
FRCA Focus: Resolving FCRA Disputes With e-OSCAR: Insights from Joel Strickland**Hosts: Kim Phan****Guest: Joel Strickland****Date Aired: April 30, 2024****Kim Phan:**

Welcome, everyone, to the Troutman Pepper podcast, *FCRA Focus*. I'm Kim Phan, co-host of the podcast, along with my partner, Dave Gettings, and I'm glad you've joined us today, because we're going to be talking about dispute resolution, specifically using the e-OSCAR system. Before we jump into that topic, let me remind you to visit and subscribe to our blogs where we often post articles and other FCRA related content, TroutmanPepperFinancialServices.com and ConsumerFinancialServicesLawMonitor.com.

While you're at it, head on over to Troutman.com and add yourself to our Consumer Financial Services e-mail list that will allow you to get invitations to our webinars and receive our alerts and advisories that we send out from time to time.

While we make lots of free content available to our listeners, if you cannot get enough of the FCRA, I would encourage you to explore our subscription-based tracker service, which provides information on federal and state regulatory and legislative developments, as well as summaries of FCRA case law on a weekly basis, as well as monthly roundtable discussions. These tracker services can also cover debt collection and privacy and data security.

Now, as I said, today we're going to be talking about how to resolve FCRA disputes using the e-OSCAR system. I'm thrilled to be joined today by Joel Strickland, the Director of Client Relations at e-OSCAR. Welcome, Joel. Would you like to introduce yourself to our audience?

Joel Strickland:

Hi, Kim. Thanks. First off, thanks for having me on your show. I have been with Online Data Exchange, which is the company that owns the e-OSCAR application for about seven and a half years, and I run our client relations team, which is really focused on supporting data furnishers through feature development, through offering of services, training, communication, outreach, and whatnot. I'm based here in Jacksonville, Florida, where spring has sprung, which is certainly, unfortunately, not the case all over the country.

Kim Phan:

Well, spring has definitely sprung here in DC, and it is a lovely 65-degrees outside. I'm assuming you're going to be getting out there, Joel, because I understand, you're a triathlete, right?

Joel Strickland:

I am a triathlete. I've been doing a triathlon, which is a sport comprised of swimming, cycling, and running since about 2009. Over that timeframe, I've done almost 50 different triathlons ranging in distance from what they call sprints to the full Ironman distance, which is a 2.4 mile swim, 112-mile bike, and then a marathon run.

Kim Phan:

My goodness, Joel. That takes some determination, some dedication, and I'm sure a lot of hard work, all things that are required for FCRA compliance. Are there any lessons that you've learned from being a triathlete that our listeners might be interested in? The interesting thing about FCRA compliance is it's both a marathon and a race. There's lots of things you've got to do in the short term, as well as think about in the long term when thinking about your FCRA compliance programs.

Joel Strickland:

Yeah. I think a good linkage is thinking about really, any athletic endeavor and the amount of training, or purposeful training that you put in. That really relates very well to handling consumer credit disputes, in my mind, because those people who are handling disputes really need to understand the Metro2 guidelines, for instance, how to work their internal policies and procedures, and then certainly, how all of that fits into the e-OSCAR application as well. I think just being smart about training and learning everything you can is critical to success.

Kim Phan:

Well, thanks for that, Joel. Let's deep dive into our topic for today. I think we all have learned by now that the CFPB has placed a heavy emphasis on FCRA compliance requirements that they expect furnishers to comply with. Those obligations are often focused on re-investigations and resolving consumer disputes. CFPB guidance in this area has come from all number of different directions, enforcement actions, bulletins, advisory opinions, blog posts, as well as being one of the identified areas the CFPB plans to take on when it proposes FCRA rulemaking, which we're expecting to see later this year. Joel, can you explain to our audience where e-OSCAR fits into the big picture of consumer reporting and the dispute process?

Joel Strickland:

That's a great question, Kim, and one we actually get asked pretty frequently. If you think about the consumer credit ecosystem starting with the consumer reporting agencies, so TransUnion, Equifax, Experian, and Enovis. Then on the other end of the spectrum, furnishers of data, meaning any company that reports consumer trade information to those bureaus, while all of those reporters of data, according to the FCRA, have to be able to respond to consumer credit disputes.

Where e-OSCAR fits in is we are a software provider that moves that dispute data between the consumer reporting agencies and the data furnishers and back. We often actually refer to

ourselves as a package delivery service. Essentially, we're just moving data from the consumer reporting agencies to the data furnishers and then back once they're done with their part of the consumer dispute process.

Kim Phan:

Well, it sounds like, e-OSCAR is playing a pretty crucial role in this process. You're presumably seeing all kinds of interesting trends that I'm sure many of our listeners would be interested in hearing more about. Could you elaborate on some of the challenges and pitfalls that are common amongst furnishers trying to navigate this process?

