

FCRA Alert: the Spike Is No Fluke

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In case you are not aware of this, lawsuits alleging violations of the Fair Credit Reporting Act (“FCRA”) have increased dramatically over the past decade. We have seen a plateau from [a modest number of 1,403 cases in 2009 to 3,582 cases in 2018](#). And the spike is no fluke. Consumers bringing such cases have continued to win settlements with banks and some industry giants.

In a recent decision by the District Court for the Southern District of California, Plaintiff Jordan Caccamise was awarded \$75,270 in attorneys’ fees, after the court entered a judgment in Caccamise’s favor in the amount of \$60,100 and enjoining the defendants from attempting to collect the underlying debts. See *Caccamise v. Credit One Bank, N.A.*, Case No. 18-cv-971-JLS-BLM, 2020 U.S. Dist. LEXIS 27251 (S.D.CA. Feb. 18, 2020).

Caccamise was a victim of identity theft that occurred in 2017. The thief, Ms. Murphy, applied for and was given a credit card in Caccamise’s name with Credit One and charged \$444 in fraudulent charges to the Credit One card. This balance was past due on a recurring basis from April through December 2017. Caccamise sent disputes to the credit reporting agencies and also to Credit One, attaching a copy of the police report for the identity theft and the arrest of Ms. Murphy. Nonetheless, Credit One continued to pursue the debts and sold the fraudulent account to LVNV Funding, LLC for collection purpose. (Why would Credit One do that? I don’t know.)

On May 16, 2018, Caccamise filed this action for damages and injunctive relief against eleven defendants including Credit One and LVNV, alleging claims for violations of the California Identity Theft Act (“CITA”), the Fair Debt Collection Practices Act (“FDCPA”), the California Consumer Credit Reporting Agencies Act (“CCRAA”), and the Fair Credit Reporting Act (“FCRA”).

As we all can tell, Caccamise had a winning case here. Nine of the eleven named defendants quickly settled with Caccamise, and were soon dismissed from the case.

But not Credit One and LVNV.

During discovery, four depositions were taken, including Caccamise, the officer who arrested Ms. Murphy, Credit One’s person most knowledgeable, and LVNV’s person most knowledgeable. The parties also attended a private mediation on May 21, 2019. And it was on May 28, 2019, one week after the completion of the mediation, Credit One and LVNV, (finally realized they were not getting away with this, huh?), sent out a Rule 68 offer, which Caccamise accepted.

The court, on May 30, 2019, entered an order of judgment in Caccamise's favor in the amount of \$60,100 and enjoining the defendants from collecting or attempting to collect the underlying debts.

Caccamise then filed a motion for attorneys' fees in the amount of \$81,510, pursuant to 15 U.S.C. §§ 1681n(a)(3), 1681o(a)(2), 1692k(a)(3), California Civil Code §§ 1785.31(a)(1)-(2)(A) and 1798.93(c)(5), and Federal Rules of Civil Procedure 54 and 68. The court took the matter under submission, and after having considered the arguments, the evidence, and the law, it granted the motion in part and awarded Caccamise \$75,270 in attorneys' fees.

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