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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

SHANNON DOSTER,  
Plaintiff,  
v.  
EXPERIAN INFORMATION SOLUTIONS,  
INC.,  
Defendant.

Case No. 16-CV-04629-LHK

**ORDER GRANTING MOTION TO  
DISMISS WITH PREJUDICE IN PART  
AND WITHOUT PREJUDICE IN PART**

Re: Dkt. No. 25

In this action, Plaintiff Shannon Doster (“Plaintiff”) sues Defendant Experian Information Solutions, Inc. (“Experian”) for violation of the federal Fair Credit Reporting Act (“FCRA”), 15 U.S.C. § 1681i. Before the Court is Experian’s motion to dismiss. ECF No. 25. The Court finds that the instant motion is suitable for resolution without oral argument and therefore VACATES the hearing scheduled for January 26, 2017. However, the January 26, 2017 case management conference remains as set at 1:30 p.m. Having considered the submissions of the parties, the relevant law, and the record in this case, the Court GRANTS Experian’s motion to dismiss with prejudice in part and without prejudice in part.

**I. BACKGROUND**

1                   **A. Factual Background**

2                   On February 8, 2011, Plaintiff filed for Chapter 13 bankruptcy. First Amended Complaint  
3 (“FAC”), ECF No. 18 ¶ 93. “Chapter 13 of the Bankruptcy Code affords individuals receiving  
4 regular income an opportunity to obtain some relief from their debts while retaining their property.  
5 To proceed under Chapter 13, a debtor must propose a plan to use future income to repay a portion  
6 (or in the rare case all) of his debts over the next three to five years.” *Bullard v. Blue Hills Bank*,  
7 135 S. Ct. 1686, 1690 (2015). “If the bankruptcy court confirms the plan and the debtor  
8 successfully carries it out, he receives a discharge of his debts according to the plan.” *Id.* at 1690.  
9 In the instant case, Plaintiff’s bankruptcy plan was confirmed on May 4, 2011. FAC ¶ 97.

10                   On March 3, 2016, Plaintiff ordered a three-bureau credit report from Experian. *Id.* ¶ 98. In  
11 the report, Plaintiff allegedly noticed that “multiple trade lines continued to report Plaintiff’s  
12 accounts with past due balances, inaccurate balances, in collections, and/or charged off.” *Id.* ¶ 99.  
13 Plaintiff does not specify which accounts contained which alleged errors, or on which credit  
14 reporting bureau’s reports these accounts appeared. In response to the report, on May 3, 2016,  
15 Plaintiff disputed the allegedly inaccurate trade lines with the three credit reporting bureaus:  
16 Equifax, Experian, and Trans Union, LLC (“TransUnion”). *Id.* ¶ 100. According to Plaintiff,  
17 “Plaintiff’s dispute letter specifically put each Creditor on notice that Plaintiff had filed for  
18 bankruptcy and the account was not reporting the bankruptcy accurately or worse not at all.” *Id.* ¶  
19 101. Moreover, Plaintiff’s dispute letter “noted that there should not be any past due balance  
20 reported, the account should not be listed as charged off, transferred or sold, with an inaccurate  
21 monthly payment or that the account is in collections.” *Id.*

22                   On May 24, 2016, three weeks after Plaintiff sent in her dispute letter, Plaintiff was  
23 discharged from bankruptcy. Subsequently, on June 7, 2016, Plaintiff ordered a second three-  
24 bureau credit report from Equifax to check whether the alleged mistakes on the March 3, 2016  
25 report had been corrected. *Id.* ¶ 104. In this second report, Plaintiff alleges that one account still  
26 reported her account inaccurately. *Id.* ¶ 105. Specifically, Plaintiff alleges that “JPMorgan Chase  
27 Bank was reporting Plaintiff’s account . . . as in collections and charged off.” *Id.*

1 Plaintiff alleges that Experian failed to “conduct a reasonable investigation and to delete  
2 any information that was not accurate” as required under 15 U.S.C. § 1681i-(a)1. *Id.* ¶ 119.  
3 Specifically, Plaintiff alleges that Experian must have conducted an unreasonable investigation  
4 because “any basic investigation” would have revealed that information furnishers “were not  
5 following credit reporting industry standards” by reporting delinquent debts after Plaintiff’s  
6 Chapter 13 bankruptcy plan confirmation. *Id.* ¶ 127.

