

Supreme Court to Make Major Ruling in FCRA Case

April 6, 2021 - On March 30th, the US Supreme Court heard arguments in the case of Ramirez v. TransUnion; a case which could have real consequences for the credit reporting industry and one which we have previously reported on. In short, the case involves a consumer who was denied the ability to purchase a car because his name had been matched to a US Government terrorist watch list. But it was in-fact TransUnion that made the decision to include that data in his credit file, and they did so without any apparent safeguards to make sure he was actually the person named on the watch list. So he sued.

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Placing a notation on the credit file of Sergio Ramirez, that he appeared on a US Treasury watch-list of people banned from doing business in the United States, was a fairly automated process. TransUnion had hired a third-party vendor to screen for this situation. Unfortunately, that vendor only looked at the names on the list and made no attempt to include additional known information such as SSN's or physical addresses. Once Ramirez was identified as being on the list, he received a letter informing him of the situation. More than 8,000 other people were also sent similar letters. And that led to the class action lawsuit for which Mr. Ramirez is the lead plaintiff.

In the original case, the lower court found that Ramirez and the class of people he represents all suffered damage because the information on their credit reports had either been disseminated to third parties or had the potential to be. The court awarded the class more than \$60 million. TransUnion appealed that decision to the 9th US Circuit Court of Appeals.

Their appeal was essentially that the class never should have been certified by the court in the first place. That's because only a quarter of the 8,000 people were actually denied credit or refused service due to TransUnion's error. But the appeals court disagreed, even though they did cut the initial damage award in half. So TransUnion appealed again.

The real question before the Supreme Court is whether or not people who haven't been denied credit or a right to do business have actually been damaged by TransUnion's actions. If the court decides against them, what happens next isn't really clear. That's because 25% of the people who received letters were clearly damaged. Would SCOTUS allow them to collect damages? Or would the entire class be thrown out and would they have to start their lawsuit all over again?

On the other hand, if SCOTUS decides in favor of the plaintiffs, consumer reporting agencies will be much more likely to

get sued for incorrect reporting in the future.

Ramirez is claiming that everyone in the current class has been damaged because their information was given to a third party simply to make the determination that they should have notations made in their credit files. And it is unknown how those notations will impact them in the future.

A decision by the Supreme Court is expected early this summer.

by Jim Malmberg

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