

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
FORT MYERS DIVISION

RANDY ZAPATA,

Plaintiff,

v.

Case No.: 2:24-cv-587-JLB-KCD

DISCOVER and  
REPRESENTATIVES,

Defendants.

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**REPORT & RECOMMENDATION**

Plaintiff Randy Zapata sues Defendant Discover for fraud. (Doc. 1.)<sup>1</sup> Zapata moved to proceed *in forma pauperis*, but his motion was denied because “the form he submitted does not provide enough information to assess whether he is eligible” for such relief. (Doc. 6.) Zapata was directed to “complete and file a more detailed IFP application” or pay the filing fee by August 9, 2024. (*Id.*)

Zapata did not respond to the Court’s order. So, to be safe, the Court offered him another chance to comply, extending the deadline to August 30, 2024. (Doc. 9.) The Court warned Zapata it would recommend his case be dismissed if he did not comply. (*Id.*) Again, Zapata did not respond.

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<sup>1</sup> Unless otherwise indicated, all internal quotation marks, citations, and alterations have been omitted in this and later citations.

Ignoring the Court's order is grounds for dismissal. "A plaintiff's failure to prosecute diligently can result in dismissal if the plaintiff in response to an order to show cause fails to demonstrate due diligence and just cause for delay." M.D. Fla. R. 3.10. Similarly, the Court has the "inherent power" to dismiss a case for lack of prosecution under its authority to manage its docket. *Link v. Wabash R. Co.*, 370 U.S. 626, 630-31 (1962).

Zapata has not diligently prosecuted this case. He ignored the Court's order and refuses to file an amended IFP application or pay the filing fee. These actions show a lack of interest. Thus, the Court should dismiss this matter without prejudice.

It is thus **RECOMMENDED** that Plaintiff's complaint be dismissed without prejudice for lack of prosecution.

**ENTERED** in Fort Myers, Florida on September 4, 2024.



Kyle C. Dudek  
United States Magistrate Judge

Copies: All Parties of Record

### **NOTICE TO PARTIES**

A party has fourteen days from this date to file written objections to the Report and Recommendation's factual findings and legal conclusions. A party's failure to file written objections waives that party's right to challenge on appeal any unobjected-to factual finding or legal conclusion the district judge adopts from

the Report and Recommendation. *See* 11th Cir. R. 3-1. To expedite resolution, parties may file a joint notice waiving the 14-day objection period.