

**PATRICIA KIELTY AND SUSAN PATHMAN, on behalf of themselves and all others similarly
situated, Plaintiffs,**

v.

MIDLAND CREDIT MANAGEMENT, INC., Defendant.

Case No. 14-cv-0541-BAS(BGS).

United States District Court, S.D. California.

January 28, 2015.

ORDER GRANTING DEFENDANT'S MOTION TO DISMISS (ECF No. 11)

CYNTHIA BASHANT, District Judge.

Plaintiffs Patricia **Kielty** and Susan Pathman (collectively "Plaintiffs") commenced this putative class action on March 10, 2014 by filing a complaint alleging Defendant **Midland Credit** Management, Inc. ("**Midland**") violated the **Credit** Repair Organizations Act ("CROA"), 15 U.S.C. §§ 1679-1679j; Fair Debt Collection Practices Act ("FDCPA"), 15 U.S.C. §§ 1692-1692p; and California's Rosenthal Fair Debt Collection Practices Act ("Rosenthal Act"), Cal. Civ. Code §§ 1788-1788.3. **Midland** now moves to dismiss the Complaint in its entirety pursuant to Federal Rule of Procedure 12(b)(6).

The Court finds this motion suitable for determination on the papers submitted and without oral argument. See Civ. L.R. 7.1(d)(1). For the reasons set forth below, this Court GRANTS **Midland's** motion to dismiss.

I. BACKGROUND

Plaintiffs are California residents who claim they each received letters and brochures from **Midland** between April 13, 2012 and January 22, 2014. (ECF No. 1 ("Compl."), at ¶¶ 4-5, 12-19.) According to Plaintiffs, the letters and brochures contained statements representing that **Midland** could perform **credit** repair services for them. These statements included the following:

Your past due balance . . . with FIRST **CREDIT** BANK OF DELAWARE is being reported to the **credit** reporting bureaus and remains a negative item on your **credit** report. . . . We can help you get back on track. . . . Once you make a payment, interest will stop being applied to your account[,] [y]our **credit** report will be updated with the payments you make[,] [and] [t]he account will appear on your **credit** report as Paid in Full after you've completed your payments[.]

(*Id.* at ¶ 12 (quoting an April 13, 2012 letter to **Kielty**).)

Special offers are now available to help you resolve your unpaid Cit Bank account . . . [w]e can help you get back on track. . . . [W]e will not sue you for repayment of this obligation. This account may still be reported on your **credit** report as unpaid, and repaying the obligation may help toward improving your **credit**.

(*Id.* at ¶ 17 (quoting a February 13, 2013 letter to Pathman).)^[1]

Call 800-282-2644 and find out how we can help you.

(*Id.* at ¶ 13 (quoting *Why Paying Your Bills Is So Important to Your Credit Report* brochure ["Brochure"] sent to **Kielty** and Pathman).)^[2]

[O]nce you've completed your agreed-upon payments to settle this account, your **credit** report will be updated as "Paid in Full"!

(*Id.* at ¶ 15 (quoting March 28, 2013 and July 12, 2013 letters to **Kielty**).)^[3]

Ms. **Kielty** also alleges **Midland** sent her a letter on January 22, 2014, thanking her for a previous payment on her account and stating the following:

Your [payment] has proven you are interested in resolving this debt. . . . [W]e would like to offer you the opportunity to resolve your account. To re-establish a positive payment history with us, the following options are available[.]

(*Id.* at ¶ 16.)

Plaintiffs commenced this suit against **Midland** on behalf of themselves and "[a]ll consumers to whom Defendant mailed, within five years preceding the date of the complaint, [the Brochure] and/or a letter that includes a picture of [the Brochure]." (*Id.* at ¶ 21.) Plaintiffs claim **Midland's** Brochure violated the CROA, as **Midland** is allegedly a **credit** repair organization, by failing to provide a mandated consumer-rights notice and contract, by making false and misleading representations, and by advising Plaintiffs to make untrue and misleading statements. (*Id.* at ¶¶ 50, 60-62, 65.) Ms. **Kielty** further alleges **Midland** received a monetary amount from her before performing **credit** repair services, in violation of the CROA. (*Id.* at ¶ 58.) Finally, Plaintiffs claim **Midland**, acting as a debt collector, violated the FDCPA and consequently, California's Rosenthal Act by making false and deceptive representations. (*Id.* at ¶¶ 68-70, 73.)

