

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JOHN HUEBNER, et al.,

Plaintiffs,

v.

RADARIS, LLC, et al.,

Defendants.

Case No. 14-cv-04735-VC

**ORDER REQUESTING FURTHER
BRIEFING**

No later than February 21, 2017, the plaintiffs should submit a supplemental brief addressing the following:

1. What authority exists for the form of injunctive relief sought and the intended mechanisms of enforcing it.
2. Whether injunctive relief is available in a private FCRA action, and how the plaintiffs would frame their request for injunctive relief under California law if they're unsuccessful under the FCRA. *See, e.g., Hogan v. PMI Mortg. Ins. Co.*, No. C 05-3851 PJH, 2006 WL 1310461, at *10 (N.D. Cal. May 12, 2006); *Howard v. Blue Ridge Bank*, 371 F. Supp. 2d 1139, 1145 (N.D. Cal. 2005); *see also Washington v. CSC Credit Servs. Inc.*, 199 F.3d 263, 268 (5th Cir. 2000).
3. Whether any of the California-law claims or remedies are preempted by the FCRA. *See, e.g., Ramirez v. Trans Union, LLC*, 899 F. Supp. 2d 941, 947 (N.D. Cal. 2012).
4. Whether either the CCRAA or the ICRAA permit an overlapping action under the FCRA, and how the plaintiffs would frame their request for injunctive relief in the event of an adverse ruling. *See Coleman v. Kohl's Dep't Stores, Inc.*, No. 15-CV-02588-JCS, 2015

WL 5782352, at *7 n.7 (N.D. Cal. Oct. 5, 2015).

5. Whether the plaintiffs have demonstrated the kind of concrete injury necessary for Article III standing, particularly as to the section 1681b and section 1681e claims. *See Spokeo, Inc. v. Robins*, 136 S. Ct. 1540, 1549-50 (2016), *as revised* (May 24, 2016).
6. Whether the plaintiffs have adequately pled their statutory and common-law misappropriation-of-likeness claims as required under *Eitel*. *See* Compl. (Dkt. 1) at ¶¶ 19, 28-30, 110, 111; *Eitel v. McCool*, 782 F.2d 1470, 1471 (9th Cir. 1986).

Page limits are waived, and the plaintiffs are encouraged to fully address any relevant authorities unfavorable to their position. The Court anticipates setting a further hearing on default judgment after receiving the plaintiffs' supplemental brief.

IT IS SO ORDERED.

Dated: November 23, 2016



VINCE CHHABRIA
United States District Judge