7 Finally, Plaintiff alleges generally that “all actions alleged herein by Defendants were done  
8 knowingly, intentionally, and in reckless disregard for credit reporting industry standards in an  
9 attempt to purposefully undermine Plaintiff’s ability to reorganize and repair Plaintiff’s FICO  
10 Score.” *Id.* ¶ 18.

11 **B. Procedural History**

12 On August 12, 2016, Plaintiff filed a Complaint in this Court against Experian and  
13 JPMorgan Chase Bank (“JPMorgan Chase”). ECF No. 1. Plaintiff asserted a cause of action under  
14 the FCRA against each Defendant, and Plaintiff asserted a cause of action under the CCRAA  
15 against JPMorgan Chase. *See id.* at ¶¶ 22–40.

16 On September 13, 2016, Experian moved to dismiss the Complaint. ECF No. 11. Rather  
17 than respond to Experian’s motion to dismiss, Plaintiff filed on October 3, 2016 an amended  
18 complaint. ECF No. 18. Accordingly, on November 3, 2016, this Court denied Experian’s motion  
19 to dismiss as moot. ECF No. 24.

20 On November 3, 2016, Experian moved to dismiss the FAC. ECF No. 25 (Mot.”). On  
21 December 1, 2016, Plaintiff filed a response to Experian’s motion to dismiss. ECF No. 27  
22 (“Opp.”). On December 21, 2016, Experian filed a reply. ECF No. 39 (“Reply”).

23 On October 26, 2016, Plaintiff filed a stipulation of voluntary dismissal of Defendant  
24 JPMorgan Chase. ECF No. 22. The Court granted the stipulation of dismissal on October 27,  
25 2016. ECF No. 23.

26 **II. LEGAL STANDARD**

27 **A. Motion to Dismiss Under Rule 12(b)(6)**

1 Pursuant to Federal Rule of Civil Procedure 12(b)(6), a defendant may move to dismiss an  
2 action for failure to allege “enough facts to state a claim to relief that is plausible on its face.” *Bell*  
3 *Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007). “A claim has facial plausibility when the  
4 plaintiff pleads factual content that allows the court to draw the reasonable inference that the  
5 defendant is liable for the misconduct alleged. The plausibility standard is not akin to a  
6 ‘probability requirement,’ but it asks for more than a sheer possibility that a defendant has acted  
7 unlawfully.” *Ashcroft v. Iqbal*, 566 U.S. 662, 678 (2009) (internal citation omitted).  
8

9 For purposes of ruling on a Rule 12(b)(6) motion, the Court “accept[s] factual allegations  
10 in the complaint as true and construe[s] the pleadings in the light most favorable to the nonmoving  
11 party.” *Manzarek v. St. Paul Fire & Marine Ins. Co.*, 519 F.3d 1025, 1031 (9th Cir. 2008).

12 However, a court need not accept as true allegations contradicted by judicially noticeable facts,  
13 *Shwarz v. United States*, 234 F.3d 428, 435 (9th Cir. 2000), and a “court may look beyond the  
14 plaintiff’s complaint to matters of public record” without converting the Rule 12(b)(6) motion into  
15 one for summary judgment, *Shaw v. Hahn*, 56 F.3d 1061, 1064 (9th Cir. 2011). Mere “conclusory  
16 allegations of law and unwarranted inferences are insufficient to defeat a motion to dismiss.”  
17 *Adams v. Johnson*, 355 F.3d 1179 1183 (9th Cir. 2004).  
18

19 **B. Leave to Amend**

20 If the court concludes that a motion to dismiss should be granted, it must then decide  
21 whether to grant leave to amend. Under Rule 15(a) of the Federal Rules of Civil Procedure, leave  
22 to amend “shall be freely given when justice so requires,” bearing in mind “the underlying purpose  
23 of Rule 15 . . . [is] to facilitate decision on the merits, rather than on the pleadings or  
24 technicalities.” *Lopez v. Smith*, 203 F.3d 1122, 1127 (9th Cir. 2000) (citation omitted).  
25

