



1 Chevrolet desired to access his credit report, and Plaintiff stated firmly that he did not want his file  
2 accessed. Subsequently, Plaintiff's file was accessed a total of 14 times as a result of actions by  
3 City Chevrolet and its lender affiliates. Chase Auto allegedly accessed Plaintiff's TransUnion  
4 Credit Report on October 1, 2009 without permission or permissible purpose.

5 On November 12, 2009, Plaintiff filed a Complaint alleging three causes of action: (1)  
6 violation of the Fair Credit Reporting Act; (2) violation of the California Consumer Credit  
7 Reporting Agencies Act, Cal. Civ. Code 1785.20-1785.22; and (3) negligence. (Doc. No. 1.)

8 Plaintiff names as defendants City Chevrolet and several lender affiliates. On January 26,  
9 2010, Chase Auto filed the instant motion to strike portions of Plaintiff's Complaint pursuant to  
10 Rule 12(f) of the Federal Rules of Civil Procedure. (Doc. No. 9.)

## 11 **DISCUSSION**

### 12 **I. Legal Standard**

13 Under Rule 12(f), the Court may "strike from a pleading . . . any redundant, immaterial,  
14 impertinent, or scandalous matter." Fed. R. Civ. P. 12(f) (2009). "Although motions to strike are  
15 generally looked upon with disfavor, they may be granted on the grounds of immateriality or  
16 impertinence when the allegations or language in question have no possible relation to the  
17 controversy." Reyn's Pasta Bella, LLC v. Visa U.S.A., 259 F. Supp. 2d 992, 1001 (N.D. Cal.  
18 2003) (citing Fantasy, Inc. v. Fogerty, 984 F.2d 1524, 1527 (9th Cir. 1993), *rev'd on other*  
19 *grounds in* 510 U.S. 517 (1994)). "'Immaterial' matter is that which has no essential or important  
20 relationship to the claim for relief or the defenses being pleaded." Fantasy, 984 F.2d at 1527  
21 (quoting 5 Charles A. Wright & Arthur R. Miller, Federal Practice and Procedure § 1382, at 706-  
22 07 (1990)). "'Impertinent' matter consists of statements that do not pertain, and are not necessary,  
23 to the issues in question." Fantasy, 984 F.2d at 1527 (quoting Wright & Miller, at 711).

24 "[T]he function of a 12(f) motion to strike is to avoid the expenditure of time and money  
25 that must arise from litigating spurious issues. . . ." Fantasy, 984 F.2d at 1527 (quoting Sidney-  
26 Vinstein v. A.H. Robins Co., 697 F.2d 880, 885 (9th Cir. 1983)). However, Rule 12(f) motions are  
27 generally viewed with disfavor and not ordinarily granted because they are often used to delay and  
28 because of the limited importance of the pleadings in federal practice. Bureerong v. Uvawas, 922

1 F. Supp. 1450, 1478 (C.D. Cal. 1996).

2 II. Analysis

3 Chase Auto moves to strike the portions of Plaintiff's Complaint that request punitive  
4 damages, arguing that Plaintiff has not adequately plead that the defendants acted with  
5 "oppression, fraud or malice."

6 California Civil Code section 3294(a) provides for recovery of punitive damages where a  
7 plaintiff establishes by clear and convincing evidence that a defendant acted with "oppression,  
8 fraud, or malice." Cal. Civ. Code § 3294(a). Chase Auto relies on several California cases which  
9 set forth a heightened pleading standard for plaintiffs seeking punitive damages under Section  
10 3294. Chase Auto argues that Plaintiff does not make any specific factual allegations supporting  
11 his claim that "Defendants acted with oppression, fraud or malice." (Compl. at 5.) Chase Auto  
12 also argues that, because it is a corporate defendant, subsection 3294(b) further requires Plaintiff  
13 to allege acts of ratification or authorization by an officer or director of Chase Auto.

14 The Court declines to grant the motion to strike on these grounds. While Section 3294  
15 governs Plaintiff's substantive claim for punitive damages, the Federal Rules of Civil Procedure  
16 govern the punitive damages claim procedurally with respect to the adequacy of pleadings. See,  
17 e.g., Clark v. State Farm Mut. Auto. Ins. Co., 231 F.R.D. 405, 406-07 (C.D. Cal. 2005); Jackson v.  
18 East Bay Hosp., 980 F. Supp. 1341, 1353 (N.D. Cal. 1997). Rule 8(b) requires a pleading contain  
19 "a short and plain statement of the claim showing that the pleader is entitled to relief;" and "a  
20 demand for the relief sought." Fed. R. Civ. P. 8(a)(1),(3). Rule 9(b) further provides that "malice,  
21 intent, knowledge, and other conditions of mind of a person may be averred generally." Fed. R.  
22 Civ. P. 9(b).

23 A motion to strike pursuant to Rule 12(f) is a mechanism for the Court to strike "any  
24 redundant, immaterial, impertinent, or scandalous matter." Fed. R. Civ. P. 12(f). Chase Auto has  
25 not demonstrated that Plaintiff's allegations regarding punitive damages constitute "redundant,  
26 immaterial, impertinent, or scandalous matter." If Plaintiff successfully satisfies the substantive  
27 requirements of Section 3294, he may be entitled to punitive damages. To the extent that Chase  
28 Auto challenges the sufficiency of the factual allegations underlying the claims for punitive  
damages, the proper medium is a motion to dismiss under Rule 12(b)(6), not Rule 12(f).


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CONCLUSION

For the reasons stated above, the Court DENIES Chase Auto's motion to strike.

**IT IS SO ORDERED.**

**DATED: March 23, 2010**

  
IRMA E. GONZALEZ, Chief Judge  
United States District Court