How to Address a Consumer Dispute in Compliance with Fair Credit Reporting Act

Jun 02, 2019

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With the recent decision in Spokeo v. Robbins, bloggers and legal commentators have spent much time discussing the Fair Credit Reporting Aact. The Spokeo decision is one for all of us to watch closely, but a check of basic compliance issues is always in order. This article focuses on handling consumer disputes, following a surprising verdict.

On May 23, 2016, a federal jury in the Southern District of West Virginia awarded $6,128.39 in compensatory damages and a whopping $2,500,000 in punitive damages in a FCRA case. Daugherty v. Equifax Information Services, LLC, et al, (SDWV Civil Action No.: 5:14-cv-24506). At issue was whether the furnisher of credit information, in that case the mortgage servicer, properly investigated several disputes filed by the plaintiff in the action. Plaintiff alleged that the servicer did not conduct an adequate investigation.

What must a furnisher of information do to comply with FCRA when a consumer disputes a report?

Generally speaking, furnishers of credit information submit that information to a consumer reporting agency ("CRA"). If a consumer disputes information contained in a CRA file, the CRA is required to notify the furnisher of that information who must conduct an investigation. The Fourth Circuit Court of Appeals, in Saunders v. Branch Banking and Trust Co., 526 F.3d 142 (2008), stated:

If a consumer notifies a CRA that he disputes the accuracy of an item in his file, FCRA requires the CRA to notify the furnisher of the dispute. § 1681i(a)(2). Upon receipt of this notice, a furnisher must:

(A) conduct an investigation with respect to the disputed information;

(B) review all relevant information provided by the consumer reporting agency pursuant to section 1681i(a)(2) of this title;

(C) report the results of the investigation to the consumer reporting agency; [and]

(D) if the investigation finds that the information is incomplete or inaccurate, report those results to all other consumer reporting agencies to which the person furnished the information and that compile and maintain files on consumers on a nationwide basis . . . . § 1681s-2(b)(1). *Id*.

Given this recent verdict and the recent (and I expect continued) increase in FCRA litigation, furnishers must look to make their policies comply with the requirements of FCRA.