

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION**

RUTH TAYLOR and ZACHARY TAYLOR, <i>on behalf of themselves and all others similarly situated,</i>	:	
	:	
	:	
Plaintiffs,	:	Civil Action No. _____
	:	
v.	:	
	:	
TRANS UNION, LLC,	:	
	:	
Defendant.	:	
	:	

CLASS ACTION COMPLAINT

COMES NOW Plaintiffs, RUTH TAYLOR and ZACHARY TAYLOR, (“Plaintiffs”), *on behalf of themselves and all others similarly situated*, by counsel, and for their Class Action Complaint against Defendant Trans Union, LLC (“Trans Union”), they allege as follows:

PRELIMINARY STATEMENT

1. Section 1681e(b) is one of the cornerstone provisions of the Fair Credit Reporting Act (“FCRA”), 15 U.S.C. § 1681 *et seq.* Whenever a consumer reporting agency (“CRA”) prepares a consumer report, § 1681e(b) requires the CRA to follow reasonable procedures to assure maximum possible accuracy of the information concerning the individual about whom the report relates. 15 U.S.C. § 1681e(b). This section imposes a high standard on CRAs. *See, e.g., Burke v. Experian Info. Sols., Inc.*, 2011 WL 1085874, at *4 (E.D. Va. Mar. 18, 2011) (breaking down the requirements of § 1681e(b), and explaining that “ ‘assure’ means ‘to make sure or certain: put beyond all doubt,’” “[m]aximum’ means the ‘greatest in quantity or highest degree attainable[,]’ and ‘possible’ means something ‘falling within the bounds of what may be done,

occur or be conceived” (quoting *Webster’s Third New International Dictionary* 133, 1396, 1771 (1993)).

2. This consumer class action challenges Trans Union’s uniform policy and procedure associated with its erroneous and systematic reporting of debts discharged in bankruptcy as due and owing. This practice negatively impacts consumers’ credit scores, reputations, and deprives consumers of their important statutory right to have only maximally accurate information reported about them.

JURISDICTION

3. This Court has jurisdiction pursuant to 28 U.S.C. § 1331 and 15 U.S.C. § 1681(p).

4. Venue is proper in this District and Division because a substantial part of the events and omissions giving rise to the claim occurred in this District and Division.

PARTIES

5. Plaintiff Ruth Taylor is a natural person, resident of the Richmond Division, and a “consumer” as defined by 15 U.S.C. §1681a(c).

6. Plaintiff Zachary Taylor is a natural person, resident of the Richmond Division, and a “consumer” as defined by 15 U.S.C. §1681a(c).

7. Trans Union is a foreign limited liability company authorized to do business in the Commonwealth of Virginia. Trans Union is a “consumer reporting agency,” as defined by 15 U.S.C. § 1681a(f).

FACTS

Plaintiffs’ Experience

8. On or around April 27, 2016, Plaintiffs applied for a mortgage loan with NVR, Inc. (“NVR”).

9. Rather than ordering credit reports directly from each of the “Big 3” credit reporting agencies, NVR requested a copy of Plaintiffs’ credit reports from Corelogic Credco, LLC (“Corelogic”)—a “reseller” of consumer reports as defined by § 1681a(u) of the FCRA.

10. Corelogic receives discounted credit reports from Experian, Equifax, and Trans Union and assembles that information into a “tri-merge report” for the purpose of reselling that information to lenders like NVR.

11. On April 27, 2016, Trans Union furnished a credit report concerning Plaintiffs to Corelogic, who assembled and merged this information into the tri-merge report furnished by Corelogic to NVR.

12. The credit information furnished by Trans Union contained grossly inaccurate information regarding Plaintiffs that contributed to their inability to qualify for a mortgage.

13. In particular, Trans Union reported that Plaintiffs had an outstanding mortgage with J.P. Morgan Chase Bank (“Chase”) in the amount of \$27,470. The Chase account was also reporting with a past due amount of \$2,877.

14. Additionally, Trans Union reported that Mr. Taylor had an open credit card with First National Bank with a past due balance of \$637.

15. This information was inaccurate—Plaintiffs received a bankruptcy discharge in March of 2014 from the United States Bankruptcy Court for the Eastern District of Virginia.

16. As a result of their bankruptcy, the debts with Chase and First National Bank were discharged.

17. Trans Union knew or should have known that the accounts with Chase and First National Bank were discharged in bankruptcy because both accounts contained status notations indicating that the accounts were “included in bankruptcy.”