Plaintiffs seek actual damages for CROA violations, statutory damages under the FDCPA and Rosenthal Act, punitive damages at the Court's discretion, as well as return of amounts paid, injunctive relief, fees, and interest. (*Id.* at ¶ 74.) **Midland** now moves to dismiss the action. (ECF No. 11 ("Mot."))

II. STATEMENT OF LAW

A motion to dismiss pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure tests the legal sufficiency of the claims asserted in the complaint. Fed. R. Civ. P. 12(b)(6); *Navarro v. Block*, 250 F.3d 729, 732 (9th Cir. 2001). The court must accept all allegations of material fact pleaded in the complaint as true and must construe them and draw all reasonable inferences from them in favor of the nonmoving party. *Cahill v. Liberty Mut. Ins. Co.*, 80 F.3d 336, 337-38 (9th Cir. 1996). To avoid a Rule 12(b)(6) dismissal, a complaint need not contain detailed factual allegations; rather, it must plead "enough facts to state a claim to relief that is plausible on its face." *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007). "A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (citing *Twombly*, 550 U.S. at 556). "Where a complaint pleads facts that are merely consistent with a defendant's liability, it stops short of the line between possibility and plausibility of entitlement to relief." *Id.* at 678 (quoting *Twombly*, 550 U.S. at 557) (internal quotations omitted).

"[A] plaintiff's obligation to provide the 'grounds' of his 'entitle[ment] to relief' requires more than labels and conclusions, and a formulaic recitation of the elements of a cause of action will not do." *Twombly*, 550 U.S. at 555 (quoting *Papasan v. Allain*, 478 U.S. 265, 286 (1986)). A court need not accept "legal conclusions" as true. *Iqbal*, 556 U.S. at 678. Despite the deference the court must pay to the plaintiff's allegations, it is not proper for the court to assume that "the [plaintiff] can prove facts that [he or she] has not alleged or that defendants have violated the . . . laws in ways that have not been alleged." *Associated Gen. Contractors of Cal. v. Cal. State Council of Carpenters*, 459 U.S. 519, 526 (1983).

Generally, courts may not consider material outside the complaint when ruling on a motion to dismiss. *Hal Roach Studios, Inc. v. Richard Feiner & Co., Inc.*, 896 F.2d 1542, 1555 n.19 (9th Cir. 1990); *Branch v. Tunnell*, 14 F.3d 449, 453 (9th Cir. 1994) (overruled on other grounds by *Galbraith v. Cnty. of Santa Clara*, 307 F.3d 1119, 1121 (9th Cir. 2002)). "However, material which is properly submitted as part of the complaint may be considered." *Hal Roach Studios, Inc.*, 896 F.2d at 1542 n.19. The court may also consider documents specifically identified in the complaint whose authenticity is not questioned by the parties. *Fecht v. Price Co.*, 70 F.3d 1078, 1080 n.1 (9th Cir. 1995) (superseded by statute on other grounds); see also *Branch*, 14 F.3d at 453-54. The court may consider such documents so long as they are referenced in the complaint, even if they are not physically attached to the pleading. *Branch*, 14 F.3d at 453-54; see also *Parrino v. FHP, Inc.*, 146 F.3d 699, 706 (9th Cir. 1998) (extending rule to documents upon which the plaintiff's complaint "necessarily relies" but which are not explicitly incorporated in the complaint). Moreover, the court may consider the full text of those documents even when the complaint quotes only selected portions. *Fecht*, 70 F.3d at 1080 n.1. The court also considers materials of which it takes judicial notice. *Barron v. Reich*, 13 F.3d 1370, 1377 (9th Cir. 1994).

As a general rule, a court freely grants leave to amend a complaint it dismisses. Fed. R. Civ. P. 15(a); *Schreiber Distrib. Co. v. Serv-Well Furniture Co.*, 806 F.2d 1393, 1401 (9th Cir. 1986). The court may deny leave to amend, however, when "[it] determines that the allegation of other facts consistent with the challenged pleading could not possibly cure the deficiency." *Schreiber Distrib. Co.*, 806 F.2d at 1401 (citing *Bonanno v. Thomas*, 309 F.2d 320, 322 (9th Cir. 1962)).

