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

ARTHUR HARRIS,
Plaintiff,
v.
EXPERIAN INFORMATION SOLUTIONS,
INC., et al.,
Defendants.

Case No. 16-cv-02162-BLF

**ORDER GRANTING DEFENDANT TD
BANK USA, N.A.’S MOTION TO
DISMISS THE FIRST AMENDED
COMPLAINT WITH LEAVE TO
AMEND**

[RE: ECF 41]

On October 6, 2016, the Court conducted a hearing on the motion of Defendant TD Bank, USA, N.A. (“TD Bank”) to dismiss the first amended complaint (“FAC”) pursuant to Federal Rule of Civil Procedure 12(b)(6). The FAC alleges violations of the Fair Credit Reporting Act, 15 U.S.C. § 1681s-2, and the California Consumer Credit Reporting Agencies Act, Cal. Civ. Code § 1785.25(a). With respect to TD Bank, the claims are based upon TD Bank’s allegedly improper reporting that Plaintiff’s account had an amount owing of \$800.00 and was in collections. *See* FAC ¶¶ 5-10, ECF 39. Plaintiff alleges that that reporting was inaccurate and misleading in light of the Bankruptcy Court’s confirmation of Plaintiff’s Chapter 13 plan providing that \$0.00 would be paid on the account. *See id.*

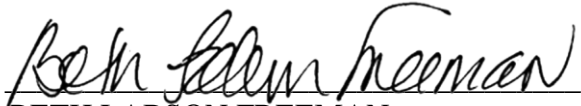
At the commencement of the hearing, Plaintiff’s counsel acknowledged that these allegations were confusing, in that he had not meant to allege that TD Bank had reported that the \$800.00 was past due. Counsel represented that this and other deficiencies in the FAC easily could be cured by amendment and proposed that the motion to dismiss be granted with leave to amend. In light of counsel’s comments, and absent objection by counsel for TD Bank, the Court GRANTS the motion to dismiss WITH LEAVE TO AMEND.

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Any amended pleading shall be filed on or before November 3, 2016. Leave to amend is limited to the claims set forth in the first amended complaint. Plaintiff may not add additional claims or parties without express leave of the Court.

IT IS SO ORDERED.

Dated: October 6, 2016


BETH LABSON FREEMAN
United States District Judge