

RECENT DEVELOPMENTS

CONSUMER CREDIT

JUSTICES RULE GOV'T AGENCIES NOT IMMUNE FROM FCRA SUITS.

U.S. Department of Agriculture Rural Development Rural Housing Service v. Kirtz, ___ U.S. ___ (Supreme Court 2024). https://www.supremecourt.gov/opinions/23pdf/22-846_2co3.pdf

FACTS: Robert Kirtz sued the USDA's Rural Housing Service in 2020 claiming it inaccurately reported his loan repayments to credit reporting agencies, resulting in damage to his credit score. In August 2022, the Third Circuit ruled in Kirtz's favor, creating a circuit split regarding litigation against the federal government. The USDA appealed the decision to the Supreme Court.

HOLDING: Waiver of Sovereign Immunity.

REASONING: The Court reasoned that the FCRA's definition of "person" explicitly includes government agencies, waiving the government's immunity from lawsuits under the Act. This interpretation aligns with Congress's intent to hold government agencies accountable for FCRA violations. The Court emphasized that dismissing suits against federal agencies would counter Congress's intent to allow consumers to collect damages in FCRA claims against the government. Additionally, the Court rejected arguments that the liability sections of the law needed clearer incorporation of the definition section, echoing the importance of Congressional intent. The Court's decision provides consumers with recourse against inaccurate credit reporting by federal entities, strengthening consumer protection laws and ensuring government accountability under the FCRA.

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PRO SE PLAINTIFF HELD TO A LESS STRINGENT STANDARD THAN FORMAL PLEADINGS DRAFTED BY LAWYERS

Kennedy v. Equifax Info. Servs. LLC Santander Consumer USA, 2024 U.S. Dist. LEXIS 15458 (W.D. Tex. 2024). <https://casetext.com/case/kennedy-v-equifax-info-servs-7>

FACTS: Plaintiff Isaiah Kennedy filed an action, proceeding *pro se*, against Navy Federal alleging a violation of the FCRA by failing to investigate the completeness or accuracy of information provided to a consumer reporting agency after being notified of a dispute. Navy Federal moved to dismiss Kennedy's action for failure to state a claim.

HOLDING: Magistrate Judge recommended denial.

REASONING: The magistrate judge said Navy Federal's motion to dismiss should be denied because Kennedy's complaint pleaded

a plausible claim under the FCRA against Navy Federal.

The magistrate judge noted that in reviewing a motion to dismiss for failure to state a claim, a claim should not be dismissed unless the court determines that it is beyond doubt that the plaintiff cannot prove a plausible set of facts that support the claim and would justify relief.

The magistrate judge also pointed out that, "because Kennedy is a pro se litigant, his pleadings are to be liberally construed and held to a less stringent standard than formal pleadings drafted by lawyers."

Navy Federal argued that Kennedy's claims were factually insufficient. Despite Kennedy's claim including a lot about the credit reporting agencies, the magistrate suggested there are enough facts about Navy Federal to provide factually sufficient allegations. Additionally, the magistrate suggested that Kennedy's failure to attach the credit report or dispute letter should not be grounds for dismissal. At the pleading stage, the magistrate pointed out, Kennedy is not required to provide evidence to support his factual allegations. The magistrate suggested Kennedy's complaint includes enough information to make his claim plausible under the FCRA.