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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION**

DAZZA HUGHES,
Plaintiff,
v.
IQ DATA INTERNATIONAL, INC.,
Defendant.

Case No. 15-cv-05118-BLF

**ORDER GRANTING IQD’S MOTION
FOR SUMMARY JUDGMENT ON
FCRA CLAIM AND DENYING IQD’S
MOTION FOR SUMMARY JUDGMENT
ON CCRA CLAIM; DECLINING TO
EXERCISE SUPPLEMENTAL
JURISDICTION OVER CCRA CLAIM;
AND DISMISSING CCRA CLAIM**

[RE: ECF 54]

Plaintiff Dazza Hughes’ counsel has filed hundreds of cookie-cutter lawsuits alleging violations of the Fair Credit Reporting Act (“FCRA”), 15 U.S.C. § 1681s-2(b), and California’s Consumer Credit Reporting Agencies Act (“CCRA”), Cal. Civ. Code § 1785.25(a). To date, counsel has settled with most defendants in most cases at the pleading stage. This is the first case before the undersigned to advance to summary judgment, and it seems that counsel was ill-prepared for such a development, as he did not present *any* evidence in opposition to the summary judgment motion brought by the only defendant remaining in this action, IQ Data International, Inc. (“IQD”).

For the reasons discussed below, the Court GRANTS summary judgment for IQD on Hughes’ FCRA claim, declines to exercise supplemental jurisdiction over Hughes’ CCRA claim, and on that basis DISMISSES the CCRA claim without prejudice to refile it in state court.¹

¹ In light of these rulings, IQD’s alternative motion to dismiss or transfer venue, ECF 53, is MOOT.

1 **I. FACTS**

2 Hughes filed her fourth bankruptcy case, a Chapter 7 petition, in January 2015 and she
3 obtained discharge in May 2015. *See* BR Docket, Exh. E to Def.’s Request for Judicial Notice,
4 ECF 55-5. She filed this lawsuit in November 2015, alleging that after discharge her credit reports
5 incorrectly listed certain accounts as open, in collections, or charged off when in fact they had
6 been discharged. *See* Compl., ECF 1. Following the Court’s dismissal of the original and first
7 amended complaints for failure to state a claim under Federal Rule of Civil Procedure 12(b)(6),
8 Hughes filed the operative second amended complaint (“SAC”) asserting two claims against IQD,
9 the first for violation of the FCRA and the second for violation of the CCRA. *See* SAC, ECF 51.

10 IQD is a national collections agency specializing in property management debt recovery.
11 *See* SAC ¶¶ 19-33, ECF 51; McDonald Decl. ¶ 2, ECF 54-1. In February 2014, Hughes’
12 delinquent residential rental account was placed with IQD for collection. *Id.* ¶ 5. IQD furnished
13 the delinquent account information on a monthly basis to the three major credit reporting agencies
14 (“CRAs”), Equifax, Inc., Experian Information Solutions, Inc., and TransUnion LLC. *Id.*

15 Hughes claims that after her Chapter 7 discharge, she ordered a three-bureau credit report
16 and discovered that the residential account still appeared as open, without reference to her Chapter
17 7 filing or discharge. SAC ¶¶ 6-7. She claims that she disputed the inaccurate tradelines with the
18 CRAs and that the CRAs in turn notified IQD, but that IQD failed to conduct a reasonable
19 investigation and failed to correct the inaccurate tradelines in violation of the FCRA and CCRA.
20 SAC ¶¶ 9-12.

21 IQD has seeks summary judgment on both the FCRA and CCRA claims.

22 **II. LEGAL STANDARD**

23 “A party is entitled to summary judgment if the ‘movant shows that there is no genuine
24 dispute as to any material fact and the movant is entitled to judgment as a matter of law.’” *City of*
25 *Pomona v. SQM North America Corp.*, 750 F.3d 1036, 1049 (9th Cir. 2014) (quoting Fed. R. Civ.
26 P. 56(a)). The moving party has the burden of establishing that there is no dispute as to any
27 material fact. *Celotex Corp. v. Catrett*, 477 U.S. 317, 323 (1986). “The court must view the
28 evidence in the light most favorable to the nonmovant and draw all reasonable inferences in the

1 nonmovant’s favor.” *City of Pomona*, 750 F.3d at 1049. “[T]he ‘mere existence of a scintilla of
2 evidence in support of the plaintiff’s position’” is insufficient to defeat a motion for summary
3 judgment. *Id.* (quoting *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 252 (1986). “‘Where the
4 record taken as a whole could not lead a rational trier of fact to find for the nonmoving party, there
5 is no genuine issue for trial.’” *Id.* (quoting *Matsushita Elec. Indus. Co., Ltd. v. Zenith Radio*
6 *Corp.*, 475 U.S. 574, 587 (1986)).

