

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

JESSICA ROSE,

Plaintiff,

v.

Case No. 8:16-cv-2688-T-30TBM

**NAVIENT SOLUTIONS, LLC, and
STUDENT ASSISTANCE CORPORATION,**

Defendants.

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ORDER

THIS MATTER is before the Court on **Plaintiff's Motion to Compel** (Doc. 24), Defendant Navient Solution LLC's response (Doc. 28), and the parties' Joint Notice of Discovery Items that Remain in Dispute (Doc. 32).¹

According to the parties, Plaintiff's Requests for Production Nos. 39 and 40 and Interrogatory No. 9 remain in dispute. The discovery requests, as narrowed by Plaintiff, are as follows:

Narrowed Request No. 39: Prior complaints made by consumer or their attorneys, for the past two years, concerning alleged violations similar to those alleged in the present matter, which are stored and readily accessible in NSI's CSI Database that is maintained by NSI's Office of Customer Advocate and its Supervisor, Angela Kamionka.

¹This Court previously ordered the parties to meet and confer and to file a joint notice advising the Court of any discovery items that remain for judicial resolution. (Doc. 31).

Narrowed Request No. 40: Prior formal written complaints or inquiries by a State of Florida or federal agency or entity during the relevant time period of this suit for alleged violations of the TCPA, the FCCPA, or the FDCPA for collection activities of the kind at issue in this case.

Narrowed Interrogatory No. 9: Please identify the name, residence address, business address and telephone number of each person believed or known by you, your agents or attorney to have any knowledge of the incidents described in the Complaint, and specify the subject matter of the witness' knowledge. Specifically, Plaintiff seeks the identity of agents or managers who participated in, or have knowledge of, conversations with Plaintiff.

Plaintiff argues the requests for production are entirely reasonable and relevant to her claims for damages, including punitive damages and treble damages based on the willful and knowing nature of Defendant's violations. She states that the documents provided thus far only pertain to lawsuits filed against Defendant, but do not include informal or governmental complaints made to the company. Plaintiff argues that the interrogatory simply requests basic information about individuals with first-hand knowledge of the allegations in the Complaint, information which is entirely appropriate for discovery. In addition, Plaintiff seeks four hours of attorney's fees for time incurred in bringing the motion to compel. (Doc. 32 at 5-10).

Defendant counters that the requests for production are duplicative and unnecessary because it has already provided Plaintiff with TCPA, FCCPA, and FDCPA complaints for the past two years. It claims that the CSI database is a catalog of issues raised by borrowers through telephone conversations, emails and letters, and represents the same information Plaintiff has already been provided. Moreover, Defendant claims that the CSI database, as well as any

complaints by governmental entities, contain personal and confidential information from other borrowers, which would have to be redacted imposing an disproportionate burden on Defendant. And, it asserts that the prior complaints add nothing to Plaintiff's ability to prove her claims. With regard to the interrogatory, Defendant complains that the request for the identities of individual employees with knowledge of the case is irrelevant because its is a "near certainty" that the employees have no knowledge of Plaintiff's claims; that their last conversation was over a year ago and has nothing to do with Plaintiff's alleged revocation of prior express consent; and it is unlikely that the employees have any recollection of the conversations. As a result, it argues that deposing these numerous agents would not be proportional to the needs to the case. (Doc. 32 at 11–14).

Upon consideration, **Plaintiff's Motion to Compel** (Doc. 24) is **GRANTED in part and DENIED in part**.

The information sought by Plaintiff in the narrowed Requests for Production Nos. 39 and 40 is relevant to her claims, including her claim for damages. The requests appear appropriately tailored to the claims and defenses asserted, and Defendant has made no showing that the requests are disproportionate to the needs of the case. Defendant's arguments that the requests are unduly burdensome or disproportionate to the needs of the case are entirely conclusory and unsupported. Plaintiff has limited the information sought to that which is "readily accessible" in an identified database maintained by an identified person and to those formal complaints made by governmental entities. Any confidential identifying information or confidential financial information contained in these discovery materials may be properly redacted and/or may be subject to an appropriate confidentiality agreement between the parties.


In short, I find no basis to conclude that these requests are unduly burdensome or beyond the scope of discovery under Federal Rule of Civil Procedure 26.

Furthermore, Interrogatory No. 9 is plainly relevant and appropriate. While Defendant may prefer not to disclose the identities of its employees with knowledge of this case and to avoid having them deposed, it presents no valid basis to prevent discovery of this basic fact witness information. Defendant need only designate generally the topics about which each witness may have knowledge.

Accordingly, the motion is granted as to the narrowed Requests for Production Nos. 39 and 40² and Interrogatory No. 9 set forth above. Defendant shall provide complete responses to these discovery requests, including production of responsive documents, within fourteen (14) days of the date of this Order or as otherwise agreed by counsel.

Plaintiff's request for attorney's fees is denied without prejudice.

DONE and ORDERED in Tampa, Florida this 11th day of April 2017.



THOMAS B. McCOUN III
UNITED STATES MAGISTRATE JUDGE

Copies furnished to:
Counsel of record

²To the extent that Defendant has already produced documents responsive to Request No. 39 or 40, such as previously filed lawsuits, it need not produce them again.