

Motion to Strike Granted - Court Strikes Down FCRA Affirmative Defense



Article By

[John C. Hawk IV](#)

[Womble Bond Dickinson \(US\) LLP](#)

- [Financial Institutions & Banking](#)
- [Litigation / Trial Practice](#)
- [9th Circuit \(incl. bankruptcy\)](#)

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In *Cook v. Mt. Am. Fed. Credit Union*, 2018 U.S. Dist. LEXIS 162234 (D. Az. September 20, 2018), Plaintiff Tyler Cook (“Plaintiff”) moved to strike defendant Mountain America Federal Credit Union’s answer to Plaintiff’s first amended complaint. Most interestingly for FCRAland.com readers, Plaintiff specifically moved to strike an affirmative defense “assert[ing] all protections and defenses set forth in Fair Credit Reporting Act, 15 U.S.C. § 1681, *et seq.*”

The Court, citing *Simmons v. Navajo County*, 609 F.3d 1011, 1023 (9th Cir. 2010), noted that an affirmative defense must give a plaintiff “fair notice of the defense being claimed.” The Court found that simply narrowing a defense to those protections and defenses available under the FCRA failed to give the Plaintiff proper notice of what defenses were actually being claimed. The affirmative defense was akin to claiming “all possible affirmative defenses.” As such, the defense was stricken from the amended complaint.

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