

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