26 Nonetheless, a district court may deny leave to amend a complaint due to “undue delay, bad faith  
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1 or dilatory motive on the part of the movant, repeated failure to cure deficiencies by amendments  
2 previously allowed, undue prejudice to the opposing party by virtue of allowance of the  
3 amendment, [and] futility of amendment.” See *Leadsinger, Inc. v. BMG Music Publ’g*, 512 F.3d  
4 522, 532 (9th Cir. 2008) (alteration in original).

5 **III. DISCUSSION**

6 Plaintiff asserts only a FCRA claim against Experian. Congress enacted the FCRA “to  
7 ensure fair and accurate credit reporting, promote efficiency in the banking system, and protect  
8 consumer privacy.” *Gorman v. Wolpoff & Abramson, LLP*, 584 F.3d 1147, 1153 (9th Cir. 2009)  
9 (quoting *Safeco Ins. Co. of Am. v. Burr*, 551 U.S. 47, 52 (2007)). To ensure that credit reports are  
10 accurate, the FCRA imposes duties on consumer reporting agencies. *Id.* In the instant case,  
11 Experian does not dispute that it qualifies as a consumer reporting agency under the FCRA.

12 The obligations of consumer reporting agencies (“CRAs”) are described in 15 U.S.C. §  
13 1681i. Under that section of the FCRA, consumer reporting agencies must conduct a reasonable  
14 “reinvestigation” of reported credit information if a consumer disputes the contents of the report.  
15 15 U.S.C. § 1681i(a); see also *Thomas v. TransUnion, LLC.*, 197 F. Supp. 2d 1233, 1236 (D. Or.  
16 2002) (discussing the reinvestigation requirements for CRAs under the FCRA). Specifically,  
17 within 30 days of receiving a notice from a consumer dispute, a credit reporting agency must  
18 “conduct a reasonable reinvestigation to determine whether the disputed information is inaccurate  
19 and record the current status of the disputed information, or delete the item from the file.” 15  
20 U.S.C. § 1681i(a)(1)(A). Additionally, a CRA is required to “provide notification of the dispute to  
21 any person who provided any item of information in dispute” so that the furnisher may conduct its  
22 own investigation as required by § 1681s-2(b). See § 1681i(a)(2)(A). The FCRA creates a private  
23 right of action for willful or negligent noncompliance with its provisions. *Gorman*, 584 F.3d at  
24 1154 (citing 15 U.S.C. §§ 1681n, o).

25 The FCRA creates a private right of action for willful or negligent noncompliance with  
26 either § 1681i. *Gorman*, 584 F.3d at 1154 (citing 15 U.S.C. §§ 1681n, o). If a failure to comply  
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1 with either § 1681i or § 1681s-2(b) is negligent, a plaintiff may recover “any actual damages  
2 sustained by the consumer as a result of the failure.” 15 U.S.C. § 1681o(a)(1). If a failure to  
3 comply with either § 1681i or § 1681s-2(b) is willful, a consumer may recover actual damages or  
4 statutory damages between \$100 and \$1000, as well as any appropriate punitive damages. 15  
5 U.S.C. § 1681n(a).

6 Additionally, a plaintiff must establish “that an actual inaccuracy exist[s] for a plaintiff to  
7 state a claim” for a violation of § 1681i. *Carvalho v. Equifax Info. Servs., LLC*, 629 F.3d 876, 890  
8 (9th Cir. 2010). Thus, even if a furnisher or CRA fails to conduct a reasonable investigation or  
9 otherwise fails to fulfill its obligations under the FCRA, if a plaintiff cannot establish that a credit  
10 report contained an actual inaccuracy, then the plaintiff’s “claims fail as a matter of law.”  
11 *Carvalho*, 629 F.3d at 890.

