

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

Darryl B. Kaplan,

Plaintiff,

v.

Case No. 09-10047

Experian, Incorporated, *et al.*,

Honorable Sean F. Cox

Defendants.

---

**OPINION & ORDER**  
**GRANTING PLAINTIFF'S EMERGENCY MOTION FOR RECONSIDERATION**  
**AND SETTING ASIDE DOCKET ENTRY NO. 83**

Plaintiff Darryl Kaplan ("Plaintiff") brought this action against Defendant Experian, Incorporated ("Experian"), and two other credit reporting agencies, asserting that each agency violated the Fair Credit Reporting Act ("FCRA").

Following the close of discovery, Plaintiff and Defendants filed cross-motions for summary judgment. This Court struck some motions filed by Plaintiff but allowed him to file new motions, which resulted in numerous motions and briefs being filed. On April 9, 2010, this Court issued an Opinion & Order granting summary judgment in favor of Experian.

On April 20, 2010, Plaintiff filed an Emergency Motion for Reconsideration. (Docket Entry No. 84). In that motion, Plaintiff notes that he filed a Reply Brief on February 11, 2010, that does not appear to have been considered by the Court prior to issuance of the April 20, 2010 Opinion & Order. Plaintiff contends that, given an affidavit attached to his February 11, 2010 Reply Brief, the April 20, 2010 Opinion & Order should be set aside. Plaintiff notes that case

evaluation is currently scheduled to take place on April 26, 2010, and asks the Court to make an expedited ruling on this motion, so that all remaining parties may participate in case evaluation.

Having reviewed Plaintiff's motion for reconsideration, the Court concludes that the April 20, 2010 Opinion & Order should be set aside. This Court did not receive a courtesy copy of Plaintiff's Reply Brief and had not reviewed that brief, or its exhibits, prior to issuing the April 20, 2010 Opinion & Order. Because that brief presented evidence that had not previously been submitted to the Court that may impact the Court's rulings, the Court shall set aside the April 20, 2010 Opinion & Order so that the Court may consider Plaintiff's February 11, 2010 Reply Brief.

Accordingly, IT IS ORDERED that this Court's April 20, 2010 Opinion & Order (Docket Entry No. 83) is SET ASIDE.

IT IS FURTHER ORDERED that, because Plaintiff's Reply Brief raised certain issues regarding damages for the first time, thereby preventing Experian to respond to those arguments, Experian may, by April 28, 2010, file a supplemental brief of no more than three (3) pages that responds solely to Plaintiff's February 11, 2010 Reply Brief.

IT IS FURTHER ORDERED that Experian shall participate in case evaluation.

IT IS SO ORDERED.

S/Sean F. Cox  
Sean F. Cox  
United States District Judge

Dated: April 21, 2010

I hereby certify that a copy of the foregoing document was served upon counsel of record on April 21, 2010, by electronic and/or ordinary mail.

S/Jennifer Hernandez

Case Manager