

Cause No. DC-24-03556

NASA FEDERAL CREDIT UNION	§	IN THE DISTRICT COURT
	§	
	§	
V.	§	191 ST JUDICIAL DISTRICT OF
	§	
	§	
RODRICK LEVINGSTON	§	DALLAS COUNTY, TEXAS

MOTION TO STRIKE DEFENDANT’S DEMAND FOR JURY TRIAL

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES NASA Federal Credit Union (“Plaintiff”), Plaintiff herein, and files this its Motion to Strike Defendant’s Demand for Jury Trial and would respectfully show the Court as follows:

I.
STATEMENT OF RELEVANT FACTS

1. On August 26, 2024, the Court set this matter for a non-jury trial on its docket for April 7, 2025.

2. Thereafter, on March 5, 2025, Rodrick Levingston (“Defendant”) untimely and improperly filed Defendant’s Demand for Jury Trial (the “Jury Demand”). On the same day, the parties appeared for a hearing on Plaintiff’s Motion for Summary Judgment, which was partially granted on an interlocutory basis.

3. Subsequently, on March 10, 2025, the Court sent notice that this matter had been set for a jury-trial for the previously-scheduled April 7, 2025 non-jury trial (the “Jury Trial Notice”). Thus, Plaintiff had only twenty-eight (28) days to prepare for the new trial format.

II. OBJECTION TO TRIAL NOTICE

4. Tex. R. Civ. P. 245 states as follows:

“The Court may set contested cases on written request of any party, or on the court's own motion, with reasonable notice of not less than forty-five days to the parties of a first setting for trial, or by agreement of the parties; provided, however, that when a case previously has been set for trial, the Court may reset said contested case to a later date on any reasonable notice to the parties or by agreement of the parties.”¹

Failure to comply with the rules of notice in a contested case violates a party's fundamental due process rights because it deprives him of his constitutional right to be present at the hearing and to voice his objections in an appropriate manner.² Further, at a minimum, a demand for a jury trial must be made *at least* thirty (30) days ahead of a trial setting.³

5. Here, Defendant has delayed these proceedings from coming to a timely resolution. Not only has Defendant hindered Plaintiff's ability to conduct discovery by refusing to answer its requests, but waited until the day of Plaintiff's dispositive hearing to move for a jury trial, where the only issue remaining is attorney fees. The untimely and unreasonable actions by Defendant should not be allowed by this Court.

6. Moreover, prior to allowing Plaintiff its right to object to the new jury-trial, the format of the trial was changed to a jury trial. The Jury Trial Notice affords the parties with less than a month to prepare for the new format of trial which significantly alters Plaintiff's approach with trial preparation. As a result, Plaintiff's files this Objection because Defendant's request for a jury trial was untimely and unreasonable, and because the Jury Trial Notice setting deprives Plaintiff of its fundamental rights to which it is guaranteed by Texas law.

¹ TEX. R. CIV. P. 245.

² *Safavi v. Safrit*, No. 05-96-00694-CV, 1998 WL 122403 at *1 (Tex. App.—Dallas Mar. 20, 1998).

³ *See* TEX. R. CIV. P. 216.

WHEREFORE PREMISES CONSIDERED, Plaintiff prays this Court strike Defendant's Jury Demand. Plaintiff further prays this Court grant to Plaintiff any relief to which it is entitled in equity or under the law.

Respectfully Submitted,

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Attorneys for Plaintiff

CERTIFICATE OF CONFERENCE

This is to certify that on March 17, 2025, I conferenced with Robert M. Clark, counsel for Defendant, via e-mail. Robert M. Clark indicated he was opposed to the relief requested. Therefore, this Motion is submitted to the Court for determination.

/s/ Jessica N. Alt
Jessica N. Alt

CERTIFICATE OF SERVICE

This is to certify that on March 17, 2025, a copy of the foregoing was served on Defendant via his counsel of record, Robert M. Clark, via e-mail and/or e-service.

/s/ Jessica N. Alt
Jessica N. Alt

Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

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