

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

<p>TRACIE SMITH,</p> <p style="padding-left: 100px;">Plaintiff,</p> <p style="text-align: center;">v.</p> <p>LVNV FUNDING LLC,</p> <p style="padding-left: 100px;">Defendant.</p> <hr style="border: 0.5px solid black; margin-top: 10px;"/>	<p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p>	<p>CIVIL ACTION NO. 5:22-cv-23 (MTT)</p>
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ORDER

On January 12, 2022, Plaintiff Tracie Smith 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 Smith’s credit disclosures. Doc. 1. Smith and LVNV both moved for summary judgment. Docs. 22; 24. LVNV argued that Smith did not have standing to assert a claim under the FDCPA because she has not suffered a concrete injury. Doc. 24-2 at 7.

On May 10, 2023, Smith filed a motion to voluntarily dismiss this action with prejudice. Doc. 33. Smith states “[c]onsidering recent opinions” that “were issued within the last few months and did not exist when [she] filed this action,” she “has decided to not pursue her 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 [Smith] that the Court should dismiss” Smith’s claims. Doc. 34 at 2. Therefore, dismissal is proper.

Accordingly, Smith’s motion to dismiss (Doc. 33) is **GRANTED** and Smith’s complaint (Doc. 1) is **DISMISSED with prejudice**. Additionally, Smith’s and LVNV’s motions for summary judgment (Docs. 22; 24) 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