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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 Ryan Six,

10 Plaintiff,

11 v.

12 IQ Data International Incorporated,

13 Defendant.
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No. CV-22-00203-PHX-MTL

ORDER

15 Unwanted mail is a fact of modern life—something this Court previously observed.
16 Here we are again because of one such letter. Now, the dispute is not over the effects of
17 the letter itself, but the timeline and backdrop regarding its delivery.

18 Before the Court are Plaintiff Ryan Six’s Motion for Summary Judgment (Doc. 154)
19 and Defendant IQ Data International’s Motion for Summary Judgment (Doc. 155). Because
20 genuine disputes of material fact remain, the Court will grant in part and deny in part
21 Plaintiff’s motion and deny Defendant’s.

22 **I. BACKGROUND**

23 Six sues IQ Data, alleging that the company violated the Fair Debt Collection
24 Practices Act (“FDCPA”), 15 U.S.C. § 1692 *et seq.*, by sending him a collection letter after
25 he informed IQ Data of his representation by counsel. A debt obligation was imposed on
26 Six based on an allegedly unpaid invoice for Six’s breach of a residential lease. (Docs. 1
27 ¶ 9; 154-1 at 27.) In June 2017, the debt obligation was placed with IQ Data, a professional
28 collection agency providing services to the residential apartment industry. (Doc. 155

1 at 5-6.)

2 On August 18, 2021, Six mailed a dispute letter to Equifax claiming that he had no
3 recollection of the debt account and requesting documentation verifying the debt account
4 information. (Docs. 154-1 at 20; 159-1 at 11.) On that same day, Six's prior counsel mailed
5 a letter to IQ Data. The letter advised IQ Data that Six retained counsel in connection with
6 the subject debt and directed IQ Data to send all communication related to the subject debt
7 to counsel. (Docs. 154-1 at 32; 155 at 3.) IQ Data's compliance department stamped the
8 attorney representation letter as received on August 30, 2021. (Doc. 154-1 at 32-34.)

9 On September 2, 2021, IQ Data, having received and processed the dispute letter
10 forwarded from Equifax, submitted a system request to generate and send a letter providing
11 documentation and notice of the debt to Six's updated address. (Docs. 154 at 4-5; 155
12 at 6-7.) The next day, IQ Data updated its records to reflect that it had processed the letter
13 from counsel, that Six was represented by counsel, and that there should not be any direct
14 communication with Six. (*Id.*) On that same day, however, IQ Data's collection letter
15 providing documentation and re-issuing notice of the debt was sent to Six's updated
16 mailing address. (*Id.*) Six alleges that this communication violates 15 U.S.C. § 1692c(a)(2)
17 because IQ Data contacted him directly despite knowledge of his representation. (Doc. 1
18 ¶¶ 21-22.)

19 Now comes the procedural history. On May 18, 2023, the Court dismissed Six's
20 complaint for lack of Article III standing and denied as moot IQ Data's Motion for
21 Summary Judgment (Doc. 62), Six's Motion to Strike Expert Disclosure or Exclude Expert
22 (Doc. 68), and Six's Motion for Summary Judgment (Doc. 112). (Doc. 128.) On February
23 24, 2025, the Ninth Circuit reversed the dismissal and remanded for further proceedings.
24 *See Six v. IQ Data Int'l, Inc.*, 129 F.4th 630, 635 (9th Cir.), *cert. denied*, 146 S. Ct. 120
25 (2025). IQ Data then filed a petition for a writ of certiorari, which the Supreme Court
26 denied on October 6, 2025. (Docs. 142, 146.)

27 Following remand, the parties refiled their cross motions for summary judgment
28 (Docs. 154, 155), and Six refiled his motion to strike IQ Data's expert (Doc. 153). The

1 Court has since denied the motion to strike (Doc. 167), and the renewed cross motions for
2 summary judgment are now ripe for review.

