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10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12 SAN FRANCISCO DIVISION

13 Richard and Sulma Zevallos,

14 Individual(s)

15 vs.

16 Citibank (South Dakota), N.A., Citicorp
17 Credit Services, Inc. (USA), Sears Gold
18 MasterCard, Does 1 – 50,

19 Defendant(s).

Case No. C09-05334 MEJ

E-FILING CASE

CASE MANAGEMENT CONFERENCE
STATEMENT AND REQUEST FOR
CONTINUANCE AND ~~PROPOSED~~ ORDER

Date: February 18, 2010

Time: 10:00 AM

Ctrm: B, 15th Floor

20 The Plaintiffs submit the following case management conference statement and proposed case
21 management order for the Court's consideration:

22 1. Basis for the Court's Jurisdiction.

23 The Court has subject matter jurisdiction over this case under 28 U.S.C. § 1331, 1337, and
24 1367. This is a lawsuit under the Fair Credit Billing Act, 15 U.S.C. § 1666 et seq. and Section 17200
25 of the California Business and Professions Code. Service of process on Defendants has been delayed
26

27 Case Management Statement and Request for Continuance
28

1 due to press of business, delay of process server in South Dakota, and breakdown of communication
2 with clients who travel, which is now rectified. The lawsuit against Citibank (South Dakota), N.A.
3 and Citicorp Credit Services, Inc. (USA) has been sent out for service with local registered process
4 servers. Defendant Sears Gold MasterCard is believed to possibly be a fictitious business name used
5 by Citibank (South Dakota), N.A. and is not currently being served.

6
7 2. Description of the Case and Defenses.

8 a. Plaintiffs' Facts.

9 This Fair Credit Billing Act lawsuit involves the Defendant's policy of shifting the burden to
10 investigate disputed charges onto the consumer when the statute clearly states the burden falls upon
11 the lender to do so. Sears Gold MasterCard has also reported Plaintiffs' account as delinquent
12 although it is a disputed account, also a violation of the Fair Credit Billing Act.

13
14 b. Related Proceedings.

15 Plaintiffs are pursuing an action for unjust enrichment and unfair business practices against
16 the merchant in this case, Ritchie Bros. Auctioneers (America) Inc. in the Superior Court of the State
17 of California, County of Alameda. This lawsuit is known as Case No. RG09484163 in the files of
18 that court and arises out of a non-related legal duty to plaintiffs, thus is exempt from mandatory
19 removal or formal joinder of related cases.
20

21 3. Legal Issues in Dispute.

22 Plaintiff's have not yet received the answer of Defendants to this action.

23 4. Procedural History and Pending Motions.

24 Plaintiff will exchange initial disclosures as ordered by the Court. No motions are pending.
25

26 5. Status of Discovery and Initial Disclosure.

1 The parties have not yet exchanged initial disclosures or begun discovery.

2 6. Discovery Plan.

3 Plaintiff has the right to further clarification regarding the actions taken with regard to
4 Plaintiffs' credit and account status, the policy of Defendants with regard to investigating disputed
5 claims, and actions taken in response to this disputed charge.

6
7 7. Motion Practice and Addition or Deletion of Parties.

8 No motions or addition or deletion of parties are currently planned.

9 8. Relief Sought and Calculation of Damages.

10 Plaintiffs seek \$60,000 in general damages including but not limited to compensation for the
11 disputed charge and damage to Plaintiffs credit, exemplary and punitive damages, interest, injunctive
12 relief requiring Defendants to reverse negative credit reports, and for their legal fees
13 and costs, and any further just and proper relief.

14
15 9. ADR Efforts to Date.

16 Plaintiffs reserve their request for ADR until completion of discovery is had.

17
18 10. Consent to Trial Before a Magistrate Judge.

19 Plaintiffs consent to a trial before a magistrate judge.

20
21 11. Proposed Cutoff Dates and Deadlines.

22 Plaintiff requests continuance of setting deadlines until Defendants have appeared in the cae.

23
24 12. Service List.

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4 13. Statement of Financial Interest.

5 The parties are unaware of any financial or other interest that could warrant the recusal or
6 disqualification of this Judge from this case.

8 14. Request for Continuance.

9 Due to delay of service on Defendants based on press of business, delay of process server in
10 South Dakota, and breakdown in communication with clients who travel, which has now been
11 rectified, Plaintiffs request continuance of case management conference to further date so that
12 Defendants can be served.

14 Respectfully submitted,

15 Dated: /s/

16 MEGAN DAILEY Attorney for Plaintiffs

17 ~~PROPOSED~~ CASE MANAGEMENT SCHEDULING ORDER

18 Having reviewed the Plaintiffs' case management conference statement, the Court hereby
19 ORDERS as follows:

21 The case management conference is continued to April 8, _____, 2010.

22 All deadlines are adjusted accordingly.
23 SO ORDERED.

24 Dated: February 17, 2010

25 MAGISTRATE JUDGE MARIA-ELENA JAMES

26 UNITED STATES DISTRICT JUDGE



28 Case Management Statement and Request for