12 Experian argues that Plaintiff’s FAC must be dismissed because Plaintiff fails to identify  
13 any inaccurate or misleading statements in Plaintiff’s credit report. In response, Plaintiff argues  
14 that “[t]he information that was being reported on Plaintiff’s credit report after the confirmation of  
15 [Plaintiff’s] chapter 13 plan of financial reorganization and subsequent chapter 13 discharge was  
16 both inaccurate and misleading and does not comport with the industry standards that cover credit  
17 reporting and bankruptcy.” Opp. at 2–3. Specifically, Plaintiff asserts that “Plaintiff’s confirmed  
18 chapter 13 plan modifies his [sic] secured and unsecured debts and the confirmation order is a  
19 final and binding judgment on the status of those debts” and that “[r]eporting a debt differently  
20 than its treatment runs afoul of the confirmation order and res judicata effect of the confirmation  
21 order.” *Id.* at 3. The Court first addresses Plaintiff’s argument that her credit report contained  
22 inaccurate information following Plaintiff’s discharge from Chapter 13 bankruptcy. The Court  
23 then addresses Plaintiff’s argument that her credit report was inaccurate because it did not conform  
24 to Plaintiff’s confirmed Chapter 13 bankruptcy plan.

25 **A. Allegedly Inaccurate Information Following Discharge**

26 First, Plaintiff claims that her credit report contained inaccurate information following  
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1 Plaintiff's discharge from Chapter 13 bankruptcy. However, the complaint does not allege that  
2 Plaintiff disputed the contents of any credit report that Plaintiff obtained after she was discharged  
3 from bankruptcy. Thus, the discharge cannot form the basis of an FCRA claim against Experian.

4 Plaintiff's complaint states that she obtained a credit report on March 3, 2016, on which  
5 she noticed two trade lines with alleged inaccuracies. FAC ¶ 99. Plaintiff then alleges that she  
6 disputed the allegedly inaccurate trade lines on May 3, 2016. *Id.* ¶ 100. In this dispute letter,  
7 Plaintiff stated that her credit report was not reporting her pending bankruptcy accurately and that  
8 her confirmed bankruptcy plan meant there should not be "any past due balance reported." *Id.* ¶  
9 101. Three weeks later, on May 24, 2016, Plaintiff alleges that she received her discharge. *Id.* ¶  
10 103.

11 However, Plaintiff never alleges that Plaintiff sent any dispute letter after her May 24,  
12 2016 discharge or that Plaintiff ever informed Experian or her creditors that her credit report was  
13 incorrect because it failed to take account of the May 24, 2016 discharge. *See generally* FAC. A  
14 CRA's obligation to conduct a "reasonable reinvestigation" under the FCRA is triggered "only  
15 upon receipt of a dispute from a consumer." *Devincenzi v. Experian Info. Sols., Inc.*, 2017 WL  
16 86131, at \*8 (N.D. Cal. Jan. 10, 2017); *see also* 15 U.S.C. § 1681i(a)(1)(A) ("[I]f ... any item of  
17 information contained in a consumer's file at a consumer reporting agency is disputed by the  
18 consumer and the consumer notifies the agency . . . of such dispute, the agency shall, free of  
19 charge, conduct a reasonable reinvestigation to determine whether the disputed information is  
20 inaccurate."). Thus, because Experian never received a dispute claiming that Plaintiff's credit  
21 report was inaccurate because Plaintiff's debts had been discharged in bankruptcy, Experian's  
22 "investigation obligations regarding this alleged inaccuracy were never triggered." *Devincenzi*,  
23 2017 WL 86131, at \*8; *see also Jaras v. Experian Info. Sols., Inc.*, 2016 WL 7337540, at \*4 (N.D.  
24 Cal. Dec. 19, 2016) (holding that Plaintiff "cannot make a prima facie case of inaccurate  
25 reporting" because "at the time Plaintiff lodged his dispute, Plaintiff's credit report was  
26 accurate.").