18. Additionally, Trans Union was reporting that both Plaintiffs had obtained a Chapter 13 Bankruptcy discharge on March 27, 2014.

19. The Consumer Data Industry Association (“CDIA”), of which Trans Union is a member, is “an international trade association with over 110 corporate members, [which] strives to educate consumers, media, legislators and regulators about the benefits of the responsible use of consumer data.”¹

20. The CDIA publishes a manual that advises its members of the correct way to report a Chapter 13 Bankruptcy that has been discharged or completed. Specifically, it states that the Current Balance and Past Due Balance should both be reported as “Zero.” *See* Consumer Data Industry Association, *2011 Credit Reporting Res. Guide* 6-19 (2011), http://robertweed.com/resources/2011_Credit_Reporting_Resource_Guide.pdf.

Trans Union’s Procedures and Notice Regarding Bankruptcy Inaccuracies

21. Trans Union has a long history of government enforcement actions, consumer complaints, and lawsuits establishing that it inaccurately report information related to debts discharged in bankruptcy. *See, e.g., White v. Experian Info. Sols., Inc.*, Case No. 8:05-cv-01070 (C.D. Cal.); *Acosta v. Trans Union*, 243 F.R.D. 377, n.3 (C.D. Cal. 2007) (citing a bankruptcy lawyer’s survey of approximately 900 clients that found that 64% of reports published by Trans Union erroneously listed one or more discharged debts as due and owing).

22. Despite the frequent inaccuracies related to accounts discharged in bankruptcy, Trans Union continues to maintain unreasonable procedures regarding the manner in which it publishes bankruptcy related information.

¹ *About CDIA*, CDIA: Consumer Data Industry Association, <https://www.cdiaonline.org/about/> (last visited May 15, 2017).

23. If Trans Union had reasonable procedures (or, perhaps, any procedure) to assure maximum possible accuracy, Trans Union would have easily determined that these accounts were discharged in bankruptcy.

24. Trans Union should have been alerted to the inaccuracy of its report because the public records section of Plaintiffs' credit reports indicated that the accounts were discharged in bankruptcy as of March 27, 2014.

25. Moreover, Trans Union should have been alerted that the information it reported was inaccurate because the remarks section of each account indicated that the accounts were "included in bankruptcy." This should have been a red flag that the information reported by Trans Union was inaccurate.

26. However, upon information and belief, despite the abundance of notice available regarding the frequent errors in its bankruptcy related credit information, Trans Union does not independently review the information it receives from its furnisher customers such as Chase or First National Bank.

27. Instead, Trans Union merely parrots the bankruptcy information it receives from furnishers without taking any additional steps to ensure that the accounts are updated after a consumer receives a discharge.

28. Upon information and belief, Trans Union has actual knowledge of the problems associated with its systematic erroneous reporting of one or more discharged debts as due and owing, yet Trans Union deliberately ignores such problems because reviewing and/or cross-checking the data would reduce its bottom line.

29. At all times relevant hereto, Trans Union's conduct was willful and carried out in reckless disregard for a consumer's rights under the FCRA. By example only and without

limitation, Trans Union's conduct was willful because it ran a risk of harm that was known, or so obvious it should have been known, by failing to implement any procedure to identify and correct these common errors prior to furnishing reports.

30. Moreover, Trans Union failed to adopt any procedures despite the fact that its sources have been subject to court decisions critical of similar conduct. *White*, Case No. 8:05-cv-01070; *Acosta*, 243 F.R.D. 377, n.3; *see also* Federal Trade Comm., 40 Years of Experience with the Fair Credit Reporting Act, an FTC Staff Report with Summary of Interpretations, July 2011, at 67 ("However, when a CRA learns or should reasonably be aware of errors in its reports that may indicate systematic problems (by virtue of information from consumers, report users, from periodic review of its reporting system, or otherwise), it must review its procedures for assuring accuracy and take any necessary steps to avoid future problems. Similarly, it should establish procedures to avoid reporting information from its furnishers that appears implausible or inconsistent.").

COUNT ONE: VIOLATION OF FAIR CREDIT REPORTING ACT
15 U.S.C. § 1681e(b)
Class Claim

31. Plaintiffs restate each of the allegations in the preceding paragraphs as if set forth at length herein.

32. Pursuant to Fed. R. Civ. P. 23, Plaintiffs bring this action individually and on behalf of a class initially defined as follows:

All natural persons who were the subject (1) of a consumer report furnished by Trans Union to a third party where (2) the public record section of its consumer report indicated that the consumer had received a Chapter 13 bankruptcy discharge and (3) the report nonetheless indicated an outstanding balance or a past due amount on an account that was notated as included in the bankruptcy.

