FCRA First: Jury Hits Equifax with $18 Million Punitive Award

from The Privacy Times

OREGON CASE SETS STAGE FOR EXCITING FIGHT OVER FCRA PUNITIVE DAMAGES

In the biggest known verdict in the history of the Fair Credit Reporting Act, a federal jury in Oregon awarded a woman $18.4 million in punitive damages after she spent two years unsuccessfully trying to get Equifax Information Services to fix major mistakes on her credit report.

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The juryâ€™s verdict, which also included an award of $180,000 in actual damages, very likely will be challenged by Equifax, which could ask the trial judge, U.S. District Judge Anna J. Brown, to outright vacate it, or reduce the unprecedented $18 million award.

Plaintiff Julie Miller sued after Equifax failed to reinvestigate any of her eight disputes between 2009 and 2011. Miller told Equifax she was being mixed with a woman of the same name, and demanded that it remove dozens of collection accounts belonging to the other woman, as well has her date of birth, and Social Security number, which differed by two digits.

â€œThere was damage to her reputation, a breach of her privacy and the lost opportunity to seek credit,â€• Justin Baxter, a Portland attorney, told The Oregonian. He teamed on the case with his father and law partner, Michael Baxter. â€œShe has a brother who is disabled and who canâ€™t get credit on his own and she wasnâ€™t able to help him,â€• he said.

Tim Klein, an Equifax spokesman told The Oregonian that he didnâ€™t have any details about the decision from the court. He declined to comment about the specifics of the case, The Oregonian reported.

While most FCRA lawsuits brought by consumers settle before trial, Equifax, more than any of the â€œBig Threeâ€• credit bureaus, has shown a willingness to fight it out in front of a jury.

In 2007, Justin and Michael Baxter filed suit in the FCRA-Identity theft Valentine case, resulting in a jury award of

$200,000 in actual damages but no punitive damages. Two years prior, Michael Baxter won a $210,000 actual-damages award against Equifax on behalf of Portlander Matthew Kirkpatrick in another FCRA-Identity theft case. In Virginia, federal juries assessed actual damages awards against Equifax of $351,000 in the Sloane case (2006), and $200,000 in the Robinson case (2007).

The first plaintiff to win punitive damages, of $2.7 million against Equifax was Angela Williams (2007), in State court in Florida, in a case filed by Robert Sola. In 2010, a federal jury in San Francisco awarded Eric Drew $700,000 in punitive damages and $321,000 in actual damages against Equifax. (Editorâ€™s Note/Full Disclosure: Evan Hendricks was the expert for plaintiff in each of the Equifax cases mentioned in this article.)

In both the Williams and Drew punitive damages cases, each trial judge rejected Equifaxâ€™s motions to vacate the jury award. Sometime thereafter, Equifax settled with the each plaintiff for confidential sums.

In the most recent case, Miller first discovered a problem when she was denied credit by a bank in early December 2009. She alerted Equifax and filled out multiple forms faxed by the credit agency seeking updated information.

In addition to requesting the changes, Miller had asked several times for copies of her credit report, according to the testimony. Credit bureaus are required by law to provide reports to consumers for free annually and after that, for a small fee. On numerous occasions, Equifax failed to respond to Millerâ€™s requests. (Julie Miller v. Equifax Information Services, et al.: USDC-Oregon â€“ No. 3:11-CV-01231-BR; Jury Award July 26, 2013)

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