



Stoneman v. Experian Information Solutions Incorporated et al

2024 | Cited 0 times | D. Arizona | January 5, 2024

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IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF ARIZONA

Jeffrey James Stoneman,

Plaintiff, v. Experian Information Solutions Incorporated, et al.,

Defendants.

No. CV-22-00916-PHX-JAT ORDER

Pending before the Court is

filed a response, (Doc. 50), and Plaintiff has filed a reply, (Doc. 52). The Court now rules.

I. BACKGROUND

On May 27, 2022, Plaintiff filed the instant action against three defendants for et seq. (See generally Doc. 1). On November 21, 2022, Plaintiff filed a notice that he had accepted an offer of judgment from Credit First, and the Clerk of Court entered judgment accordingly the following day. (See generally Doc. 41; Doc. 42). On March 16, 2023, Plaintiff filed a Motion for Attorney Fees from Credit First. (See generally Doc. 49). The See generally Doc. 51).

II. LEGAL STANDARD

Relevant to this case, the federal rules enable a party defending against a claim to e offer and

Id.

he Local Rules state the following:

[U]nless otherwise provided by statute or court order entered in an individual case, the party seeking



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an award of attorneys fees and related non-taxable expenses must file and serve a motion for award of attorneys fees and related non- taxable expenses (along with a supporting memorandum of points and authorities) within fourteen (14) days of the entry of judgment in the action with respect to which the services were rendered. L.R. Civ. 54.2(b)(2). 1

III. DISCUSSION

a. Timeliness of the Motion

Plaintiff argues whether it is appropriate to extend the time in which to file the

Specifically, Plaintiff argues that the Court should consider four factors: (1) the danger of prejudice to the non-moving party, (2) the length of the delay and its potential impact on judicial proceedings, (3) the reason for the delay, including whether it was within the reasonable control of the movant, and (4) whether the movant acted in good faith. (Id.).

Plaintiff asserts that he engaged in without requiring Court-

(Id. at 3). and that the delay

1 Judgment with respect to the claim on which fees are now sought was entered on within fourteen days of that judgment. oversight . . . compounded by ongoing, heated negotiations with [another defendant], which Id. at 4). Moreover, Plaintiff argues, Credit First will not be prejudiced because the case was not dismissed in its entirety until April 4, 2023. (Id.). Finally,

Id. at 4 5).

The Court first addresses the four-factor analysis that Plaintiff propounds. 2

As for factors one and two, although the entire action was not dismissed until later, Credit First settled the claim against it 114 days before Plaintiff moved for fees. The Court finds this to be an egregious length of time. See, e.g., *Klein v. Thunderbird Collection Specialists Inc.*, No. CV-20-08092-PCT-DLR, 2020 WL 6383251, at *1 (D. Ariz. Oct. 29, 2020) Relatedly, -frivolous *Sobhani v. United States*, No. CV 14-6022 RSWL (MANx), 2015 WL 3407702, at *2 (C.D. Cal. May 27, 2015) (citing *Hernandez v. City of El Monte*, 138 F.3d 393, 401 (9th Cir. 1998)). The Court acknowledges that the delay had minimal impact on judicial proceedings because proceedings continued against the other defendants , given the extreme length of the delay, the Court finds factors one and two weigh against finding excusable neglect. 3

As for factor three, the Court finds the reasons Plaintiff gives for the delay to be negotiations with C



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2 The Court notes that nearly all of the cases to which Plaintiff cites discuss the excusable neglect analysis in the context of a delayed motion for relief from a judgment, not for . Although this Court does not believe it is precluded from analyzing a the same framework, *Desert, Inc. v. Yost*, 92 F.3d 814, 824 (9th Cir. 1996), the Court finds that because the cases Plaintiff cites contemplate a different procedural issue, reasoning is less persuasive. 3 At most, factor one is neutral, with the danger of prejudice to Credit First balancing out the minimal impact on judicial proceedings overall. begin seeking negotiations until December 6, 2022, the day was due. While the Court acknowledges that Plaintiff could not approach to negotiations, Plaintiff certainly could control the date on which Plaintiff began

those negotiations and the date on which Plaintiff chose to file a motion, either for fees or for an extension of time adline. Thus, the Court finds factor three weighs against finding excusable neglect. As for factor four, the Court finds that even if Plaintiff indeed acted in good faith, the preceding factors weigh so heavily against finding excusable neglect that factor four has little impact on the analysis.

The Court next spirit of the governing federal statute and finds substantive entitlement to fees resulting from success in his action is a separate issue from

the issue of whether Plaintiff has complied with procedural requirements to obtain said Plaintiff must follow the procedures laid out to obtain the fees. Plaintiff cannot excuse his

failure to comply with clear procedural rules by law.

In sum, this Court did not issue an order altering the deadline for a motion for fees, nor did Plaintiff request one. Plaintiff filed his motion 100 days late and attempts to justify this alleged conduct in negotiations between the parties that began after the motion deadline. The Court finds this untimely.

b. Merits of the Motion of time inappropriate, the Court does not rea

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IV. CONCLUSION

For the foregoing reasons, IT IS ORDERED DENIED. Dated this 5th day of January, 2024.