3 **II. LEGAL STANDARD**

4 Summary judgment is appropriate when the evidence, viewed in the light most
5 favorable to the non-moving party, demonstrates “that there is no genuine dispute as to any
6 material fact and the movant is entitled to judgment as a matter of law.” Fed. R. Civ. P.
7 56(a). A genuine issue of material fact exists when “the evidence is such that a reasonable
8 jury could return a verdict for the nonmoving party,” and material facts are those “that
9 might affect the outcome of the suit under the governing law.” *Anderson v. Liberty Lobby,*
10 *Inc.*, 477 U.S. 242, 248 (1986). At the summary judgment stage, “[t]he evidence of the
11 non-movant is to be believed, and all justifiable inferences are to be drawn in his favor.”
12 *Id.* at 255 (citation omitted); *see also Jesinger v. Nev. Fed. Credit Union*, 24 F.3d 1127,
13 1131 (9th Cir. 1994) (holding that the court determines whether there is a genuine issue for
14 trial but does not weigh the evidence or determine the truth of matters asserted).

15 Where, as here, the “parties submit cross-motions for summary judgment, each
16 motion must be considered on its own merits.” *Fair Hous. Council of Riverside Cnty., Inc.*
17 *v. Riverside Two*, 249 F.3d 1132, 1136 (9th Cir. 2001) (citations and internal quotations
18 omitted). The summary judgment standard operates differently depending on whether the
19 moving or non-moving party has the burden of proof. *See Celotex Corp. v. Catrett*, 477
20 U.S. 317, 322-23 (1986). When the movant bears the burden of proof on a claim at trial,
21 the movant “must establish beyond controversy every essential element” of the claim based
22 on the undisputed material facts to be entitled to summary judgment. *S. Cal. Gas Co. v.*
23 *City of Santa Ana*, 336 F.3d 885, 888 (9th Cir. 2003) (citation modified). If the movant
24 fails to make this showing, summary judgment is inappropriate, even if the non-moving
25 party has not introduced contradictory evidence in response. *See id.* When, on the other
26 hand, the non-movant bears the burden of proof on a claim at trial, the movant may prevail
27 either by citing evidence negating an essential element of the non-movant’s claim or by
28 showing that the non-movant’s proffered evidence is insufficient to establish an essential

1 element of the non-movant's claim. *See Celotex*, 477 U.S. at 322-23.

2 **III. DISCUSSION**

3 Six moves for summary judgment on his claim under 15 U.S.C. § 1692c(a)(2),
4 alleging that IQ Data violated the statute by attempting to collect the debt directly from
5 him despite knowledge that he was represented by counsel. (Doc. 154 at 2.) Six also seeks
6 summary judgment on all of IQ Data's affirmative defenses, including its bona fide error
7 defense. (*Id.* at 5.)

8 IQ Data likewise moves for summary judgment, arguing primarily that any alleged
9 violation is excused by the bona fide error defense. (Doc. 155 at 4.) IQ Data also requests
10 an award of attorneys' fees and costs, asserting that Six filed this action in bad faith and
11 for the purpose of harassment. (*Id.* at 5.)

12 The parties' cross-motions present two principal questions. First, whether Six has
13 established as a matter of law that IQ Data violated 15 U.S.C. § 1692c(a)(2), an issue on
14 which Six bears the burden of proof at trial. Second, if a violation occurred, whether IQ
15 Data has established the bona fide error defense under 15 U.S.C. § 1692k(c), on which it
16 bears the burden of proof at trial. *See Reichert v. National Credit Sys., Inc.*, 531 F.3d 1002,
17 1006 (9th Cir. 2008).

18 **A. FDCPA Liability: Violation Under 15 U.S.C. § 1692c(a)(2)**

19 The FDCPA prohibits debt collectors from engaging in unfair and abusive practices
20 and creates a private right of action to enforce its provisions. *Rotkiske v. Klemm*, 589 U.S.
21 8, 9-10 (2019). To establish a FDCPA claim, a plaintiff must show that (1) the plaintiff is
22 a consumer, (2) the debt arises out of a personal transaction, (3) the defendant is a debt
23 collector, and (4) the defendant violated one of the provisions of the FDCPA. *Inserra v.*
24 *Pinnacle Servs. Inc.*, No. 3:22-CV-00300-CLB, 2023 WL 3342609, at *5 (D. Nev. May
25 10, 2023). The parties do not dispute that Six is a "consumer" and that IQ Data is a "debt
26 collector." (Doc. 154 at 3.) Thus, the FDCPA applies.