1 In short, Plaintiff never alleges that she disputed her credit report after her May 24, 2016  
2 discharge, and therefore Experian’s duty to reinvestigate this alleged inaccuracy was never  
3 triggered. Thus, alleged inaccuracies based on the May 24, 2016 discharge are not sufficient to  
4 state a claim against Experian under the FCRA.

5 **B. Failure to Conform to Confirmed Chapter 13 Plan**

6 Second, Plaintiff argues that her March 3, 2016 credit report was inaccurate because it did  
7 not conform to the terms of Plaintiff’s Chapter 13 bankruptcy plan. Specifically, Plaintiff argues  
8 that a “confirmation order is a final judgment which fixes the amount of debt owed,” and that  
9 therefore “once a chapter 13 plan is confirmed a creditor is bound by the terms of the plan” and a  
10 credit report must therefore reflect only the terms of the plan.

11 However, the Court has repeatedly rejected Plaintiff’s argument. In *Blakeney v. Experian*  
12 *Info. Sols., Inc.*, 2016 WL 4270244 (N.D. Cal. Aug. 15, 2016), this Court held that although  
13 reporting delinquent payments may be misleading if the debts have been discharged in bankruptcy,  
14 “it is not misleading or inaccurate to report delinquent debts that have *not* been discharged.” *Id.* at  
15 \*5. In *Jaras v. Experian Info. Sols., Inc.*, 2016 WL 7337540, at \*3 (N.D. Cal. Dec. 19, 2016), this  
16 Court held that “as a matter of law, it is not misleading or inaccurate to report delinquent debts  
17 during the pendency of a bankruptcy proceeding prior to the discharge of the debts.” Other courts  
18 in this district have consistently reached the same conclusion. *See Mortimer v. JP Morgan Chase*  
19 *Bank, N.A.*, 2012 WL 3155563, at \*3 (N.D. Cal. Aug. 2, 2012) (“*Mortimer I*”) (“While it might be  
20 good policy in light of the goals of bankruptcy protection to bar reporting of late payments while a  
21 bankruptcy petition is pending, neither the bankruptcy code nor the FCRA does so.”); *Mortimer v.*  
22 *Bank of Am., N.A.*, 2013 WL 1501452, at \*4 (N.D. Cal. Apr. 10, 2013) (“*Mortimer II*”) (finding  
23 that reporting delinquencies during the pendency of bankruptcy is not misleading so long as the  
24 creditor reports that the account was discharged through bankruptcy and the outstanding balance is  
25 zero); *Giovani v. Bank of Am., N.A.*, 2012 WL 6599681, at \*6 (N.D. Cal. Dec. 18, 2012) (“*Giovani*  
26 *I*”) (holding that it was not misleading or inaccurate for a furnisher to report overdue payments on  
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1 debtor’s account during pendency of Chapter 7 bankruptcy petition but prior to discharge);  
2 *Giovanni v. Bank of Am., N.A.*, 2013 WL 1663335, at \*6 (N.D. Cal. Apr. 17, 2013) (“*Giovanni*  
3 *IP*”) (same); *Harrold v. Experian Info. Sols., Inc.*, 2012 WL 4097708, at \*4 (N.D. Cal. Sept. 17,  
4 2012) (“[R]eports of delinquencies in payment while bankruptcy proceedings are still ongoing is  
5 not ‘incomplete or inaccurate’ information.”).

