



News

David Schultz Analyzes in ARM Compliance Digest: Appeals Court Upholds Reasonableness of Dispute Investigation in FCRA Case

July 20, 2023

In the July 17, 2023 edition of the *ARM Compliance Digest*, Hinshaw partner David Schultz discussed a Seventh Circuit decision to uphold summary judgment in favor of a furnisher in a Fair Credit Reporting Act (FCRA) case in which the furnisher was accused of providing inaccurate information after conducting an unreasonable investigation of the plaintiff's dispute. The court ruled that "no reasonable jury could find" that the furnisher "provided patently incorrect or materially misleading information."

Schultz writes:

In *Frazier v Dovenmuehle*, the Seventh Circuit provides another favorable FCRA reasonable investigation ruling. Two prior strong Seventh Circuit rulings are *Walton v EOS* and *Westra v Credit Control*. These are important rulings for furnishers defending FCRA cases.

The key part of the *Frazier* ruling is the standard the court adopted. The court stated that "incompleteness or inaccuracy under § 1681s-2(b) requires a showing that the information the data furnisher provided was (1) patently incorrect, or (2) materially misleading, including by omission. By materially misleading, we mean 'misleading in such a way and to such an extent that it can be expected to adversely affect credit decisions.'" That is a good standard for the industry.

This is the third circuit court ruling in the past year that affirmed summary judgment in favor of the furnisher on a reasonable investigation claim – *Bibbs v Trans Union* from the 3rd Circuit and *Milgram v Chase Bank* from the 11th Circuit. The *Frazier* court acknowledged it was consistent with *Bibbs*. The court noted *Bibbs* "involves the accuracy of a credit report under 15 U.S.C. § 1681e(b), [but] given our adoption of the patently incorrect or materially misleading standard from § 1681e(b) caselaw, the analogy is tight."

The tide of TCPA cases turned after the *Facebook* ruling. It also seems like there is a good trend in FCRA cases. Let's hope so.

[Read the full July 17, 2023 edition of the AccountsRecovery.net Compliance Digest.](#)

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