plaintiff asks the Court to dismiss the case without prejudice under

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Federal Rule of Civil Procedure 41(a)(2). (Doc. 62.) Defendants agree that the case should be dismissed but argues that a dismissal with prejudice is appropriate. (Doc. 63.)

This Court "enjoys broad discretion in determining whether to allow a voluntary dismissal under Rule 41(a)(2)." Potenberg v. Boston Sci. Corp., 252 F.3d 1253, 1255 (11th Cir. 2001). In fact, "in most cases a dismissal should be granted unless the defendant will suffer clear legal prejudice, other than the mere prospect of a subsequent lawsuit, as a result." Goodwin v. Reynolds, 757 F.3d 1216, 1219 (11th Cir. 2014) (emphasis in original) (citation and internal quotation marks omitted).

Here, the only prejudice Defendants will suffer is the slight possibility of another lawsuit. The Court therefore **GRANTS** Plaintiff's motion (doc. 62), and this case is **DISMISSED WITHOUT PREJUDICE**. The Clerk is instructed to **CLOSE** this case.

ORDER ENTERED at Augusta, Georgia this 1st day of August, 2017.

J. RANDAL HALL, CHIEF JUDGE
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA