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**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA**

MICHAEL HUCUL,

Plaintiff,

v.

NAVY FEDERAL CREDIT UNION,

Defendant.

CASE NO. 17cv2238 DMS(MDD)

**ORDER GRANTING  
DEFENDANT'S MOTION TO  
DISMISS**

This case comes before the Court on Defendant's motion to dismiss Plaintiff's Complaint. Plaintiff filed an opposition to the motion, and Defendant filed a reply. For the reasons set out below, the Court grants the motion.

**I.**

**BACKGROUND**

On November 2, 2017, Plaintiff Michael Hucul, proceeding *pro se*, filed the present case against Defendant Navy Federal Credit Union. In the Complaint, Plaintiff alleges that on September 29, 2017, he attempted to withdraw funds out of two of his joint accounts with Defendant, the first account being held jointly with his wife and the second account being held jointly with his son. (Compl. at 4.) Plaintiff alleges he was denied access to the funds in those accounts, and when he called Defendant to inquire, he was provided with a phone number for the California Department of Child Support Services ("DCSS"). (*Id.*) In response to a further inquiry by Plaintiff, Defendant emailed to him an "Order to Withhold" letter from DCSS. (*Id.*, Compl., Ex. A.) It is

1 unclear whether any funds have been released to DCSS or if the funds are still frozen  
2 in Defendant’s accounts. Nevertheless, Plaintiff alleges Defendant’s conduct violates  
3 the Right to Financial Privacy Act (“RFPA”). He specifically challenges Defendant’s  
4 (1) failure to request a “certificate of compliance” from DCSS prior to freezing his  
5 accounts and (2) failure to notify Plaintiff before freezing his accounts. (*Id.*) In  
6 response to the Complaint, Defendant filed the present motion.<sup>1</sup>

7  
8 **II.**  
**DISCUSSION**

9 Defendant raises three arguments in support of its motion. First, Defendant  
10 argues it is immune from liability pursuant to California Family Code § 17453(f).  
11 Second, Defendant asserts the RFPA does not apply to the facts of this case. Third,  
12 Defendant contends that even if the RFPA applies, it did not violate the law.

13 **A. Legal Standard**

14 To survive a motion to dismiss under Federal Rule of Civil Procedure 12(b)(6),  
15 “a complaint must contain sufficient factual matter, accepted as true, to ‘state a claim  
16 to relief that is plausible on its face.’” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009)  
17 (citing *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 570 (2007)). “A claim has facial  
18 plausibility when the plaintiff pleads factual content that allows the court to draw the  
19 reasonable inference that the defendant is liable for the misconduct alleged.” *Id.* (citing  
20 *Twombly*, 550 U.S. at 556).

21 “Determining whether a complaint states a plausible claim for relief will ... be a  
22 context-specific task that requires the reviewing court to draw on its judicial experience  
23 and common sense.” *Id.* at 679 (citing *Iqbal v. Hasty*, 490 F.3d 143, 157-58 (2d Cir.  
24 2007)). In *Iqbal*, the Court began this task “by identifying the allegations in the  
25 complaint that are not entitled to the assumption of truth.” *Id.* at 680. It then considered  
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27 <sup>1</sup> After filing the Complaint, Plaintiff filed an *ex parte* motion for a temporary  
28 restraining order to prevent Defendant from transferring his funds to the DCSS. The  
Court denied that motion, and Plaintiff filed an appeal of that decision, which is  
currently pending.

1 “the factual allegations in respondent’s complaint to determine if they plausibly suggest  
2 an entitlement to relief.” *Id.* at 681.

3 **B. The RFPA Does Not Apply**

4 Defendant’s second argument in support of its motion to dismiss is that the RFPA  
5 does not apply to the facts of this case. Because this argument is dispositive, the Court  
6 addresses it first.

7 The RFPA states, “No financial institution, or officer, employees, or agent of a  
8 financial institution, may provide to any Government authority access to or copies of,  
9 or the information contained in, the financial records of any customer except in  
10 accordance with the provisions of this title.” 12 U.S.C. § 3403(a). The RFPA defines  
11 “Government authority” as “any agency or department of the United States, or any  
12 officer, employee, or agent thereof[.]” 12 U.S.C. § 3401(3). By its plain terms, the  
13 RFPA does not apply to the facts of this case because there has been no conduct on  
14 behalf of the United States Government. Rather, the only governmental action at issue  
15 in this case is that of the DCSS, which is a department of the State of California, not the  
16 United States. *See Gyamfi v. Wells Fargo-Wachovia Bank*, No. DKC 09-3001, 2010  
17 U.S. Dist. LEXIS 131870 (D. Md. Dec. 14, 2010) (granting motion to dismiss RFPA  
18 claim based on defendant’s freezing of account in response to request from Child  
19 Support Services Division of Office of the Attorney General of the District of  
20 Columbia). *See also Goldman v. Consumers Credit Union*, No. 1:16-cv-1372, 2017  
21 U.S. Dist. LEXIS 60233, at \*11 (W.D. Mich. Apr. 20, 2017) (dismissing RFPA claim  
22 against credit union based on disclosure of information to county sheriff’s department).  
23 Because the RFPA does not apply to the conduct at issue here, the Court grants  
24 Defendant’s motion to dismiss.<sup>2</sup>

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28 <sup>2</sup> In light of this holding, the Court declines to address Defendant’s other arguments for dismissal. The Court also denies as moot Plaintiff’s unopposed motion for joinder.

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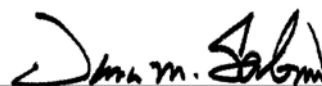
**III.**

**CONCLUSION AND ORDER**

For these reasons, the Court grants Defendant’s motion to dismiss, and dismisses Plaintiff’s Complaint without prejudice.

**IT IS SO ORDERED.**

DATED: January 22, 2018



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HON. DANA M. SABRAW  
United States District Judge