6 As discussed at length in *Blakeney, Jaras*, and other cases, the legal status of a debt does  
7 not change until the debtor is discharged from bankruptcy. 11 U.S.C. § 1328; *Blakeney*, 2016 WL  
8 4270244, at \*6 (“Plaintiff is not entitled to receive a discharge of debts covered under Plaintiff’s  
9 Chapter 13 bankruptcy plan until Plaintiff has completed all payments provided for under the  
10 Chapter 13 bankruptcy plan.”). Confirmation of a payment plan is not sufficient to alter the legal  
11 status of a debt, because if a debtor fails to comply with the Chapter 13 plan, the debtor’s  
12 bankruptcy petition can be dismissed, in which case the debt will be owed as if no petition for  
13 bankruptcy was filed. *See In re Blendheim*, 803 F.3d 477, 487 (9th Cir. 2015) (“[D]ismissal  
14 returns to the creditor all the property rights he held at the commencement of the Chapter 13  
15 proceeding.”); *see also Elliott*, 150 B.R. at 40 (“[E]ven if a confirmed Chapter 13 plan did bar  
16 challenges to the underlying claims, *res judicata* would not apply where the confirmed plan had  
17 been dismissed.”). Thus, a confirmation order does not constitute a final determination of the  
18 amount of the debt, and it is not misleading or inaccurate to report delinquent debt during the  
19 pendency of a bankruptcy proceeding but before discharge. In short, even if Plaintiff is correct that  
20 Plaintiff’s credit report did not reflect the terms of Plaintiff’s Chapter 13 bankruptcy plan, this  
21 would not be an inaccurate or misleading statement that could sustain a FCRA claim against  
22 Experian.

23 Plaintiff’s invocation of “industry standards” does not undermine this conclusion. FAC ¶  
24 80 (“Post confirmation the accepted accurate credit reporting standard for reporting balances is to  
25 report the balance owed under the Chapter 13 plan terms.”). Indeed, this Court recently rejected an  
26 identical “industry standards” argument in *Devincenzi v. Experian Information Solutions*, 2017  
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1 WL 86131 (N.D. Cal. Jan. 10, 2017); *Keller v. Experian Information Solutions*, 2017 WL 130285  
2 (N.D. Cal. Jan. 13, 2017); and *Connors v. Experian Info. Sols., Inc.*, 2017 WL 168493 (N.D. Cal.  
3 Jan. 17, 2017). As this Court explained in *Devincenzi*, *Keller*, and *Connors*, courts in this district  
4 have repeatedly held that accurately reporting a delinquent debt during the pendency of a  
5 bankruptcy is not rendered unlawful simply because a plaintiff alleges that the reporting, though  
6 accurate, was inconsistent with industry standards. *Devincenzi*, 2017 WL 86131, at \*6; *Keller*,  
7 2017 WL 130285, at \*7; *Connors*, 2017 WL 168493, at \*4. For example, in *Mortimer II*, the Court  
8 held that “[t]o the extent that the account was delinquent during the pendency of the bankruptcy,  
9 failure to comply with the CDIA guidelines does not render the report incorrect.” 2013 WL  
10 1501452, at \*12. Similarly, in *Sheridan v. FIA Card Services, N.A.*, 2014 WL 587739 (N.D. Cal.  
11 Feb. 14, 2014), the court followed *Mortimer* in “reject[ing] the argument that failure to comply  
12 with industry standards violates the FCRA where the information itself is nonetheless true.” *Id.* at  
13 \*5. Additionally, in *Mestayer v. Experian Information Solutions, Inc.*, 2016 WL 7188015 (N.D.  
14 Cal. Dec. 12, 2016) (“*Mestayer III*”), the court held that at least when a credit report acknowledges  
15 the existence of a pending bankruptcy, reporting a delinquent debt during the pendency of a  
16 bankruptcy is not inaccurate or misleading “even if [the report] otherwise did not fully comply  
17 with” industry standards. *Id.* at \*3; see also *Mestayer v. Experian Info. Sols., Inc.*, 2016 WL  
18 3383961 (N.D. Cal. June 20, 2016) (same); *Hupfauer v. Citibank, N.A.*, 2016 WL 4506798 (N.D.  
19 Ill. Aug. 19, 2016) (citing *Mortimer* for the proposition that “Plaintiff’s argument that Experian’s  
20 reporting deviated from guidelines set by the Consumer Data Industry Association is beside the  
21 point, as these guidelines do not establish the standards for accuracy under the FCRA.”). The same  
22 is true here.