27 The parties both move for summary judgment on IQ Data's alleged FDCPA
28 violation of 15 U.S.C. § 1692c(a)(2). (Docs. 154 at 2-5; 155 at 12-13.) Section 1692c(a)(2)

1 provides:

2 (a) . . . [A] debt collector may not communicate with a consumer in
3 connection with the collection of any debt . . . (2) if [it] **knows** the consumer
4 is represented by an attorney with respect to such debt and has knowledge
5 of, or can readily ascertain, such attorney's name and address, unless the
6 attorney fails to respond within a reasonable period of time to a
communication from the debt collector or unless the attorney consents to
direct communication with the consumer.

7 15 U.S.C. § 1692c(a)(2) (emphasis added).

8 A primary requirement here is that the debt collector must have “actual knowledge”
9 that the consumer is represented by an attorney regarding the debt at issue. *See Isham v.*
10 *Gurstel, Staloch & Chargo, P.A.*, 738 F. Supp. 2d 986, 992 (D. Ariz. 2010) (“Under
11 § 1692c(a)(2) of the FDCPA, the ‘knowledge’ requirement means that a debt collector
12 must possess ‘actual knowledge’ that the debtor was represented by an attorney.”);
13 *Woodman v. Mediacredit, Inc.*, No. 2:22-CV-1210 JCM (BNW), 2024 WL 4132732, at *3
14 (D. Nev. Sep. 9, 2024) (“Courts generally interpret the knowledge requirement in 15 U.S.C.
15 § 1692c(a)(2) to require that a debt collector have ‘actual knowledge’ of attorney
16 representation with respect to the specific debts.”).

17 The undisputed facts show that Six's former counsel mailed a letter via certified
18 mail to IQ Data on August 18, 2021. (Doc. 154-1 at 32-34.) That letter was stamped
19 received by IQ Data's compliance department on August 30, 2021. (*Id.*) IQ Data
20 nevertheless mailed a letter directly to Six regarding the debt on September 3, 2021.
21 (Doc. 155 at 3.) IQ Data relies on its work-card entries to show that the attorney letter was
22 not processed in the account before the September 3 mailing. (Doc. 159-1 at 7 ¶ 35.) The
23 work card reflects that IQ Data logged Six's dispute letter on September 1, requested its
24 vendor on September 2 to send a letter directly to Six, and on September 3 reviewed the
25 attorney letter and modified the account accordingly. (*Id.* at 17.) IQ Data also submits an
26 affidavit from its Vice President, Michael Gulbranson, attesting that it lacked “actual
27 knowledge” of Six's representation at the time the letter was generated. (*Id.* at 6 ¶ 22.)

28 The question is whether IQ Data's receipt of certified mail from Six's counsel

1 establishes that it knew Six was represented by an attorney with respect to the debt before
2 it mailed the September 3 letter directly to him. Six argues that receipt of certified mail
3 constitutes “actual notice” of the letter. (Doc. 154 at 3 (citing *Isham*, 738 F. Supp. 2d
4 at 993).) In *Isham*, the court held that “[a]s a matter of law,” a signed certified mail receipt
5 “implies” that the debt collector had “actual notice that it received the letter” and that it
6 was “immaterial” whether the employee assigned to the account was aware of the letter
7 due to alleged mishandling of office mail. 738 F. Supp. 2d at 993.

8 IQ Data argues that *Isham* is distinguishable because, in that case, the debt collector
9 had notice through multiple channels, not solely through the certified mail receipt.
10 (Doc. 159 at 6.) The Court agrees with IQ Data that *Isham* does not stand for the
11 proposition that receipt of certified mail, standing alone, resolves the knowledge inquiry in
12 every case. In *Isham*, the record also included additional evidence of knowledge, including
13 internal account coding reflecting attorney representation prior to the violative
14 communications. 738 F. Supp. 2d at 993.

15 Here, the record presents competing evidence. The certified mail receipt and intake
16 stamp support an inference that IQ Data had actual notice of counsel’s letter before sending
17 the September 3 communication. *See id.* (holding that a certified mail receipt can imply
18 notice in the FDCPA context). However, IQ Data’s work-card entries and supporting
19 testimony indicate that the attorney letter had not yet been processed or entered into the
20 account at the time the communication was generated, and that the employees involved did
21 not subjectively know of the representation. *See Six*, 129 F.4th at 636 n.4 (“[T]he minimal
22 amount of time between IQ’s processing of the letter from Six’s attorney’s and IQ’s
23 mailing of the disputed letter, coupled with the fact that Six asked IQ for information to be
24 sent to him, raises serious questions about IQ’s liability.”).