7 **III. DISCUSSION**

8 **A. FCRA**

9 Claim 1 is asserted under the FCRA, which creates a private right of action against
10 “furnishers” – individuals and entities who furnish information to CRAs – for noncompliance with
11 duties imposed under 15 U.S.C. § 1681s-2(b). *Gorman v. Wolpoff & Abramson, LLP*, 584 F.3d
12 1147, 1154 (9th Cir. 2009). That provision imposes certain obligations on a furnisher, such as a
13 duty to conduct an investigation, when the furnisher receives notice from a CRA that a consumer
14 disputes information reported by the furnisher. *Id.*

15 A plaintiff is required to plead and prove four elements to prevail on an FCRA claim
16 against a credit furnisher: “(1) a credit reporting inaccuracy existed on plaintiff’s credit report;
17 (2) plaintiff notified the consumer reporting agency that plaintiff disputed the reporting as
18 inaccurate; (3) the consumer reporting agency notified the furnisher of the alleged inaccurate
19 information of the dispute; and (4) the furnisher failed to investigate the inaccuracies or further
20 failed to comply with the requirements in 15 U.S.C. 1681s-2(b) (1)(A)-(E).” *Denison v.*
21 *Citifinancial Servicing LLC*, No. C 16-00432 WHA, 2016 WL 1718220, at *2 (N.D. Cal. Apr. 29,
22 2016). A furnisher’s duties under § 1681s-2(b) of the FCRA arise “only after the furnisher
23 receives notice of dispute from a CRA.” *Gorman*, 584 F.3d at 1154.

24 In support of its motion for summary judgment, IQD submits the declaration of its
25 employee, Heather MacDonald, who states that “at no time did IQD ever receive an Automated
26 Consumer Dispute Verification form (“ACDV”) or other notice of dispute from any of the CRA[s]
27 related to the Account.” MacDonald Decl. ¶ 9. This evidence is sufficient to meet IQD’s burden
28 on summary judgment, as it negates the third element of the FCRA claim, that a CRA notified

1 IQD of the alleged inaccurate information. Thus the burden shifts to Hughes to submit evidence
2 sufficient to create a triable issue of fact as to whether any CRA notified IQD of the dispute.

3 Hughes presents no evidence whatsoever in opposition to IQD’s motion for summary
4 judgment. She argues in her opposition brief that she obtained a credit report in August 2015
5 showing that IQD had reported the account to Experian as “open” after the Chapter 7 discharge
6 while reporting the account to Equifax as “closed.” However, those statements are pure attorney
7 argument, unsupported by any evidence. “[W]here a furnisher has produced evidence that it was
8 not notified by the CRA of the consumer’s dispute, the CRA’s statutory obligation to provide
9 notice is alone insufficient to raise a genuine dispute at the summary judgment stage.” *Sheridan v.*
10 *FIA Card Servs., N.A.*, No. C13-01179 HRL, 2014 WL 587739, at *4 (N.D. Cal. Feb. 14, 2014)
11 (collecting cases). Because IQD has met its initial burden on summary judgment by submitting
12 evidence to negate an element of Hughes’ FCRA claim, and Hughes has not met her burden of
13 submitting evidence to create a triable issue of material fact, IQD is entitled to summary judgment
14 on the FCRA claim.

15 IQD’s motion for summary judgment is GRANTED on Claim 1 for violation of the FCRA.

16 **B. CCRA**

17 Claim 2 is asserted under § 1785.25(a) of the CCRA, which provides that “[a] person shall
18 not furnish information on a specific transaction or experience to any consumer credit reporting
19 agency if the person knows or should know the information is incomplete or inaccurate.” Cal.
20 Civ. Code § 1785.25(a). IQD argues that it is entitled to summary judgment on the CCRA claim
21 for the same reasons that it is entitled to summary judgment on the FCRA claim. However, the
22 CCRA does not contain the same statutory prerequisite to liability – a CRA’s notification to the
23 furnisher of the dispute – which entitles IQD to summary judgment on the FCRA claim. IQD has
24 not shown the absence of disputed issues as to whether IQD furnished information to a CRA that it
25 knew or should have known was incomplete or inaccurate.

26 However, in light of the Court’s determination that IQD is entitled to summary judgment
27 on the FCRA claim, the Court declines to exercise supplemental jurisdiction over the remaining
28 CCRA claim. “A district court ‘may decline to exercise supplemental jurisdiction’ if it ‘has

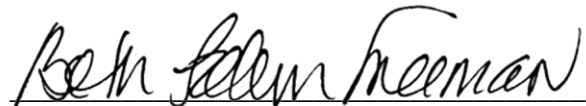
1 dismissed all claims over which it has original jurisdiction.” *Sanford v. MemberWorks, Inc.*, 625
2 F.3d 550, 561 (9th Cir. 2010) (quoting 28 U.S.C. § 1367(c)(3)). “[I]n the usual case in which all
3 federal-law claims are eliminated before trial, the balance of factors to be considered under the
4 pendent jurisdiction doctrine – judicial economy, convenience, fairness, and comity – will point
5 toward declining to exercise jurisdiction over the remaining state-law claims.” *Id.* (quoting
6 *Carnegie-Mellon Univ. v. Cohill*, 484 U.S. 343, 350 n. 7 (1988)). To date, the Court’s oversight
7 of the case has been limited to approving stipulated dismissals of three defendants and issuing two
8 orders noting the deficiencies in Hughes’ pleadings with respect to IQD. The Court therefore
9 perceives no reason to depart from the “usual case” in which state law claims are dismissed
10 following disposition of all federal claims.

11 Accordingly, IQD’s motion for summary judgment is DENIED on Claim 2 for violation of
12 the CCRA. However, the Court declines to exercise supplemental jurisdiction over Claim 2 and
13 therefore Claim 2 is DISMISSED without prejudice to the refiling of that claim in state court.

14 **IV. ORDER**

- 15 (1) Defendant IQD’s motion for summary judgment is GRANTED on Claim 1 for
16 violation of the FCRA and DENIED on Claim 2 for violation of the CCRA; and
17 (2) Claim 2 for violation of the CCRA is DISMISSED without prejudice to the refiling
18 of that claim in state court.

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20 Dated: December 22, 2016

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22 BETH LABSON FREEMAN
23 United States District Judge
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