

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

WANDA GREENWOOD; LADELLE  
HATFIELD; and DEBORAH MCCLEESE,  
on behalf of themselves and  
others similarly situated,

Plaintiffs,

v.

COMPUCREDIT CORPORATION; COLUMBUS  
BANK AND TRUST, jointly and  
individually,

Defendants.

No. 08-04878 CW

ORDER FOR FURTHER  
BRIEFING REGARDING  
DEFENDANTS' MOTION  
TO COMPEL  
ARBITRATION

United States District Court  
For the Northern District of California

This lawsuit consists of two causes of action, a claim under the Credit Repair Organizations Act, 15 U.S.C. § 1679 et seq., and a claim under this state's Unfair Competition Law, California Business & Professions Code section 17200 et seq. Both claims arise from the marketing and issuance of a credit card under the brand name Aspire Visa to consumers. Defendants have appealed this Court's order denying their motion to compel arbitration of the CROA claim.

Defendants have also moved to compel arbitration of the UCL claim. They raised various new arguments in their reply brief. In response, at the hearing Plaintiff Deborah McCleese argued, for the first time, that National Arbitration Forum Rule 44(G)(1) renders unconscionable the delegation clause of the credit card

1 agreement. After further review, the Court requires additional  
2 briefing on the new arguments.

3 Therefore, on or before December 9, 2011, Plaintiff shall  
4 address, in a brief not to exceed ten pages, Defendants'  
5 contentions that (1) the California Arbitration Act, including  
6 California Code of Civil Procedure section 1284.3, does not apply  
7 to the arbitration provision here because the parties did not  
8 express a clear intent to incorporate the state's rules of  
9 arbitration; (2) the FAA preempts section 1284.3; and (3) federal  
10 law governs the severability of the arbitration provision and  
11 allows its severance in the event it is found unconscionable.

12 On or before December 16, 2011, in a brief not to exceed ten  
13 pages, Defendants shall address Plaintiff's argument that  
14 Rule 44(G) (1) renders the delegation clause unconscionable, and  
15 may reply to Plaintiff's supplemental brief. Plaintiff may file a  
16 three page reply brief on or before December 23, 2011.

17 The December 13, 2011 case management conference is reset for  
18 February 22, 2012 at 2:00 pm.

19 IT IS SO ORDERED.

20 Dated: 11/23/2011

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24 CLAUDIA WILKEN  
25 United States District Judge  
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