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The Clock is Ticking: Court Analyzes When the Statute of Limitations Begins Running in FCRA Case

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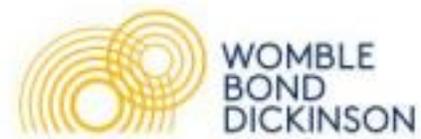
Last week, a federal court in Nevada dismissed FCRA claims for the plaintiff's failure to file within the statute of limitations. *Carrington v. Santander Consumer U.S.A., Inc.*, No. 2:17-cv-00038-KJD-NJK, 2018 WL 4682319 (D. Nev. Sept. 28, 2018). The opinion reminds plaintiffs of the importance of timely filing their claims and reminds defendants of a useful doctrine for the early dismissal of FCRA claims in certain situations. The court provided all litigants with a fairly straightforward analysis of when a FCRA statute of limitations begins to run.

In the specific facts of the case, the plaintiff, Carrington, asserted that she contacted Experian in August 2014 to dispute an entry on her credit report. That same month, Experian apparently inquired of defendant Santander, who furnished the credit information, and Santander confirmed the information which Carrington now asserts was inaccurate. Experian informed Carrington of Santander's response on August 29, 2014.

After Carrington filed suit in January 2017, Santander moved to dismiss based on FCRA's two year statute of limitations. The court acknowledged that the statute of limitations does not begin to run until a plaintiff discovers the alleged FCRA violation or the date on which a reasonably diligent plaintiff would have discovered the facts constituting the violation. Nonetheless, the Court held that Carrington should have known about the alleged violation on August 29, 2014, when Experian informed Carrington of Santander's contention that her account was still open. Therefore, the Court concluded that Carrington's claims had not been filed within the statute of limitations and dismissed the case.

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