

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
FORT MYERS DIVISION

DAVID CALVO,

Plaintiff,

v.

Case No: 2:16-cv-746-FtM-38MRM

SUMMIT BROADBAND INC.,  
WAYNE FOGELSON and SHAWN  
WALLACE,

Defendants.

---

**ORDER**<sup>1</sup>

Before the Court is parties' Joint Motion to Forgo Mediation filed on February 8, 2019. ([Doc. 111](#)). For the reasons below, the Court denies the Joint Motion.

This Court's mediation policy is mandatory. M.D. Fla. R. 9.01(b); [Bernath v. Seavey, No. 2:15-cv-358, 2017 WL 564941 \(M.D. Fla. 2017\)](#). The Amended Case Management and Scheduling Order set a mediation deadline of January 17, 2019. ([Doc. 98](#)). The parties missed that deadline. Local Rule 9.03 dictates that a case may be exempt or withdrawn from mediation "upon a determination for any reason that the case is not suitable for mediation." M.D. Fla. R. 9.03(c). But this exception does not apply here for two reasons. First, the parties do not seek to excuse mediation—they already

---

<sup>1</sup> Disclaimer: Documents filed in CM/ECF may contain hyperlinks to other documents or websites. These hyperlinks are provided only for users' convenience. Users are cautioned that hyperlinked documents in CM/ECF are subject to PACER fees. By allowing hyperlinks to other websites, this Court does not endorse, recommend, approve, or guarantee any third parties or the services or products they provide on their websites. Likewise, the Court has no agreements with any of these third parties or their websites. The Court accepts no responsibility for the availability or functionality of any hyperlink. Thus, the fact that a hyperlink ceases to work or directs the user to some other site does not affect the opinion of the Court.

skipped it. Rather, the parties seek to forego a foregone mediation. Second, there is no legitimate reason here to excuse mediation. Without explanation, the Joint Motion states that the parties “fully explored settlement informally” and “mediation will not be fruitful.” (Doc. 111). These conclusory statements are insufficient excuses for why a case cannot go to mandatory, court-ordered mediation.

Thus, the Joint Motion (Doc. 111) is denied and the parties must complete mediation by March 15, 2019.

Accordingly, it is now

**ORDERED:**

1. The Joint Motion to Forego Mediation (Doc. 111) is **DENIED**.
2. The parties are **ORDERED** to complete mediation by **March 15, 2019**.

**DONE** and **ORDERED** in Fort Myers, Florida this 12th day of February, 2019.

  
SHERI POLSTER CHAPPELL  
UNITED STATES DISTRICT JUDGE

Copies: All Parties of Record