

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA - SACRAMENTO DIVISION

CATHERINE EVON,

Plaintiff,

v.

LAW OFFICES OF SIDNEY MICKELL; and
SIDNEY MICKELL, ESQ.; and
DOES 1 through 100, inclusive,

Defendants.

Case No. 2:09-CV-00760-JAM- KJN

**ORDER ON CROSS-MOTIONS FOR
SUMMARY JUDGMENT AND PARTIAL
SUMMARY JUDGMENT**

Plaintiff having filed her First Amended Class Action Complaint (the “Complaint”) [Docket Entry 17] on July 17, 2009, asserting in Counts I through VII, inclusive, that the Defendants violated the Fair Debt Collection Practices Act (“FDCPA”), 15 U.S.C. §§1692c(b), 1692e(4), 1692e, 1692e(10), 1692b(2) and 1692c(a)(3), respectively and asserting in Count VIII that the Defendants violated California’s Rosenthal Fair Debt Collection Practices Act (“RFDCPA”), Cal. Civ. Code §§1788 *et. seq.*; and

Plaintiff having previously withdrawn Counts VII and VIII of the Complaint; and The parties having filed, on May 5, 2010, cross-motions for summary judgment [Docket Entries 49 through 54, inclusive]; and

Plaintiff, Catherine Evon, having thereby moved for partial summary judgment summary judgment [Docket Entries 52 through 54, inclusive], on liability only, with respect to Counts I, II, IV and V of the Complaint; and

The Defendants, Sidney Mickell and Law Offices of Sidney Mickell, having thereby moved for summary judgment [Docket Entries 49 through 51, inclusive], dismissing each of Counts I through VI, inclusive, of the Complaint; and

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[[PROPOSED] ORDER ON CROSS-MOTIONS FOR SUMMARY JUDGMENT AND PARTIAL SUMMARY JUDGMENT

1 The Defendants having opposed Plaintiff's motion [Docket Entry 55] to which Plaintiff replied
2 [Docket Entries 66 and 67]; and

3 The Plaintiff having opposed Defendants' motion [Docket Entries 58 through 62,
4 inclusive], to which the Defendants replied [Docket Entries 63 and 64]; and

5 The cross-motions having duly come on to be heard on June 2, 2010; and

6 Sergei Lemberg, Esq., of Lemberg & Associates, LLC and Lara Shapiro, Esq. special
7 counsel to Lemberg & Associates, LLC having appeared on behalf of the Plaintiff ; and

8 John N. Dahlberg, Esq., AnnaMary Gannon, Esq. and Angelito Sevilla, Esq. of Dillingham
9 Murphy, LLP having appeared on behalf of the Defendants; and

10 The Court having read the parties' written submissions and having heard the arguments of
11 counsel and, after due consideration, having rendered its Decision [Docket Entry 71] (a) denying
12 Plaintiff's motion for summary judgment and (b) granting in part and denying in part Defendants'
13 motion for summary judgment, all for the reasons stated in the transcript of the June 2, 2010
14 proceedings duly filed with the Court [Docket Entry 72] and incorporated herein by reference.
15

16 NOW, THEREFORE, for the reasons set forth in the record [Docket Entry 72], it is

17 ORDERED that Plaintiff's Motion for Partial Summary Judgment is DENIED, in its entirety;
18 and it is further
19

20 ORDERED, that Defendants' motion is GRANTED to the extent of dismissing Count II and
21 Count IV of the Complaint.
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23
24 IT IS SO ORDERED.

25
26 Date: June 30, 2010

27 /s/ John A. Mendez
28 Honorable John A. Mendez
Judge of the United States District Court