III. DISCUSSION

A. CROA Claims

In Counts I through V, Plaintiffs allege **Midland** violated Sections 1679b, 1679c, and 1679d of the CROA. (Compl. at ¶ 74(e).) **Midland** moves to dismiss these counts on the ground that it is not a **credit** repair organization and thus does not fall within the mandates of the CROA. (See Mot.) Section 1679b of the CROA prescribes certain practices by any "person" or "**credit** repair organization"; similarly, Sections 1679c and 1679d mandate disclosures and regulate contracts made by "**credit** repair organizations."^[4] See 15 U.S.C. §§ 1679a-1679d. Thus, to survive the present motion, Plaintiffs must plead facts sufficient to plausibly show **Midland** is such an organization. See *Stout v. FreeScore, LLC*, 743 F.3d 680 (9th Cir. 2014) (determining whether a company is a **credit** repair organization at the motion to dismiss stage).

The CROA defines a "**credit** repair organization" as follows:

[A]ny person who uses . . . the mails to sell, provide, or perform (or represent that such person can or will sell, provide, or perform) any service, in return for the payment of money or other valuable consideration, for the express or implied purpose of—

- (i) improving any consumer's **credit** record, **credit** history, or **credit** rating; or
- (ii) providing advice or assistance to any consumer with regard to any activity or service described in clause (i). . . .^[5]

15 U.S.C. § 1679a(3)(A). To fall within the definition, a person need not actually provide **credit** repair services; it "need only represent that it can or will sell, provide, or perform a service for the purpose of providing advice or assistance to a consumer with regard to improving a consumer's **credit** record, **credit** history, or **credit** rating." *Stout*, 743 F.3d at 685 (emphasis in original). In interpreting a person's advertisements, the Court looks to the "'overall net impression' of the subject advertisement to determine what message a viewer may reasonably ascribe to it." *Id.* (quoting *FTC v. Gill*, 265 F.3d 944, 956 (9th Cir. 2001)).

The Ninth Circuit's recent decision in *Stout*, in which it found an online provider of **credit** scores, reports, and consumer **credit** information to be a "**credit** repair organization," is instructive. See 743 F.3d at 681. In *Stout*, the provider, FreeScore, went beyond warning consumers about the harm caused by a poor **credit** report, to charging them initial and monthly fees in return for providing merged **credit** reports and alerting them to changes to their reports. *Id.* at 685-86. In reversing the district court, the Ninth Circuit reasoned that FreeScore's online and television advertisements went "beyond merely providing information about one's **credit**" to recommending "a course of action to consumers." *Id.* at 686. In other words, "FreeScore represents both explicitly and implicitly that its services can improve or assist in improving a consumer's **credit** record, history, or rating." *Id.* Thus, the Ninth Circuit found that the "overall net impression" communicated by FreeScore was that its services would improve consumers **credit**. *Id.* at 686-87 ("The overall net impression communicated by FreeScore is that in order to 'repair a damaged **credit** score,' the 'best solution' is to 'utilize[e] services like **credit** monitoring,' which 'can have an immediate effect on your **credit** score.'").

Unlike FreeScore, **Midland** does not offer any service for the purpose of providing assistance or advice to improve consumers' **credit** record in return for payment. **Midland** does not represent that its services can improve or assist in improving a consumer's **credit** record, history, or rating. **Midland**, as a debt collector, is simply seeking the repayment of debts owed and in doing so encourages the repayment of debts owed to it and acknowledges the benefits of repayment. Seeking the repayment of a debt and utilizing "the potential of a lower **credit** score as motivation to encourage [a person] to pay the debt" does not make a person a **credit** repair organization. See *Spencer v. Ariz. Premium Fin. Co., Inc.*, No. 06-cv-160S, 2011 WL 4473178, at *4 (W.D. N.Y. Sept. 26, 2011); see also *Dauval v. Preferred Collection & Mgmt. Servs., Inc.*, No. 11cv2269, 2012 WL 5928622, at *4-5 (M.D. Fla. Nov. 26, 2012) (holding that a debt collector seeking to collect a debt and offering to restore the debtor's **credit** in exchange for payment on the debt was not a **credit** repair organization).^[6] Rather, any benefit to Plaintiffs' **credit** score "would simply be an indirect, collateral effect to the settlement of [their] debt." *Id.*

Plaintiffs recount **Midland's** statements, including its so-called solicitation to "Call 800-282-2644" and its representation that it "can help you get back on track," as evidence that **Midland** implicitly represented it could improve or provide advice on improving Plaintiffs' **credit** records in return for payment. (ECF No. 14 ("Opp."), 7:7-8:20.) These statements fall short, however, of plausibly implying or leaving the net overall impression that **Midland** was selling **credit**-improvement services or advice. As the Complaint itself states, **Midland** was "directly or indirectly attempting to collect a debt from Plaintiffs." (Compl. at ¶ 10.) "Collection agencies, insofar as they do not seek compensation for **credit** repair services, do not engage in the type of conduct which Congress sought to regulate in enacting the CROA." *Oslan v. Collection Bur. of Hudson Valley*, No.

