

RECENT DEVELOPMENTS

CONSUMER CREDIT

CREDIT REPORTING AGENCY NOT LIABLE UNDER THE FAIR CREDIT REPORTING ACT FOR INCLUDING A DECADE-OLD CRIMINAL CHARGE IN A BACKGROUND CHECK

Moran v. Screening Pros, LLC, 25 F.4th 722 (9th Cir. 2022).
<https://cdn.ca9.uscourts.gov/datastore/opinions/2022/02/08/20-55908.pdf>

FACTS: In 2010, Plaintiff Gabriel Moran submitted a housing application to Maple Square, a low-income housing development in California. Maple Square hired Defendant Screening Pros

The court disagreed, holding that Defendant's interpretation of the statute was not unreasonable, and that a reasonable factfinder could not find that Defendant's violation of §1681c(a)(5) was negligent, much less willful.

LLC to conduct a background check on Plaintiff. The background check revealed that Plaintiff had three dismissed criminal charges and a conviction. Two of the dismissed charges and the conviction were filed in 2006, but the oldest charge was filed in 2000 and dismissed in 2004.

Plaintiff brought suit claiming that Defendant committed negligent and willful

violations of section 1681c(a) of the Federal Credit Reporting Act ("FCRA") by reporting certain criminal information older than seven years. On remand, the district court held Defendant's violation of section 1681c(a) was neither willful nor negligent, and therefore, the district court granted Defendant's motion for summary judgment. Plaintiff appealed.

HOLDING: Affirmed.

REASONING: Plaintiff argued that Defendant was negligent because the section of the statute in dispute was unambiguous regarding the reporting period, and that Defendant interpreted the commentary on the statute wrong.

The court disagreed, holding that Defendant's interpretation of the statute was not unreasonable, and that a reasonable factfinder could not find that Defendant's violation of §1681c(a)(5) was negligent, much less willful. The court reasoned that Defendant's interpretation was consistent with industry norms; the Federal Trade Commission's only guidance on the question at the time appeared to permit reporting the criminal charge; the district court changed its ruling on reconsideration; and the opinion in the previous appeal was not unanimous. Therefore, the court affirmed the district court's granting of summary judgment to Defendant on Plaintiff's FCRA claims.