33. **Numerosity.** Upon information and belief, Plaintiffs allege that the 1681e(b) class is so numerous that joinder of the claims of all class members is impractical. The names and

addresses of the class members are identifiable through documents maintained by Trans Union, and the class members may be notified of the pendency of this action by publication or mailed notice.

34. **Existence and Predominance of Common Questions of Law and Fact.**

Common questions of law and fact exist as to all putative class members. These questions predominate over the questions affecting only individual members. These common legal and factual questions include: (a) whether Trans Union had reasonable procedures to assure that it did not erroneously list one or more discharged debts as due and owing and/or past due; (b) whether this conduct constituted a violation of the FCRA; and (c) whether the violations were negligent, reckless, knowing, or intentionally committed in conscious disregard of the rights of Plaintiffs and putative class members.

35. **Typicality.** Plaintiffs' claims are typical of the claims of each putative class member, and all are based on the same facts and legal theories. Plaintiffs, as every putative class member, allege a violation of the same FCRA provision, 15 U.S.C. §1681e(b). This claim challenges the credit reporting procedures of Trans Union and does not depend on any individualized facts. For purposes of class certification, Plaintiffs seek only statutory and punitive damages. Such damages are appropriate in circumstances such as this where injuries are particularized and concrete but difficult to quantify, rendering the recovery of class statutory damages ideal and appropriate. In addition, Plaintiffs are entitled to the relief under the same causes of action as the other members of the class.

36. **Adequacy.** Plaintiffs will fairly and adequately protect the interests of the class. Plaintiffs have retained counsel experienced in handling actions involving unlawful practices against consumers and class actions. Neither Plaintiffs nor their counsel have any interests that

might cause them not to vigorously pursue this action. Plaintiffs are aware of their responsibilities to the putative class and have accepted such responsibilities.

37. Certification of the class under Rule 23(b)(3) of the Federal Rules of Civil Procedure is also appropriate in that:

a. As alleged above, common legal and factual questions of the class predominate over any questions affecting an individual member. Each of the common facts and legal questions in the case overwhelm the more modest individual issues. The statutory and punitive damages sought by each member are such that individual prosecution would prove burdensome and expensive given the complex and extensive litigation necessitated by Trans Union's conduct. Further, those individual issues that do exist can be effectively streamlined and resolved in a manner that minimizes the individual complexities and differences of proof in the case.

b. A class action is superior to other available methods for the fair and efficient adjudication of the controversy. Consumer claims generally are ideal for class treatment as they involve many, if not most, consumers who are otherwise disempowered and unable to afford and bring such claims individually. Further, most consumers affected by Trans Union's conduct described above are likely unaware of their rights under the law or of whom they could find to represent them in federal litigation. Individual litigation of the uniform issues in this case would be a waste of judicial resources. The issues at the core of this case are class wide and should be resolved at one time. One win for one consumer would set the law for every similarly situated consumer.

38. Trans Union violated 15 U.S.C. § 1681e(b) by failing to establish or to follow reasonable procedures to assure maximum possible accuracy in the preparation of the consumer

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Counsel for Plaintiffs

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Ruth Taylor and Zachary Taylor,

DEFENDANTS

Trans Union, LLC

(b) County of Residence of First Listed Plaintiff Richmond
(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant Richmond
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: INLAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

(c) Attorneys (Firm Name, Address, and Telephone Number)
Kristi C. Kelly & Andrew J. Guzzo/ Kelly & Crandall, PLC
3925 Chain Bridge Road, Ste. 202, Fairfax, VA 22030
(703) 424-7570

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
- 3 Federal Question (U.S. Government Not a Party)
- 2 U.S. Government Defendant
- 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

	PTF	DEF		PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input checked="" type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding
- 2 Removed from State Court
- 3 Remanded from Appellate Court
- 4 Reinstated or Reopened
- 5 Transferred from Another District (specify)
- 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
15 U.S.C. 1681
Brief description of cause:
Violation of the Fair Credit Reporting Act

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$

CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

5/16/17

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Consumers File Suit Over Trans Union's 'Unreasonable Procedures'](#)