25 This conflict goes directly to the knowledge requirement under § 1692c(a)(2). *See*
26 *Woodman*, 2024 WL 4132732, at *3. Because a reasonable jury could credit either the
27 inference arising from the certified mail receipt or IQ Data’s evidence regarding the timing
28 and internal processing of the letter, there is a genuine dispute of material fact as to whether

1 IQ Data had actual knowledge of Six's representation at the time of the September 3
 2 communication. *See Gostony v. Diem Corp.*, 320 F. Supp. 2d 932, 942 (D. Ariz. 2003)
 3 (addressing a different FDCPA provision but denying summary judgment where factual
 4 disputes regarding the debt collector's knowledge remained).

5 The Court therefore finds summary judgment inappropriate for both parties on the
 6 issue of FDCPA liability.

7 **B. Bona Fide Error Affirmative Defense**

8 Because the parties have fully briefed IQ Data's bona fide error defense, the Court
 9 addresses that issue in the alternative. While the FDCPA makes debt collectors liable for
 10 violations that are not knowing or intentional, it provides a "narrow exception to strict
 11 liability," for bona fide errors. *Reichert*, 531 F.3d at 1005 (citation omitted). The statute
 12 enumerating the bona fide error defense provides:

13 A debt collector may not be held liable in any action brought under this
 14 subchapter if the debt collector shows by a preponderance of evidence that
 15 the violation was not intentional and resulted from a bona fide error
 16 notwithstanding the maintenance of procedures reasonably adapted to avoid
 any such error.

17 15 U.S.C. § 1692k(c).

18 The bona fide error defense is an affirmative defense, for which the debt collector
 19 has the burden of proof. *Reichert*, 531 F.3d at 1006. Altogether, the bona fide error defense
 20 requires a showing that the debt collector: "(1) violated the FDCPA unintentionally; (2) the
 21 violation resulted from a bona fide error; and (3) the debt collector maintained procedures
 22 reasonably adapted to avoid the violation." *Urbina v. Nat'l Bus. Factors, Inc.*, 979 F.3d
 23 758, 763 (9th Cir. 2020).

24 At issue here is the third prong. The Ninth Circuit applies a two-step inquiry to
 25 determine whether the "procedures" prong is met in any given case. *Reichert*, 531 F.3d
 26 at 1006. First, the debt collector must show that it actually maintained procedures to avoid
 27 errors. *Id.* Second, the procedures must be "reasonably adapted to avoid the *specific error*
 28 at issue." *Id.* (citation modified). Whether procedures are reasonably adapted is a

1 “fact-intensive question,” and thus often inappropriate for resolution on summary
2 judgment. *See id.* (quoting *Wilhelm v. Credico Inc.*, 519 F.3d 416, 421 (8th Cir. 2008)).
3 Although the FDCPA does not require every conceivable precaution, it does require more
4 than a general assertion of compliance. *Isham*, 738 F. Supp. 2d at 999. The defendant must
5 explain how its procedures address the particular error that occurred. *Id.*

6 IQ Data points to three categories of procedures: (1) policies governing
7 communications with represented consumers, (2) policies governing incoming mail
8 processing, and (3) employee training on those policies. (Doc. 155 at 14.) IQ Data’s policy
9 respecting communications with represented consumers provides that once it learns that a
10 consumer is represented, employees must input an action code to prevent further direct
11 communication. (Doc. 158-1 at 93-94.) As to mail processing, the relevant policy requires
12 that incoming correspondence be date-stamped, sorted, and routed to the appropriate
13 department for processing. (*Id.* at 75-76.)

14 While those procedures exist, the relevant question is whether those procedures
15 were reasonably adapted to prevent the specific error at issue here, namely, the failure to
16 timely process and act on a letter notifying IQ Data that Six was represented by counsel
17 before sending a collection letter directly to him. On that question, the evidence cuts both
18 ways.