Civ.A. 01-2173, 2001 WL 34355648, at *1 (E.D. Penn. Dec. 13, 2001) (collection letters exhorting debtors to "TAKE ADVANTAGE OF THIS GREAT OPPORTUNITY TO HELP RESTORE YOUR **CREDIT**" did not make a debt collection agency a **credit** repair organization).

There is no allegation in the Complaint that **Midland** offered services or advice for any additional fee. Cf. *Reynolds v. Credit Solutions, Inc.*, 541 F.Supp.2d 1248, 1249 (N.D. Ala. 2008) (finding a debt settlement company which charges a fee of 15% of the total amount of debt to be reduced to be a **credit** repair organization), vacated by *Picard v. Credit Solutions, Inc.*, 564 F.3d 1249 (11th Cir. 2009) (holding the question of whether defendant is a **credit** repair organization is a question for the arbitrator); *Kennedy v. CompuCredit Holdings Corp.*, 9 F.Supp.3d 1314, 1315, 1321 (M.D. Fla. 2014) (finding the plaintiff plausibly alleged the defendant was a **credit** repair organization where the defendant offered debtor plaintiff an opportunity to pay down a debt while at the same time qualifying for a new **credit** card through its Fresh Start Solution Program, thus giving plaintiff the "net overall impression" that "participation in the Program will provide a 'Fresh Start' to improve any consumer's **credit** record, **credit** history, or **credit** rating"). Rather, the Complaint alleges **Midland** was merely seeking repayment of debts owed to it, or a potentially lesser amount, if it could work out a plan with Plaintiffs. (See Compl. at ¶17.) Given the foregoing, the Court finds that Plaintiffs have failed to plausibly allege that **Midland** is a **credit** repair organization.

For these reasons, the Court GRANTS **Midland's** motion to dismiss Plaintiff's Section 1679 claims with leave to amend.

B. FDCPA and Rosenthal Act Claims

Midland also moves to dismiss Count VI of the Complaint, which alleges **Midland** violated the FDCPA. To state a claim under the FDCPA, a plaintiff must allege "1) that he [or she] is a consumer; 2) that the debt arises out of a transaction entered into for personal purposes; 3) that the defendant is a debt collector; and 4) that the defendant violated one of the provisions of the FDCPA." *Freeman v. ABC Legal Servs.*, 827 F. Supp. 2d 1065, 1071 (N.D. Cal. 2011). The purpose of the FDCPA is to prevent debt collectors from resorting to duplicitous or abusive collection tactics. See 15 U.S.C. § 1696(e). Given its remedial nature, courts must construe the FDCPA broadly in order to effect its purposes. *Clark v. Capital Credit & Collection Serv., Inc.*, 460 F.3d 1162, 1176 (9th Cir. 2006).

The FDCPA bars debt collectors from using "false representation[s] or deceptive means to collect or attempt to collect any debt."^[7] 15 U.S.C. § 1692e(10). "[I]t is well established that '[a] debt collection letter is deceptive where it can be reasonably read to have two or more different meanings, one of which is inaccurate.'" *Gonzales v. Arrow Fin. Servs.*, 660 F.3d 1055, 1061 (9th Cir. 2011) (quoting *Brown v. Card Serv. Ctr.*, 464 F.3d 450, 455 (3d. Cir. 2006)). Plaintiffs allege **Midland** made the following three false or deceptive representations:

- "[F]alsely and misleadingly represent[ing] that [**Midland**] could or would legally report Plaintiff's obligations as 'Paid in Full'";
- "imply[ing] . . . negative information of Plaintiff's **credit** reports could be permanently removed when it cannot"; and
- "falsely and deceptively represent[ing] that 'interest will stop being added to your account.'"

(Compl. at ¶¶ 68-70.)^[8]

In evaluating claims of deception, courts take the perspective of the "least sophisticated" debtor. See *Clark*, 460 F.3d at 1171 ("[W]e seek to ensure that even the least sophisticated debtor is able to understand, make informed decisions about, and participate fully and meaningfully in the debt collection process."); see also *Caudillo v. Portfolio Recovery Assocs.*, No. 12cv200(IEG), 2013 WL 4102155, at *2 (S.D. Cal. Aug. 13, 2013) ("In this circuit, a debt collector's liability under § 1692e of the FDCPA is an issue of law, 'requir[ing] an objective analysis that takes into account whether the least sophisticated debtor would likely be misled by a communication.'" (quoting *Gonzales*, 660 F.3d at 1061)).

