

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

Roger L. Allen

Plaintiff,

Case No: 15-13597
Hon. Victoria A. Roberts

v.

Equifax Information Services, LLC and
Experian Information Solutions,

Defendants.

**ORDER GRANTING DEFENDANTS' MOTION TO DISMISS AND
DENYING PLAINTIFF'S MOTION FOR DEFAULT JUDGMENT**

I. Introduction

Plaintiff Roger L. Allen ("Allen") previously filed Case No. 14-12219 against Equifax Information Services, LLC and Experian Information Solutions ("Defendants"). That lawsuit was dismissed on February 13, 2015 for failure to comply with the Court's discovery Order. (Doc. # 46). On September 15, 2015, Allen filed a new complaint in the 3rd Circuit Court for the State of Michigan, alleging identical causes of action against the same Defendants.

On October 14, 2015, Defendants timely removed and jointly filed a Motion to Dismiss (Doc. #3). Defendants say Allen's complaint is barred by the doctrine of *res judicata*. Allen responded by filing a Motion for Default Judgment (Doc. #6), saying Defendants failed to file an answer and that it is unlawful for Defendants to file a joint

Motion to Dismiss. Allen also filed a largely incomprehensible “Judicial Notice of Adjudicative Facts” (Doc. #7) which the Court construes as a response to Defendants’ Motion to Dismiss.

Allen’s Motion for Default Judgment is **DENIED**. Defendants timely removed and properly filed a joint motion. Defendants’ Motion to Dismiss is **GRANTED**.

II. Motion to Dismiss

Defendants say Allen’s current complaint is barred by the doctrine of *res judicata* and should be dismissed.

In response, Allen says: (1) dismissal of this case is improper under Fed. R. Civ. P. 41; (2) Judge Roberts lost jurisdiction over the case when she was served a mandatory recusal in his prior case; (3) the prior order dismissing his case is void due to his motion to recuse; (4) he is entitled to an opportunity to be heard; (5) the Federal Rules of Civil Procedure do not contain a provision allowing two separate Defendants to join their answer to a complaint; (6) both Defendants filed their answers after the time allowed; and (7) Defendants’ pleadings lack the signature of an attorney. None of Allen’s arguments has merit.

The Court grants Defendants’ Motion to Dismiss. *Res judicata* applies when the following elements are met: (1) a final decision has been made on the merits; (2) a subsequent action arises between the same parties; (3) there is an issue in the subsequent action which was litigated or which should have been litigated in the prior action; and (4) there is a close similarity between the claims or causes of action. See, *Bragg v. Flint Bd. of Educ.*, 570 F.3d 775, 776 (6th Cir. 2009).

Under Fed. R. Civ. P. 41(b), the prior dismissal was an adjudication on the merits. The current case is against the same defendants. The two lawsuits allege identical causes of action; all issues should have been litigated in the prior action. Since all four elements of the test have been met, the doctrine applies and Allen's lawsuit is barred.

Defendants request costs and fees because Allen unreasonably refused to concur with Defendants' request for dismissal. In its discretion, the Court denies this request.

III. Conclusion

Defendants' Motion to Dismiss is **GRANTED**. Allen's lawsuit is **DISMISSED**.

IT IS ORDERED.

S/Victoria A. Roberts
Victoria A. Roberts
United States District Judge

Dated: November 19, 2015

The undersigned certifies that a copy of this document was served on the attorneys of record and Robert Allen by electronic means or U.S. Mail on November 19, 2015.

s/Linda Vertriest
Deputy Clerk