Joel Strickland:

What we hear from many data furnishers is that, well, a couple of things. Number one, we often hear questions about the differences between dispute types. For instance, consumers can dispute items directly with data furnishers. They can also dispute them indirectly, meaning going through the consumer reporting agency and having that data sent to data furnishers. For some data furnishers, their opportunity space is managing that inventory. For other data furnishers, it's all about having the right people on their team investigate the right types of disputes.

Then interestingly, we're also hearing from data furnishers that over the last year and a half or so, there's been an increase in what they would consider to be identity theft claims and how those relate to consumers, both on a trade line and a full identity perspective.

Kim Phan:

I absolutely agree. I think everyone is seeing this rise in the trend of consumers claiming identity theft. I understand that e-OSCAR has worked with the industry to develop a process where furnishers can request that any identity theft blocks be rescinded. Can you tell us a little bit more about those developments?

Joel Strickland:

Yeah. I think, perhaps, a great way to depict and share a little bit more background in terms of why doing block rescissions is important for data furnishers is an example that I experienced, I guess, it was four and a half years or so ago. I have a data furnisher who's in the auto finance business, and this particular gentleman approached me at a conference and said, "Joel, I've got a problem. I've got a consumer who's made 38 monthly car payments on his auto loan. Now he has claimed identity theft, that the entire trade line was not his." He goes, "I'm doggone sure that that consumer and the loan that's associated with that consumer are legitimate. Not only because I have 38 cashed checks from the guy, but I've got his application and we've actually got video of him completing the application from the dealership. I feel really strongly that this claim of identity theft is illegitimate."

At the time, there was not a way for data furnishers to request removal, or rescission of that trade line block through the e-OSCAR application. We worked with data furnishers and the CRAs to create that capability. Really, now what we've got an opportunity for data furnishers to

do is when they receive a notification of a trade line block from one of the CRAs is that they have the opportunity to investigate that block as if, I guess, it were almost like a dispute. Then if they have evidence that they believe substantiates the fact that that trade line is legitimate, they can request a rescission of that trade line block through a process in the e-OSCAR application.

Kim Phan:

Well, I can imagine many furnishers have found this new functionality incredibly helpful in those types of instances. Thank you very much for that.

Joel Strickland:

One other thing that's really fascinating, Kim, about block rescissions and the frequency of them is we've heard from some data furnishers that they believe as many as 75% of trade line blocks might be illegitimate. That, I think, is a really fascinating statistic. I'm not frankly sure what might be driving that. Certainly, we're not hearing that from every data furnisher, but we've heard it from enough that it's certainly a compelling statistic.

Kim Phan:

Well, hopefully you will be compiling that data and at some point, presenting that hopefully to the CFPB to deter them from some of their very stringent positions they've taken on the types of protections that need to be in place if a consumer ever claims identity theft, which I know can be challenging for members of the industry.

In another area, as we get into the nitty-gritty of e-OSCAR, where our clients are experiencing some challenges is with regard to the fact that e-OSCAR only stores documentation submitted by a consumer along with their dispute for only 120 days. A number of clients that we work with have been caught off guard, when they have received requests, whether in response to a regulatory exam, or litigation, or even an audit request to produce documents that support some of the choices and investigations they've made in response to various consumer disputes.

They go to e-OSCAR, and they didn't realize that they did not download these materials at the time that they were initially accessing responding to the dispute, so those documents would then become unavailable to them. Do you have thoughts on that? I'm sure there's others of our listeners who have encountered the same challenge and do you have any advice for them on how they should be approaching this?

Joel Strickland:

Yeah. That's a huge, huge issue, right? When you think about regulatory agencies, whether it's CFPB, or OCC for potentially some of your clients, even internal audit and the plaintiff's bar lawsuits that invariably happen for some data furnishers, the chances of those happening within our data retention period of just 120 days are probably very low. You could almost argue, slim to none. The reality is this, we hold data in the e-OSCAR application for only 120 days. By the way, the CRAs, I don't know what their retention policies are either, but I can't imagine that they retain dispute data for a long time either. What happens is if a data furnisher has not saved

evidence of how they respond to a dispute, well, quite literally, there's nothing they can get after that 120-day period, whether it's from us or from the CRAs.

We actually, strongly encourage data furnishers to save copies of their disputes. There's a couple of ways that they can do that. First and foremost is you can save a transaction as a PDF document, or you can print it and keep a paper copy of it. That's certainly one way of retaining that information. Quite honestly, some data furnishers who don't receive a lot of disputes, that's probably a perfectly acceptable way to do that.

Other data furnishers who receive a volume of disputes, we highly encourage them to archive that data. We have a process in the e-OSCAR application where a data furnisher can schedule and request either on an ad hoc basis, or on a regular reoccurring basis to pull archives of any e-OSCAR transaction, whether that's a consumer's dispute, a notification received from one of the CRAs, or a block rescission request that we talked about earlier, really any e-OSCAR transaction, that can be downloaded as a CSV file. In addition, a data furnisher can also download any images that are associated with those transactions. If a consumer uploads images in support of their dispute, those get transmitted obviously, to the data furnisher for review and their dispute handling. Part of that archive process, they can actually pull those down and save on their systems as well. We really encourage people to do that.

