

United States District Court
Southern District of Indiana
Indianapolis Division

Leanne O’Neil,

Plaintiff,

v.

First Data Global Leasing,

Defendant.

Case No. 1:15-cv-952

Complaint and Jury Demand

Plaintiff Leanne O’Neil makes this complaint against Defendant First Data Global Leasing and states the following allegations and claims for relief:

I. Parties

1. Plaintiff Leanne O’Neil resides in Nashville, Indiana. Plaintiff is a consumer as defined by Section 1681a(c) of the Fair Credit Reporting Act, 15 U.S.C. 1681, *et seq.* (the “FCRA”).¹
2. First Data Global Leasing (“First Data”) is a “furnisher” of credit information as that term is defined by the FCRA.

¹ Unless otherwise specified, all “Section” references are to the FCRA.

II. Jurisdiction

3. This lawsuit being brought pursuant to the FCRA presents a federal question and as such, jurisdiction arises under 28 U.S.C 1331 and 15 U.S.C 1681, *et seq.*
4. Venue is proper within this district and division pursuant to 15 U.S.C. 1681p and 28 U.S.C. 1391(b).

III. Factual Allegations

A. Summary of the Fair Credit Reporting Act.

5. The FCRA governs the conduct of consumer reporting agencies and furnishers of credit information in an effort to preserve the integrity of the consumer banking system and to protect the rights of consumers to fairness and accuracy in the reporting of their credit information.
6. The purpose of the FCRA is to require the credit reporting industry adopt reasonable procedures for meeting the needs of commerce for consumer credit, personnel, insurance, and other information in a manner which is fair and equitable to the consumer, with regard to the confidentiality, accuracy, relevancy, and proper utilization of such information.

7. The FCRA is designed to protect the privacy of consumer report information - sometimes informally called “credit reports” - and to guarantee that information supplied by consumer reporting agencies (CRAs) is as accurate as possible.
8. When a furnisher reports information about consumers to a CRA it has legal obligations under the FCRA’s Furnisher Rule, including the duty to furnish information that is accurate and complete, and the duty to investigate consumer disputes about the accuracy of information it provides.

B. First Data has a Duty to Investigate Consumer Disputes.

9. Under the FCRA, consumers may dispute information provided to a CRA by a furnisher in two ways:
 - 9.1. They may submit a dispute to the CRA; and
 - 9.2. They may submit a dispute directly to the furnisher.
10. Once a consumer submits a dispute to a CRA, the CRA is obligated to contact the furnisher of the disputed information.
11. After a CRA notifies a furnisher that a consumer disputes information it provided, the furnisher must:

- 11.1. Investigate the dispute and review all relevant information provided by the CRA about the dispute;
 - 11.2. Report its findings to the CRA;
 - 11.3. Provide corrected information to every CRA that received the information if the furnisher's investigation shows the information is incomplete or inaccurate; and
 - 11.4. Modify the information, delete it, or permanently block its reporting if the information turns out to be inaccurate or incomplete or can't be verified.
12. A furnisher must investigate a consumer's dispute if it relates to the consumer's liability for a credit account or other debt.

C. First Data Furnishes Data to the CRAs.

13. First Data furnishes consumer credit information to all three national consumer reporting agencies, Trans Union, Experian and Equifax.
14. First Data furnishes its information to the CRAs using standardized formatting known as Metro or Metro 2.
15. The "Credit Reporting Resource Guide" (the "Guide") published by the Consumer Data Industry Association (the "CDIA") is a comprehensive overview of the Metro format.

16. The Metro format allows furnishers to report consumer credit information in various data fields.
17. A "field" is a space allocated for a particular type of information.
18. Each of those fields is given a name and each field has a certain value associated with it.
19. In addition to providing the basic reporting format, Metro provides standard codes for reporting certain types of information.
20. The collection of information reported by a furnisher like First Data is known in the industry as a "tradeline."
21. For each tradeline, a furnisher provides a set of information which describes both the credit account upon which the reporting is based and the individual consumer associated with the tradeline.
22. Included in this set of information is a code known as the "ECOA Code."
23. The ECOA Code is used to define the relationship of the primary consumer to the account and to designate the account as a joint account, individual account or other, in compliance with the Equal Credit Opportunity Act.
24. One of the ECOA Codes available to furnishers is ECOA Code "1."

25. ECOA Code 1 means “individual” and is defined further to mean that the consumer identified in the tradeline data “...has contractual responsibility for this account and is primarily responsible for its payment.”²

C. First Data Furnished Inaccurate Information about Plaintiff to the CRAs.

26. First Data furnished tradeline information to the CRAs related to a lease entered into between First Data and Integrated Therapeutic Wellness, LLC (the “Account”).

27. The tradeline reported by First Data to the CRAs included an ECOA Code of 1 and identified the individual consumer with contractual responsibility for the Account as the Plaintiff.

28. Plaintiff is not and has never been contractually responsible for the Account.

29. First Data knows and has always known that Plaintiff is not contractually responsible for the Account.

30. First Data knew that Plaintiff was not contractually responsible for the Account each and every time it reported tradeline information about the account to any CRA.

² Consumer Reporting Resource Guide (2014), at 5-40.

