

United States District Court
Northern District of California

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

RONNIQUE CRIDER, et al.,
Plaintiffs,
v.
PACIFIC ACQUISITIONS &
ASSOCIATES, LLC,
Defendant.

Case No.14-cv-03498-NC

**ORDER REQUESTING
ADDITIONAL INFORMATION IN
SUPPORT OF PLAINTIFFS'
MOTION FOR DEFAULT
JUDGMENT**

Re: Dkt. No. 28

The Court has reviewed plaintiffs’ memorandum of points and authorities in support of their motion for default judgment. Plaintiffs incorrectly claim that “[a]fter a default is entered, the Court’s attention is focused on issues relating to the damages, as opposed to issues of liability.” Dkt. No. 28 at 3-4. The Court considers the following factors in deciding whether to enter default judgment: (1) the possibility of prejudice to plaintiff; (2) the merits of plaintiffs’ substantive claim; (3) the sufficiency of the complaint; (4) the sum of money at stake in the action; (5) the possibility of a dispute concerning the material facts; (6) whether defendant’s default was the product of excusable neglect; and (7) the strong public policy favoring decisions on the merits. *See Eitel v. McCool*, 782 F.2d 1470, 1471-72 (9th Cir.1986). Plaintiffs did not explicitly address these factors in their motion

1 and they should be prepared to address each at the hearing on October 7. Specifically,
2 plaintiffs should be prepared to clarify the following:

- 3 • Since plaintiffs only address 15 U.S.C. § 1692 in their motion for default
4 judgment, are they voluntarily dismissing their causes of action for violation of
5 the California Rosenthal Fair Debt Collection Practices Act, and for intrusion
6 upon seclusion addressed in their complaint?
7
- 8 • Is there any remedy under Delaware law that could reinstate Pacific as a
9 corporation in good standing, and thus allow it to proceed in this action?
10
- 11 • Does the debt in question arise out of a transaction entered into for personal
12 purposes? This is a requirement for liability under 15 U.S.C. § 1692 and
13 plaintiffs have not provided facts related to the nature of their debt in their motion
14 or complaint.
15
- 16 • When Ronnique Crider told Pacific on the telephone and via fax not to contact
17 her at work, did Pacific know or have reason to know that Crider’s employer
18 *prohibited* her from receiving such contact? Or was the message simply that
19 Crider did not want Pacific to contact her at work?
20
- 21 • Is there evidence that Pacific received Crider’s faxed letter in order to establish
22 liability under 15 U.S.C. § 1692c(c)?
23
- 24 • Do any of the three exceptions to § 1692c(c) apply in this case?
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- 26 • What constitutes “harassment” under § 1692d? Please provide authority.
27
- 28 • Please provide authority from the Ninth Circuit that supports plaintiffs’ claim for
maximum statutory damages.

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- Please provide authority supporting plaintiffs’ claim for emotional distress damages under the statute.
- Should this Court consider whether Pacific’s lack of good standing in Delaware is the result of excusable neglect?

IT IS SO ORDERED.

Dated: October 2, 2015



NATHANAEL M. COUSINS
United States Magistrate Judge