

Could You Spell That For Me? Court Grapples With FCRA Implications Of The Surname “E”



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In *Maria E v. Experian*, 2018 WL 2085221 (E.D. KY Feb 27, 2018), the court examined Experian’s inability to provide a credit report for a plaintiff with the last name “E,” and ultimately found that, because Experian never provided a credit report for this person, it could not be liable under 15 U.S.C. § 1681e(b).

Plaintiff had been through a number of name changes. She was born Maria Kalla, but at various times was legally known as Maria Moore, Maria Morand, Maria E. (with a period), and finally, Maria E (with no period). She initially complained to Experian in 2008 that it was not reporting her credit. Experian responded that it “does not support the use of a single name or a single initial for a surname.” The court explained further that Experian “has devised a system which accounts for the sometimes inconsistent manner in which consumers and data furnishers use or report identifying information (including parts of a name, typographical errors, etc.) by requiring a minimum of two letters for a consumer’s surname length.”

By 2016, Plaintiff was attempting to establish a good credit history. TransUnion and

Equifax were reporting her, but Experian was not. She complained directly to Experian and also filed a complaint with the CFPB. Experian continued to respond that it “does not support the use of a single name or a single initial for a surname.” Plaintiff filed this lawsuit, claiming a violation of 15 U.S.C. § 1681e(b).

The court noted that 15 U.S.C. § 1681e(b) creates a private cause of action, “[w]henever a consumer reporting agency prepares a consumer report” if it fails to “follow reasonable procedures to assure maximum possible accuracy” in preparing the report. Therefore, the court reasoned, in order to state a claim, Maria E would need to show that Experian reported inaccurate information about her. That never happened. The court cited to the 11th Circuit: “[W]ithout a consumer report, there is no duty under the [FCRA] to follow reasonable procedures,” *Smith v. First Nat'l Bank of Atlanta*, 837 F.2d 1575, 1578 (11th Cir. 1988). Therefore, Experian’s inability to report Maria E’s credit did not violate § 1681e(b) of the FCRA.

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