

# RECENT DEVELOPMENTS

The court agreed, noting that the mortgage statements expressed an attempt to collect a debt and included loan and payment due dates and interest-bearing and deferred principal balances, alongside an attached payment coupon that specified a mailing address, late fee information, and payment instructions. Select Portfolio's incorporation of unpaid loan sums on the statements influenced the court's decision. The court noted that the mailed mortgage communications could be related to debt collection, that such communications could have multiple purposes, and one such objective could be providing information. Consis-

tent with precedent, the court held that mortgage statements that comply with mandated TILA regulations can plausibly constitute debt communications under the FDCPA when they include debt collection language, request payment by a certain date, solicit late fees, and when the history between parties suggests the correspondence attempts to collect debt. The court reversed the district court's dismissal of Daniels' complaint and remanded the case for further proceedings under the least sophisticated consumer standard.

## CONSUMER CREDIT

### CONSUMERS CAN BRING PRIVATE SUITS FOR VIOLATIONS OF FAIR CREDIT REPORTING ACT § 1681s-2(b)

Spencer v. Experian Info. Sols., Inc., \_\_\_ F. Supp. 3d \_\_\_ (E.D. Tex. 2022).

<https://casetext.com/case/spencer-v-experian-info-sols>

**FACTS:** Plaintiff Karen Spencer ("Spencer") obtained her credit file from Defendant Experian Information Solutions, Inc. ("Experian") and discovered that Defendant Mountain Run Solutions LLC ("Mountain Run") was reporting a tradeline for a debt that Spencer alleged did not belong to her. Spencer's attorney sent a letter to Experian explaining that the debt did not belong to Spencer, as she was a victim of identity theft. Experian forwarded Spencer's dispute to Mountain Run. Mountain Run received the notice but did not conduct a proper investigation or delete the false tradeline from Spencer's credit report.

Spencer sued Mountain Run, alleging that it violated the FCRA by reporting a false tradeline on her Experian credit disclosure. Mountain Run failed to file an answer or provide a defense. Spencer filed a motion for default judgment.

**HOLDING:** Granted in part.

**REASONING:** Spencer argued Mountain Run violated the FCRA by willful and negligent failure to comply with the requirements of § 1681s-2(b). Courts in the Fifth Circuit have previously held that consumers can bring private suits for violations of § 1681s-2(b). This section requires a "furnisher of information," upon receiving notice of a dispute from a consumer reporting agency ("CRA") regarding information provided to that agency

to (1) conduct a reasonable investigation of the disputed information; (2) review all relevant information provided in the notification; (3) report the results of its investigation to the CRA; (4) report the investigation results to other CRAs if the information furnished is incomplete or inaccurate; and (5) modify, delete, or block reporting of inaccurate or incomplete information.

The court accepted this argument, reasoning that Spencer proved all the required elements to recover on a claim against a furnisher of credit information. A plaintiff must prove that (1) the furnisher provided inaccurate credit information about plaintiff to a CRA; (2) plaintiff notified a CRA that the information in her credit report was inaccurate; (3) the CRA notified the furnisher of the dispute; and (4) after receiving this notice, the furnisher failed to conduct a reasonable investigation and provide notice to the CRA to correct the reporting errors. Because these elements were included in Spencer's pleadings, the court found that Spencer had sufficiently stated a claim against Mountain Run under the FCRA and granted her motion for default judgment with respect to the issue of liability.

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