

# RECENT DEVELOPMENTS

## CONSUMER CREDIT

### FCRA § 1681e(b) DOES NOT INCORPORATE A THRESHOLD INQUIRY AS TO WHETHER AN ALLEGED INACCURACY IS “LEGAL” OR “FACTUAL.”

*Sessa v. Trans Union, LLC*, 74 F.4th 38 (2d Cir. 2023)  
<https://www.ca2.uscourts.gov/decisions/isysquery/b8d1a162-cb31-4889-85e1-22f76b4e5b6b/1/doc/22-87 opn.pdf#xml=https://www.ca2.uscourts.gov/decisions/isysquery/b8d1a162-cb31-4889-85e1-22f76b4e5b6b/1/hilite/>

**FACTS:** Plaintiff-Appellant (“Sessa”) leased a Subaru Forester in 2018. Defendant-Appellee (“Trans Union”) received details regarding the lease arrangement and subsequently included this information in Sessa’s credit report. However, there was an inaccuracy in the report, as Trans Union indicated that the agree-

ment required Sessa to make a balloon payment upon the lease’s conclusion, despite the agreement stipulating no such requirement.

Sessa initiated legal action against Trans Union under section 1681e(b) of the Fair Credit Reporting Act (“FCRA”). This section mandates that credit

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reporting agencies (“CRAs”) must employ rational methods to ensure the utmost attainable precision of data presented in a consumer’s credit report. In response, Trans Union filed a motion for summary judgment, contending that its reporting was based on

the received information and that any inaccuracies stemmed from a matter of legal interpretation.

The district court granted Trans Union’s motion for summary judgment, ruling that the alleged inaccuracy purporting to Sessa’s balloon payment obligation constituted a legal disagreement rather than a factual one. Sessa subsequently filed an appeal. **HOLDING:** Vacated and remanded.

**REASONING:** The court determined that the district court’s analysis was flawed, as section 1681e(b) does not incorporate a threshold inquiry as to whether an alleged inaccuracy pertains to a “legal” or “factual” matter. After the district court’s ruling, the second circuit set a significant precedent in *Mader v. Experian Information Solutions, Inc.*, 56 F.4th 264 (2d Cir. 2023) establishing that the definition of “accuracy” under the FCRA mandates a focus on information that is both objectively and verifiably substantiated. In *Mader*, the court clarified that information could be considered actionably “inaccurate” only when objectively ascertainable and easily verified by the CRA.

Here, the court provided clarity by asserting that a dispute encompassing a legal question does not inherently render it immaterial within the scope of the FCRA. Instead, CRAs are responsible for reporting information with precision, which entails the application of legal principles to readily ascertainable and uncomplicated facts. Consequently, the court vacated the district court’s verdict and instructed the district court to ascertain whether the information in question is “objectively and readily verifiable” to be actionable under section 1681e(b).

Additionally, the court ruled that section 1681e(b) is violated only when a CRA fails to “follow reasonable procedures to assure maximum possible accuracy of the information” about an individual. Given the district court’s failure to address this matter, the court remanded the case back to the district court for the purpose of conducting this specific analysis.