19 On one hand, IQ Data’s policies require that once representation is known, the
20 account be coded to prevent direct communication, and its mail-handling procedures
21 contemplate that incoming correspondence will be reviewed and routed for appropriate
22 action. (Doc. 158-1 at 75-76, 93-94.) IQ Data also presents testimony that its employees
23 followed these procedures in this case. (*Id.* at 42-46.) Mr. Gulbranson’s affidavit provides
24 that “IQ Data employees retrieve mail from IQ Data’s P.O Box every day, and such mail
25 is then sorted, distributed, and processed in a timely manner.” (Doc. 159-1 at 6-7 ¶ 28.) It
26 also states that employees retrieve, sort, and process mail daily and are trained to update
27 accounts to reflect attorney representation by applying the appropriate coding. (*Id.* at 7
28 ¶¶ 29, 31.) From this evidence, a reasonable juror could conclude that IQ Data maintained

1 procedures reasonably adapted to avoid the error and that the September 3 letter resulted
2 from an isolated lapse in timing rather than a systemic deficiency. *See Six*, 129 F.4th at 636
3 n.4 (noting that, on these facts, “serious questions about IQ’s liability” exist given the
4 timeline between the letters).

5 On the other hand, Six identifies evidence from which a reasonable juror could find
6 those procedures inadequate in practice. Here, the alleged breakdown occurred at the front
7 end of the mail-handling process, between receipt of the attorney letter and the entry of that
8 information into IQ Data’s system. The record reflects that IQ Data does not require
9 incoming mail to be processed within any specified timeframe. (Doc. 158-1 at 29-30,
10 75-76.) And it does not require that an account be updated within a certain period after
11 receipt of correspondence indicating attorney representation. (*Id.* at 31-32, 93-94.) A
12 reasonable juror could find that, without such safeguards, IQ Data’s procedures were not
13 reasonably adapted to prevent the type of delay that occurred here. *See Isham*, 738 F. Supp.
14 2d at 999-1000 (finding procedures insufficient where they failed to ensure proper handling
15 and tracking of incoming consumer mail). Six also points to evidence that training practices
16 were not uniform, undermining IQ Data’s assertion of consistent implementation of its
17 procedures. (Doc. 158 at 14 (citing Doc. 158-1 at 14-17).)

18 For these reasons, IQ Data has not established the procedures prong as a matter of
19 law, and Six has not shown the absence of a genuine dispute of material fact. *See Anderson*,
20 477 U.S. at 248. Summary judgment is therefore inappropriate for both parties on the bona
21 fide error defense, and the Court need not analyze the remaining prongs.

22 C. IQ Data’s Remaining Affirmative Defenses

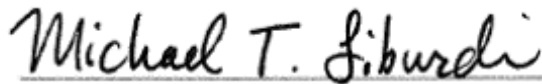
23 In addition to the bona fide error defense, IQ Data raises the following affirmative
24 defenses in its Answer: (1) failure to state a claim, (2) no damages, (3) estoppel,
25 (4) reservation of rights, (5) damages offset, and (6) no standing. (Doc. 12 ¶¶ 25-34.) The
26 Ninth Circuit has since determined that Six has standing to pursue this claim. *See Six*, 129
27 F.4th at 635. IQ Data has also withdrawn its damages-offset defense. (Doc. 80.) Although
28 IQ Data addresses its bona fide error defense in its summary judgment briefing, it does not

1 respond to Six's motion as to the remaining defenses. (*See* Doc. 154 at 5; *see generally*
2 Doc. 159.) Accordingly, IQ Data has abandoned those defenses. *See Jenkins v. County of*
3 *Riverside*, 398 F.3d 1093, 1095 n.4 (9th Cir. 2005). The Court will therefore grant summary
4 judgment in favor of Six and against IQ Data on the following affirmative defenses: failure
5 to state a claim, no damages, estoppel, and reservation of rights.

6 **IT IS THEREFORE ORDERED granting in part and denying in part** Plaintiff
7 Ryan Six's Motion for Summary Judgment (Doc. 154). The Court grants summary
8 judgment in favor of Plaintiff and against Defendant on the following affirmative defenses:
9 failure to state a claim, no damages, estoppel, and reservation of rights. Summary judgment
10 is denied in all other respects.

11 **IT IS FURTHER ORDERED denying** Defendant IQ Data's Motion for Summary
12 Judgment (Doc. 155).

13 Dated this 31st day of March, 2026.

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16 Michael T. Liburdi
17 United States District Judge
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