



News

David Schultz Analyzes in ARM Compliance Digest: Multiple 'Misleading' Disputes Leads Judge to Grant MSJ for Defendant in FDCPA, FCRA Case

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In the October 17, 2022 edition of the *ARM Compliance Digest*, Hinshaw partner David Schultz discusses lessons offered by a New York District Court judge's decision to grant a defendant's motion for summary judgment after it was accused of violating the Fair Credit Reporting Act (FCRA) and the Fair Debt Collection Practices Act (FDCPA) by allegedly furnishing inaccurate information to the credit reporting agencies and then failing to conduct a reasonable investigation, and using false or deceptive means in connection with the collection of the debt:

The facts and claims in *Hart v Simon's Agency, Inc.* are fairly common. Plaintiff had a debt, he claimed a part of it was not proper, but he ultimately paid it. He then sought to remove it from his credit report. He disputed the tradeline five times but in each instance he used a different reason/code. The tradeline was verified as accurate. He then sued. The analysis and holdings are helpful for compliance departments and defense lawyers.

As to the FCRA claim, the court discussed that the reasonableness of a furnisher's investigation depends upon the nature and scope of the consumer's dispute. Plaintiff's problem was that he used various misleading descriptions, such that the debt was not his or that he was not liable for it. However, he admitted incurring the debt and paying it. Those are bad facts for plaintiff and put in perspective the circumstances the agency was facing when determining how to respond to the disputes. The court was persuaded by the agency's conduct. An employee testified on the investigation and reporting procedures that she followed. The tradeline was accurately reported and the investigation was reasonable as a matter of law, the court decided.

As to the FDCPA claim, plaintiff claimed false statements were made in connection with the collection of the account. The court rejected the claim. It ruled that even if the information was false or inaccurate, there is no evidence that it was communicated in connection with the collection of a debt. The debt had been paid. The agency was simply fulfilling its furnisher obligations.

Credit reporting and responding to disputes are common sources of FDCPA and FCRA claims. *Hart v Simon's Agency, Inc.* is a good defense

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case on these issues, especially because it was decided at the summary judgment phase.

[Read the full October 17, 2022 edition of the AccountsRecovery.net Compliance Digest.](#)

"Multiple 'Misleading' Disputes Leads Judge to Grant MSJ for Defendant in FDCPA, FCRA Case," *ARM Compliance Digest*, October 17, 2022