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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION**

KAMLESH BANGA,
Plaintiff,

v.

EXPERIAN INFORMATION
SOLUTIONS, et al.,
Defendants.

No. C 08-4147-SBA

ORDER

[Docket Nos. 94, 113]

This matter is before the Court on Plaintiff's Motion to Withdraw Claim for Emotional Distress Damages [Docket No. 94], filed June 11, 2009, and Plaintiff's Amended Motion to Partial Withdrawal [sic] her Claim Against Chase [Docket No. 113], filed July 8, 2009. The motion to withdraw her claim for emotional distress damages is unopposed. Defendant Chase opposes the "amended" motion for partial withdrawal of her claims against Chase. [Docket No. 117].

With respect to the unopposed motion, pursuant to Fed. R. Civ. P. 15(a)(2), the Court GRANTS the Plaintiff's request to voluntarily withdraw "her claim for damages for emotional distress and all damages in any way related to emotional distress." The motion also contained a request to quash the subpoena for the deposition of her husband, Madan Lal. The request was premised on the withdrawal of the claim for emotional distress. The Court DENIES the request AS MOOT, in light of Magistrate Judge Chen's Order, dated July 8, 2009. Magistrate Judge Chen held that "[b]ecause Defendants no longer seek to take the deposition of Mr. Lal, the Court finds that the issue of whether or not Mr. Lal's deposition should proceed is moot. Accordingly, at this juncture, Mr. Lal need not appear for any deposition." [Docket No. 118].

Additionally, the Court DENIES AS MOOT Plaintiff's motion to withdraw "her claim against CHASE for damages resulted [sic] from credit denials related to Chase's own account review and procurement of her credit reports," as alleged in the First Amended Complaint. On November 17, 2008, Defendant Chase answered Plaintiff's First Amended Complaint stating: "Defendant Chase Bank, USA, NA., erroneously sued herein as First USA, NA hereby answers the

1 first amended complaint [. . .].” [Docket No. 8]. Each subsequent filing has explicitly identified
2 Defendant Chase as “erroneously sued as First USA, NA.” At the initial case management
3 conference, the parties did not raise the issue of the identity of the bank defendant. On these facts,
4 the Court draws the reasonable inference that Chase Bank is the only bank defendant in this
5 litigation. Plaintiff voluntarily dismissed Defendant Chase from this action on June 30, 2009.
6 [Docket No. 108]. In light of her prior dismissal of her claim against Chase, the request to withdraw
7 her claim against Chase is redundant and is DENIED. Plaintiff seems to be asking the Court to
8 make the withdrawal conditional, that is, she withdraws her claims against Chase so long as the
9 withdrawal “does not affect in any way plaintiff’s claims asserted against THE FIRST USA, NA
10 related to its account review and procurement of her credit report.” However, Plaintiff has no
11 claims against First USA because it is not a party to this action; it has been superseded by Chase
12 Bank taking responsibility for those claims.

13 Accordingly, the Court GRANTS Plaintiff’s Motion to Withdraw Claim for Emotional
14 Distress Damages and DENIES AS MOOT the request to quash the subpoena for the deposition of
15 Madan Lal [Docket No. 94]. The Court also DENIES AS MOOT the Amended Motion to Partial
16 Withdrawal [sic] her Claim Against Chase [Docket No. 113].

17 IT IS SO ORDERED.

18 Dated: 7/16/09


SAUNDRA BROWN ARMSTRONG
United States District Judge

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1 UNITED STATES DISTRICT COURT
2 FOR THE
3 NORTHERN DISTRICT OF CALIFORNIA

4 BANGA et al,

5 Plaintiff,

6 v.

7 EXPERIAN INFORMATION SOLUTIONS ET
8 AL et al,

9 Defendant.

Case Number: CV08-04147 SBA

CERTIFICATE OF SERVICE

10 I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court,
11 Northern District of California.

12 That on July 16, 2009, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies)
13 in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in
14 the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's
15 office.

16 Kamlesh Banga
17 P.O. Box 6025
18 Vallejo, CA 94591

19 Dated: July 16, 2009

Richard W. Wieking, Clerk
By: LISA R CLARK, Deputy Clerk