23 Plaintiff cites *Nissou-Raban v. Capital One Bank (USA), N.A.*, 2016 WL 4508241 (S.D.  
24 Cal. June 6, 2016), for the proposition that alleging a violation of reporting standards can in some  
25 circumstances be sufficient to state a claim under the FCRA. However, *Nissou-Raban* held only  
26 that if a furnisher reports a debt that is the subject of a pending bankruptcy, it could be misleading  
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1 for the furnisher to describe that debt as “charged off”—that is, seriously delinquent and likely  
2 uncollectable—without mentioning that the debt is the subject of a pending bankruptcy. *Id.* at \*4.  
3 Thus, at most, *Nissou-Raban* stands for the proposition that a furnisher that reports delinquent  
4 debts during the pendency of a bankruptcy should also report the fact that a bankruptcy is pending  
5 so that creditors know that those delinquent debts may be discharged in the future. However,  
6 *Nissou-Raban* does not endorse Plaintiff’s argument that reporting a delinquent debt itself violates  
7 industry standards and is misleading or inaccurate. *Devincenzi*, 2017 WL 86131, at \*6  
8 (distinguishing *Nissou-Raban* from a situation where, as here, the plaintiff alleged only that the  
9 defendants’ reporting of plaintiff’s delinquent debt during plaintiff’s Chapter 13 bankruptcy  
10 violated industry standards and was thus incorrect under the FCRA). On the contrary, *Nissou-*  
11 *Raban* explicitly recognized that “pleading facts that show a furnisher reported information that  
12 was accurate while bankruptcy was pending but before the debt was discharged does not, as a  
13 matter of law, provide the predicate inaccuracy necessary to state a FCRA or a CCRAA claim.”  
14 *Nissou-Raban*, 2016 WL 4508241, at \*3.

15 The issue in *Nissou-Raban* is therefore not presented in the instant case. Plaintiff alleges  
16 generally that, on Plaintiff’s credit report, “[s]ome accounts . . . [were] not reporting the  
17 bankruptcy . . . at all,” FAC ¶ 99, but Plaintiff never specifies which accounts failed to mention the  
18 pending bankruptcy.<sup>1</sup> Further, Plaintiff never alleges that Experian failed to report Plaintiff’s  
19 pending bankruptcy. *See generally* FAC ¶¶ 104–07; Experian Mot. at 2–3 (“While Plaintiff alleges  
20 that she ordered a ‘three bureau’ report from Experian, she does not allege that Experian reported  
21 the purportedly inaccurate information in that document,” as opposed to the other bureaus). To the  
22 contrary, Plaintiff’s FAC makes only general and unspecified allegations that her credit report,  
23 which was a three-bureau credit report, contained inaccuracies and that the CRAs reported  
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25 <sup>1</sup> Plaintiff’s FAC alleges that “JPMorgan Chase Bank was reporting Plaintiff’s account . . . as in  
26 collections and charged off.” FAC ¶ 105. However, Plaintiff does not allege that the JPMorgan  
27 Chase account failed to mention the bankruptcy, and Plaintiff never alleges that Experian reported  
28 this information.

1 misleading and inaccurate information, but the FAC does not allege any conduct that is specific to  
2 Experian. *See, e.g.*, FAC ¶¶ 118–32. Accordingly, because Plaintiff’s FAC does not allege that  
3 either Experian failed to report the fact of Plaintiff’s pending bankruptcy, the Court need not  
4 consider whether such a failure would be misleading or inaccurate under the FCRA. *Devincenzi*,  
5 2017 WL 86131, at \*7 (dismissing identical FCRA claims because the Plaintiff “never allege[d]  
6 that [the furnisher] or Experian failed to mention the pending bankruptcy”).

7 In sum, Plaintiff’s vague assertion that “reporting a past due balance post confirmation  
8 does not comport with industry standards,” FAC ¶ 131, is not enough to overcome this Court’s  
9 consistent holding that as a matter of law it is not misleading or inaccurate to report a delinquent  
10 debt during the pendency of a bankruptcy. Thus, the Court rejects Plaintiff’s argument that her  
11 credit report was misleading or inaccurate for reporting delinquent debt during the pendency of her  
12 Chapter 13 bankruptcy.<sup>2</sup> *See Devincenzi*, 2017 WL 86131, at \*7.

