

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

JOHN HARRISON, :
: Plaintiff, :
: :
V. : CASE NO. 3:03cv01291 (RNC)
: :
FORD MOTOR CREDIT CO., ET AL., :
: :
Defendants. :
:

RULING AND ORDER

This action under the Fair Credit Reporting Act, 15 U.S.C. §§ 1681, et seq., and Connecticut statutory and common law, is before the Court on a motion to dismiss filed by Navy Federal Credit Union ("Navy") (Doc. # 51). For the reasons summarized below, the motion is denied.

1. Plaintiff's Claim Under FCRA § 1681s-2(b)

Plaintiff seeks damages against Navy for a violation of § 1681s-2(b)(1) of the FCRA, which requires a furnisher of credit information to a credit reporting agency ("CRA") to investigate and correct information when notified by a CRA that the information's accuracy or completeness is disputed by the consumer. Navy contends that the complaint does not state a claim for relief under this section because it fails to specifically allege that Navy received notice of the existence of a dispute from a CRA. The complaint alleges that plaintiff disputed the credit information in question with three CRAs; that they, in turn, requested verification of the validity of the information from Navy; that Navy failed to properly investigate

the disputes when asked to do so by the CRAs; and that Navy failed to correct the information. These allegations plainly imply that Navy was notified of the existence of the dispute by one or more of the CRAs. They are therefore sufficient to state a claim for relief under § 1681s-2b(1).

2. FCRA Preemption

Plaintiff also seeks damages under Connecticut's Creditors Collection Practices Act, Conn. Gen. Stat. §§ 36a-645, et seq., and the common law of defamation and intentional infliction of emotional distress. Navy moves to dismiss these claims on the ground that all state law causes of action against furnishers of credit information are completely preempted by § 1681t(b)(1)(F) of the FCRA. Plaintiff responds that, at most, this section of the Act preempts state law claims based on a furnisher's conduct after it first receives notice of a dispute from a CRA. No court of appeals has taken up the issue of the preemptive scope of this section, and district courts have reached differing conclusions. The most recent, and better reasoned decisions, in my view, adopt the temporal approach plaintiff urges here. See Carriere v. Proponent Fed. Credit Union, No. Civ. A 03-1893, 2004 WL 1638250, at *6 (W.D. La. July 12, 2004); Woltersdorf v. Pentagon Fed. Credit Union, 320 F. Supp. 2d 1222, 1225-27 & nn.5-6 (N.D. Ala. 2004). Under this approach, plaintiff's state law claims are not preempted insofar as they are based on Navy's conduct before it

was notified of the existence of a dispute by a CRA.¹

Accordingly, the motion to dismiss is hereby denied.

So ordered.

Dated this 3rd day of January 2005.

Robert N. Chatigny
United States District Judge

¹ Navy contends that under the temporal approach, preemption should take effect as of the date a furnisher is first notified of the existence of a dispute, regardless of the source of the notice, rather than the date it first receives notice of a dispute from a CRA. I disagree for substantially the reasons stated in plaintiff's memorandum in opposition.

