

United States District Court
Northern District of California

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

DANIEL BERMAN,
Plaintiff,
v.
FREEDOM FINANCIAL NETWORK,
LLC, et al.,
Defendants.

Case No. [18-cv-01060-YGR](#) (JSC)

ORDER RE: DISCOVERY DISPUTE

Re: Dkt. No. 136

Now pending before the Court is a joint letter brief regarding Defendants’ request for discovery from Plaintiff. After reviewing the parties’ letter brief, the Court concludes that oral argument is not necessary, see N.D. Cal. Civ. L.R. 7-1(b) and rules as follows:

1. Plaintiff shall produce to Defendants each email address he used during the class period. The email addresses shall be treated as confidential and subject to the protective order, and may only be used by Defendants to determine if the email addresses were used to sign up on Fluent websites during the class period. The information sought by Defendants is relevant to Plaintiff’s adequacy as class counsel as well as to his claim that he did not visit Defendants’ website.
2. Defendants’ request for Plaintiff’s cellular phone billing records and call records is DENIED for the most part as such records are not relevant to a claim or defense in this action. Defendants’ speculation that the records will reveal if someone else registered Plaintiff’s telephone number on their website using an email address totally unconnected to Plaintiff is not plausible. However, as offered by Plaintiff, Plaintiff shall search his phone bills for calls geolocated to Hayward, the location of the IP address from which the “Dunk Loca” lead was obtained and provide any matches to

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Defendants, including the date and length of the call. It goes without saying that the parties cannot offer into evidence on class certification, summary judgment, or trial, evidence which was requested by the opposing party but not produced.

This Order disposes of Docket No. 136.

IT IS SO ORDERED.

Dated: February 6, 2019


JACQUELINE SCOTT CORLEY
United States Magistrate Judge