13 The Court therefore GRANTS Experian’s motion to dismiss Plaintiff’s FCRA claim based  
14 on the reporting of delinquent debt during the pendency of a bankruptcy. The Court finds as a  
15 matter of law that reporting a delinquent debt during the pendency of a bankruptcy is not  
16 inaccurate or misleading, and thus this claim is dismissed with prejudice. *See Jaras v. Experian*  
17 *Info. Solus, Inc.*, 2016 WL 7337540, at \*3 (N.D. Cal. Dec. 19, 2016) (“[A]s a matter of law, it is  
18 not misleading or inaccurate to report delinquent debts during the pendency of a bankruptcy  
19 proceeding prior to the discharge of the debts.”). Therefore, because Plaintiff “cannot make a  
20 prima facie case of inaccurate reporting” with respect to this claim, the Court finds that  
21 “amendment . . . would be futile.” *Carvalho*, 629 F.3d at 892.

22 Nonetheless, as discussed above, Plaintiff has also alleged generally that certain accounts  
23 in the May 16, 2016 credit report contained no indication at all that the debts were the subject of a  
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25 <sup>2</sup> Because the Court agrees with Defendants that it is not misleading or inaccurate to report  
26 delinquent debt during the pendency of a Chapter 13 bankruptcy, the Court need not reach  
27 Defendant’s argument that Plaintiff has failed to sufficiently plead willfulness or actual damages.  
*See Experian Mot.* at 12–15.

1 pending bankruptcy. Plaintiff has not stated that these allegations apply to Experian, and therefore  
2 the Court does not consider these allegations at this time or decide whether they would be  
3 sufficient to state a claim. However, the Court grants leave to amend for Plaintiff to clarify  
4 whether this allegation applies to Experian, and, if so, to provide more detail regarding these  
5 allegations. *Devincenzi*, 2017 WL 86131, at \*7 (granting Plaintiff leave to amend FCRA claims to  
6 allege whether the furnisher or Experian failed to report Plaintiff’s pending bankruptcy). In doing  
7 so, however, the Court warns that Plaintiff must provide “much more specific allegations”  
8 regarding what precisely Experian reported and how this report could be misleading, including  
9 production or detailed description of “the actual credit report to which” Plaintiff objects. *Mestayer*  
10 *III*, 2016 WL 7188015, at \*3. If Plaintiff fails to correct these deficiencies, this claim too will be  
11 dismissed with prejudice.

12 The Court also grants Plaintiff leave to amend her claim that Experian violated its duty of  
13 reinvestigation following her discharge. Specifically, the Court grants Plaintiff leave to clarify  
14 whether Plaintiff ever disputed the contents of a credit report issued after Plaintiff received her  
15 discharge. If Plaintiff fails to correct the deficiencies in this claim, this claim too will be dismissed  
16 with prejudice.

17 **IV. CONCLUSION**

18 For the foregoing reasons, the Court GRANTS Experian’s motion to dismiss. The Court  
19 DISMISSES WITH PREJUDICE Plaintiff’s FCRA claim based on the reporting of delinquent  
20 debt during the pendency of a bankruptcy. The Court DISMISSES WITH LEAVE TO AMEND  
21 Plaintiff’s FCRA claim based on failure to report the fact of a pending bankruptcy and Plaintiff’s  
22 FCRA claim based on alleged inaccuracies following discharge from bankruptcy.

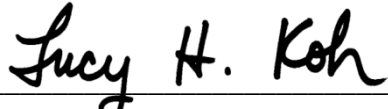
23 Should Plaintiff elect to file an amended complaint curing the deficiencies identified  
24 herein, Plaintiff shall do so within twenty-one (21) days of the date of this Order. Failure to meet  
25 the twenty-one day deadline to file an amended complaint or failure to cure the deficiencies  
26 identified in this Order will result in a dismissal with prejudice of Plaintiff’s claims. Plaintiff may  
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not add new causes of action or parties without leave of the Court or stipulation of the parties pursuant to Rule 15 of the Federal Rules of Civil Procedure.

**IT IS SO ORDERED.**

Dated: January 20, 2017

  
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LUCY H. KOH  
United States District Judge