E. Plaintiff Disputed the Accuracy of First Data's Reporting

31. When the CRAs receive a dispute from a consumer, the agencies are obligated under the FCRA to notify the furnisher of the disputed information.
32. The CRAs notify furnishers about consumer disputes using an automated browser-based system called the Online Solution for Complete and Accurate Reporting ("e-OSCAR").
33. Through e-OSCAR, the CRAs send to their furnishers an Automated Credit Dispute Verification ("ACDV") which is supposed to include: the information the agencies are currently reporting about the consumer and the credit information being disputed along with all relevant information about the consumer's dispute which the agencies received from the consumer.
34. Through this ACDV, the agencies ask their furnisher to investigate the information in question and determine whether the information that it is reporting to the agencies is correct, complete and verifiable.
35. The furnisher is then supposed to return the ACDV to the agencies with the updated information (if any) relating to the consumer's credit history.
36. Plaintiff disputed the accuracy of the First Data tradeline through Trans Union, Equifax and Experian, including First Data's reporting that she was contractually liable for the account.

37. Upon information and belief, Trans Union, Equifax and Experian sent ACDVs to First Data and advised First Data that Plaintiff disputed liability and First Data's reporting of ECOA Code 1 in particular or by implication.
38. First Data responded to those ACDVs by verifying the accuracy of its reporting, including the accuracy of the ECOA Code 1.
39. When First Data responded to those ACDVs, First Data knew that Plaintiff as not contractually responsible for the Account.
40. First Data verified information in knew to be inaccurate when it responded to the ACDVs it received from the CRAs for the purpose of extorting Plaintiff into paying a debt which First Data could not collect from its actual debtor Integrated Therapeutic Wellness, LLC.

F. Plaintiff's Credit Files and Consumer Reports

41. Each of the CRAs maintain at least one credit file for or about Plaintiff.
42. The credit files maintained by the CRAs about Plaintiff contain a First Data tradeline.
43. The First Data tradeline inaccurately states that Plaintiff is contractually responsible for the Account.
44. Since First Data furnished the tradeline to the CRAs, the CRAs have prepared and continue to prepare consumer reports which include First Data's inaccurate information.

F. First Data's Investigations

45. In processing the ACDVs First Data received from the CRAs, First Data failed to conduct a reasonable investigation.
46. In processing the ACDVs First Data received from the CRAs, First Data failed to review and consider all the relevant information provided by the CRAs.
47. In processing the ACDVs First Data received from the CRAs, First Data failed to correct its reporting of the tradeline - reporting which First Data knew was inaccurate.
48. The failures of First Data were willful.
49. The inaccurate, misleading and/or incomplete reporting of the First Data tradeline was knowing and willful.

IV. Claim - FCRA Violations by First Data

50. This is a claim for violations of the Fair Credit Reporting Act.
51. First Data furnishes credit information to CRAs and, therefore, is subject to the requirements of the FCRA, including those duties set out in 15 U.S.C. 1681s-2(b).
52. At all relevant times, First Data provided derogatory and false credit information to the CRAs.
53. This false and derogatory information was reported by the CRAs to Plaintiff's creditors, potential lenders and others in a position of evaluating

Plaintiff's creditworthiness, credit standing, credit capacity, character and general reputation.

54. Plaintiff has notified the CRAs, of her disputes of the false information being reported by First Data. Upon information and belief, a form of Plaintiff's disputes and requests for reinvestigation were forwarded to First Data by the CRAs.
55. Information was available to First Data that should have, upon a reasonable investigation, informed First Data that its reporting was inaccurate, incomplete and misleading.
56. Despite its knowledge that the information being reported to Plaintiff's credit files was inaccurate, First Data repeatedly verified the false and derogatory information as accurate, knowing that by doing so Plaintiff's creditworthiness would be damaged and knowing that its continued reporting and verification of this inaccurate information would cause Plaintiff to suffer emotional distress.
57. First Data has taken actions which violate the FCRA, specifically Section 1681s-2(b). These actions include, but are not limited to, the following: (a) failing to fully, properly or reasonably investigate Plaintiff's disputes of the reporting of the false and derogatory information; (b) failing to review all relevant information regarding Plaintiff's disputes and/or by disregarding that information after review; (c) after receiving notice of Plaintiff's

disputes, continuing to submit false and derogatory information to the CRAs regarding the First Data tradeline; (d) failing to modify, delete or permanently block the reporting of credit information regarding Plaintiff which First Data knew to be false, incomplete, misleading and/or not verifiable; and/or (e) failing to accurately respond to Plaintiff's disputes made through the CRAs after receipt of those disputes.

58. First Data knew that information provided to the CRAs was false, incomplete, misleading and/or could not be verified.
59. As a proximate result of this conduct, Plaintiff suffered actual damages including, but not limited to, the loss of credit, loss of credit opportunity, loss of the ability to purchase and benefit from credit, reduction in the credit limit or credit terms from at least one other creditor, mental and emotional pain, distress, anguish, humiliation, frustration, anxiety and embarrassment.
60. First Data's acts and/or omissions made in violation of the FCRA were willful, entitling Plaintiff to recover the remedies provided in Section 1681n.
61. First Data's acts and/or omissions made in violation of the FCRA were negligent, entitling Plaintiff to recover the remedies provided in Section 1681o.

Wherefore, Plaintiff respectfully requests that this Court enter a judgment against First Data for negligent and willful violations of the FCRA and award Plaintiff actual damages, including damages for mental and emotional pain,

distress, anguish, humiliation, frustration, anxiety and embarrassment; statutory damages; punitive damages; costs and attorney's fees.

V. Jury Demand

Plaintiff demands trial by jury.

VI. Request for Relief

Plaintiff respectfully requests that the Court grant any and all of the following relief: (a) actual damages; (b) statutory damages in an amount to be determined at trial; (c) punitive damages in an amount to be determined at trial; (d) costs and attorney fees; and (e) any other relief the Court deems just and proper.

s/ G. John Cento
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