1. "Paid in Full" Representations

Midland's letters to Plaintiffs state that once all agreed-upon payments have been received, their accounts will be considered "Paid in Full" and "the three major **credit** reporting agencies will be updated accordingly."^[9] (Compl. at ¶ 68, Exs. D-F.) Plaintiffs allege these statements, offering to report the accounts as "Paid in Full," rather than "Settled," are "false, deceptive, and misleading," since the Fair **Credit** Reporting Act ("FCRA") forbids furnishing inaccurate information to a consumer reporting agency. (Opp. at 22:6-14 (quoting FCRA, 15 U.S.C. § 1681s-2(a)(1)(A).)

Midland contends it could report the debt as "Paid in Full," regardless of whether the consumers paid a lesser amount by agreement. **Midland** further contends that Plaintiffs fail to provide any support for their assertion that "a furnisher may not report a settled debt as 'Paid in Full'" under the FDCPA. (Opp. at 22:16-18.) The Court agrees that neither the FDCPA nor the FCRA explicitly bar a debt collector from reporting a "settled" debt as having been fully satisfied.

Plaintiffs cite two unpublished cases to show that "major financial institutions have interpreted this provision to mean . . . a furnisher may not report a settled debt as 'Paid in Full.'" (See *id.* at 22:15-23:11.) Neither case, however, supports the broader proposition that the substantive law bars **Midland** from reporting debts it settled with consumers as "Paid in Full." See *Schiano v. MBNA*, No. 05-1771(JLL), 2013 WL 2452681, at *5 (D.N.J. Feb. 11, 2013) (noting in dicta that the bank and consumers agreed the bank could not report that the debt was paid in full because it was settled for less than the amount owed), *reconsideration denied*, No. 2013 WL 2452682 (D.N.J. Apr. 12, 2013), and *aff'd*, 2013 WL 2455933 (D.N.J. June 3, 2013); *Grossman v. Barclays Bank Del.*, No. 12-6238(PGS), 2014 WL 647970, at *3 (Feb. 19, 2014) (reciting bank's representation that reporting debts as settled followed the **Credit** Resource Reporting Guide ("CRRG")); see also *In re Jones*, No. 09-14499(BFK), 2011 WL 5025329, at *3 (Bankr. E.D. Va. Oct. 21, 2011) (finding the CRRG consists of "guidelines only" and is not "a national, legally enforceable standard for the reporting of debts"). Thus, the Court finds the Complaint fails to make a plausible allegation that **Midland's** representations that Plaintiffs' accounts will be considered "Paid in Full" and reported as such to the three major **credit** reporting agencies violates the FDCPA.

2. Removal of Negative Information

Plaintiffs further allege **Midland** falsely implied negative information could be removed from their **credit** reports.^[10] Where a claim of deception rests entirely on the text of the communication, it may be resolved at the motion to dismiss stage "if there was nothing deceptive-seeming about the communication." *Evory v. RJM Acquisitions Funding, LLC*, 505 F.3d 769, 776-77 (7th Cir. 2007). "Although established to ease the lot of the naive, the [least sophisticated debtor] standard does not go so far as to provide solace to the willfully blind or non-observant. Even the least sophisticated debtor is bound to read collection notices in their entirety." *Campuzano-Burgos v. Midland Credit Mgmt., Inc.*, 550 F.3d 294, 299 (3d Cir. 2008).

Here, having considered both the excerpts cited in the Complaint and the letters and Brochure attached to it,^[11] the Court finds that the least sophisticated debtor would not interpret the letters, which state that each past due balance "remains a negative item on your **credit** report" and settling your debts can "get your finances back on track"; and the Brochure, which informs consumers of the negative impact to their **credit** score of carrying large amounts of debt, to be offers to erase existing negative history. **Midland** promises nothing more than reporting any settled debt as fully paid. Accordingly, the Court finds the Complaint does not plausibly allege **Midland** falsely implied negative information could be permanently removed from Plaintiffs' **credit** reports.

