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Media Contact: Glenn Lammi | glammi@wlf.org | 202-588-0302

WLF Urges Third Circuit To Review Certified FCRA Class Containing Uninjured Members *(Kaplan v. TransUnion, LLC)*

“Certifying a class filled with uninjured consumers defeats Rule 23 predominance and threatens the integrity of consumer credit reporting.”

— Cory L. Andrews, WLF General Counsel & Vice President of Litigation

WASHINGTON, DC—Washington Legal Foundation (WLF) today asked the U.S. Court of Appeals for the Third Circuit to review an order by the U.S. District Court for the Eastern District of Pennsylvania that certified a class likely containing thousands of uninjured individuals. WLF joined the U.S. Chamber of Commerce and the American Bankers Association on the amicus brief, which was drafted by Adam Unikowsky and Daniel Schwei of Jenner & Block LLP.

The case arises from plaintiff Lesley Kaplan’s submission of an identity theft report and supporting documentation to TransUnion after a fraudulent charge appeared on her Wells Fargo credit card account. TransUnion responded with its standard form Letter 775, declining to block the information because it determined that one of the Fair Credit Reporting Act’s (FCRA) statutory exceptions applied, and it later verified the charge as legitimate with the creditor. Over TransUnion’s cogent objections, the district court certified a nationwide class of approximately 280,763 consumers who received similar denial letters.

In the amicus brief, amici argue that the district court’s interpretation of the FCRA is flawed because it would require consumer reporting agencies to block information immediately upon request before determining its validity. Because Article III injury is an individualized issue here, mere receipt of the denial letter does not establish concrete harm for every class member, necessitating mini-trials on standing that defeat predominance. This error threatens to undermine the integrity of the consumer reporting system upon which businesses and consumers depend.

Celebrating its 49th year, WLF is America’s premier public-interest law firm and policy center advocating for free-market principles, limited government, individual liberty, and the rule of law.

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