

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
MACON DIVISION**

JASON HERALD,)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACTION NO. 5:21-cv-447 (MTT)
)	
LVNV FUNDING LLC,)	
)	
Defendant.)	
)	

ORDER

On December 20, 2021, Plaintiff Jason Herald filed a lawsuit alleging Defendant LVNV Funding LLC violated the Fair Debt Collection Practice Act (“FDCPA”) when LVNV failed to remove a dispute comment from Herald’s credit disclosures. Doc. 1. Herald and LVNV both moved for summary judgment. Docs. 26; 27. LVNV argued that Herald did not have standing to assert a claim under the FDCPA because he has not suffered a concrete injury. Doc. 26-2 at 7. On March 15, 2023, the Court convened a hearing to address the standing issues LVNV raised in its motion for summary judgment. Docs. 34; 35. The Court ordered the parties to provide supplemental briefing on the issue of standing. Docs. 34 at 2; 35 at 26:3-8.

In response, Herald filed a motion to voluntarily dismiss this action with prejudice. Doc. 36. Herald states “[c]onsidering recent opinions” that “were issued within the last few months and did not exist when [he] filed this action,” he “has decided to not pursue [his] claims any further.” *Id.* at 1-2. “[I]n most cases a voluntary dismissal should be allowed unless the defendant will suffer some plain prejudice other than the mere

prospect of a second lawsuit.” *Fisher v. Puerto Rico Marine Mgmt., Inc.*, 940 F.2d 1502, 1502-03 (11th Cir. 1991) (citing *Durham v. Fla. E. Coast Ry. Co.*, 385 F.2d 366, 368 (5th Cir. 1967)). “[T]he decision whether or not to grant such a dismissal is within the sound discretion of the district court and reviewable only for abuse of discretion.” *Id.* (citing *LeCompte v. Mr. Chip, Inc.*, 528 F.2d 601, 604 (5th Cir. 1976)). Here, LVNV “agrees with [Herald] that the Court should dismiss” Herald’s claims. Doc. 37 at 2. Therefore, dismissal is proper.

Accordingly, Herald’s motion to dismiss (Doc. 36) is **GRANTED** and Herald’s complaint (Doc. 1) is **DISMISSED with prejudice**. Additionally, Herald’s and LVNV’s motions for summary judgment (Docs. 26; 27) are **DENIED** as moot.

SO ORDERED, this 11th day of May, 2023.

S/ Marc T. Treadwell
MARC T. TREADWELL, CHIEF JUDGE
UNITED STATES DISTRICT COURT