3. Halting Interest Accrual

Finally, Plaintiffs allege that the representation that interest would stop being added to their accounts once payments have been made is false or deceptive. (Compl. at ¶ 70.) **Midland** argues there is no basis for this allegation. (Mot. at 18:15-18.) The Court agrees. Even if all allegations of material fact are taken as true, Plaintiff's Complaint falls short of asserting any facts regarding **Midland's** ability to collect interest as the holder of the debt. While Plaintiffs allege that the original creditors waived their rights to collect interest, there is no allegation that **Midland** could not collect interest on the accounts. Thus, the Court finds Plaintiffs' failure to plead facts beyond the allegation that "interest could [not] have been legally added to [the accounts]" merits dismissal.

For the above-stated reasons, **Midland's** motion is GRANTED with respect to Count VI of the Complaint. Plaintiffs predicate their Rosenthal Act claims in Count VII on Plaintiffs' FDCPA claims, as, for the purposes of this case, violations of the FDCPA constitute violations of the Rosenthal Act. See *Riggs v. Prober & Raphael*, 681 F.3d 1097, 1100 (9th Cir. 2012). Accordingly, the Court also GRANTS **Midland's** motion with respect to Count VII.

IV. CONCLUSION

For the foregoing reasons, Defendant's Motion to Dismiss (ECF No. 11) is GRANTED as to all claims, with leave to amend. If Plaintiffs choose to file an amended complaint, they must do so no later than March 2, 2015.

IT IS SO ORDERED.

[1] The Complaint alleges that **Midland** sent letters materially identical to the February 2013 letter to Ms. Pathman on March 28, 2013 and July 12, 2013. (Compl. at ¶ 19.)

[2] According to Plaintiffs, **Midland** mailed the Brochure to Ms. Pathman with the February 2013 letter and Ms. **Kielty** with the April 2012 letter. (*Id.* at ¶ 13, 18.) The Brochure explains the importance of having a good **credit** report, explains how a **credit** score is calculated and how payment history impacts the calculation, and repeats the letter's statement that "[**Midland**] can help you get your finances back on track." (*Id.* at ¶ 13.)

[3] Plaintiffs allege **Midland** again mailed Ms. **Kielty** letters and brochures with this additional statement, as well as "nearly identical" statements to the April 13 letter on March 28, 2013 and July 12, 2013. (*Id.* at ¶ 14.)

[4] Plaintiffs do not contest that Section 1679b's prohibitions against certain actions by any "person" apply to one qualifying as, or affiliated with, a **credit** repair organization. See, e.g., *Enriquez v. Countrywide Home Loans, FSB*, 814 F. Supp. 2d 1042, 1062-63 (D. Haw. 2011) (dismissing Section 1679b(a)(1) claim against defendant since it was not "a **credit**-repair organization"); *Slack v. Fair Isaac Corp.*, 390 F. Supp. 2d 906, 910 (N.D. Cal. 2005) (considering CROA claims against defendants, as defendants conceded they were **credit** repair organizations, which are liable under 15 U.S.C. 1679b(a)'s prohibitions against certain practices by any "person").

[5] This definition excludes nonprofits, depository institutions, or "any creditor (as defined in section 1602 of this title) . . . to the extent the creditor is assisting the consumer to restructure any debt owed by the consumer to the creditor." 15 U.S.C. § 1679a(3)(B).

[6] In light of *Iqbal* and *Twombly*, the Court does not find *Bigalke v. Creditrust Corp.*, 162 F.Supp.2d 996 (N.D. Ill. 2001) to be persuasive. The mere allegation that a "person" is a **credit** repair organization is insufficient.

[7] The FDCPA defines a "debt collector" as one using "the mails in any business the principal purpose of which is the collection of any debts, or [one] who regularly . . . attempts to collect . . . debts owed or due . . . another." 15 U.S.C. § 1692a(6). Neither party disputes that **Midland** is a debt collector within the meaning of the statute. (See Opp. at 20 n.2.)

[8] A Section 1692e violation also creates liability under the Rosenthal Act. Cal. Civ. Code § 1788.17.

[9] Additional letters state that Plaintiffs "**credit** report will be updated as 'Paid in Full'" or "[t]he account will appear on your **credit** report as Paid in Full after you've completed your payments." (Compl. at Exs. A, C, H-J.) At least two of the letters received, however, include a disclaimer that "[t]his account may still be reported on your **credit** report as unpaid." (Compl. at Exs. E, F.)

[10] Plaintiffs fail to defend either this claim or the subsequent claim regarding interest accrual in their opposition to the motion to dismiss. (See Opp. at 19:3-24:21.)

[11] The Court may consider the full text of documents attached to the Complaint, even when the Complaint quotes only selected portions. See *Branch*, 14 F.3d at 453-54.