Unfortunately, Kim, not every data furnisher does it. Seems like every week, we're getting a request from someone saying, "Hey, I need data from a year ago. Can you help me out?" Unfortunately, the answer is no.

Kim Phan:

Well, that's good advice to make sure that furnishers are mindful of that, so that they can be thinking ahead and making sure that they are getting these downloaded in a timely way.

We've talked a lot about the nuts and bolts of responding to any one dispute. We know that the CFPB has communicated its expectation that furnishers do more than just handle disputes on a case-by-case basis. The CFPB wants furnishers to be doing root cause analysis and assessing dispute trends. Are there tools that e-OSCAR makes available to furnishers that could assist them with this part of the dispute process?

Joel Strickland:

Yeah, there are. Actually, this was born out of a variety of conversations with data furnishers. Roughly seven years ago, we started this effort. That is, we've created a BI, or business intelligence application that is a companion to the e-OSCAR application. We've done that, really it started because the type of reporting and data availability in the e-OSCAR application certainly was robust, but you just couldn't do much with it inside the application. You had to download data, import it into Excel and do the number crunching yourself.

What we've done is created a service that leverages Microsoft's Power BI software, which is a really robust and dynamic business intelligence application. We built this service that we call Insights by e-OSCAR. It's a totally free service that we give to data furnishers. And within that

service, we actually give a multitude of capabilities, some of which really aid a data furnisher in inventory management and day-by-day production. But, as it relates to the question that you asked, we do have a section of reports that relates to historical data.

We talked earlier about the fact that we retain dispute data only for 120 days in the application. That's true also in Insights by e-OSCAR. What we do keep is metadata of disputes, essentially, forever within Insights. A data furnisher could do a root cause analysis on how many fraud related disputes they've received over time. They could see that they could do time series analyses, they could do cause and effect models. Say, for instance, they made some change in their underwriting, or how they report things. Well, they may see downstream impacts on their dispute volume. Having that capability in Insights to be able to see that is really important.

Again, I mentioned it's a free service. People always say there's no such thing as a free lunch. Well, there is when it comes to your e-OSCAR data. We really think that Insights by e-OSCAR is really just transformative. It doesn't matter how big or how small of a data furnisher you are. I mean, we've got data furnishers that are really, really tiny and don't get a whole lot of dispute volume, but yet, they're in Insights every day and every week looking at their data so that they can understand their dispute volume at a higher level. Certainly, you can glean information by looking at the ones, but being able to do a metadata analysis, or a root cause analysis across a larger tranche of data is so important. We think it's a great thing.

Kim Phan:

I absolutely agree with you. I love hearing that you make that available to furnishers. I'm sure you appreciate, even the largest furnishers to the smallest furnishers, they thirst for more information on and how they could be improving their processes to help not only support consumers, but to meet their regulatory expectations. Are there other resources, opportunities that e-OSCAR makes available to the furnisher audience who's listening today, training opportunities, or events that you want to make sure that our audience is aware of?

Joel Strickland:

Yeah. Thanks for asking about that. We have a very robust learning management system. We call it e-OSCAR University. This is a place where we have literally hundreds of training opportunities for data furnishers to really get their arms around how the e-OSCAR application itself works. Our thought process with respect to e-OSCAR University is that we want to provide training to data furnishers in whatever media type, or modality best fits them.

We've got everything from the web-based training that we all know and love is glorified PowerPoint presentations with narration and stuff like that. But we've also got downloadable PDF documents. We have video that can be watched and consumed 24/7. We do live webinars as well. Very similar to this podcast, we do a live webinar once a month that's called e-OSCAR 101. In that webinar, we really get deep into topics about how to use particular aspects of the application.

Just like Insights by e-OSCAR, e-OSCAR University is also free to any data furnisher. You just have to raise your hand and sign up for it. All of that training content that we offer is something that comes with the price of admission of being an e-OSCAR customer. The other thing is that

periodically, well, I guess, four times over the last five years, we had one year that we didn't do this, and that was because of COVID, but we produce an annual users conference that we call Simplicity. We're getting ready for Simplicity 2024. That's going to be in July. I think it's the 18th through 20th of July. I would ask people who might be interested in attending that to go to our informational website to learn more. That's e-oscar.org. There's all sorts of information on that site about Simplicity.

Kim Phan:

Well, I'm excited to have Simplicity this year. Hopefully, I'll be able to attend. But any other last thoughts you want to share with our audience, best practices, things that you think that furnishers should be mindful of before we end our podcast today?

Joel Strickland:

I think, what I would say is a couple of things that I'd like to dispel, so if you'll grant me that latitude.

Kim Phan:

Of course.

Joel Strickland:

First and foremost, a lot of data furnishers think that we set how much time they have to investigate consumer disputes. That's just absolutely not the case. We, as I mentioned before, are essentially a package delivery service. The amount of time that a data furnisher has to investigate and respond to a dispute is fundamentally driven by the requirements of the FCRA. Ultimately, that timeframe is, at least on indirect disputes is set by the consumer reporting agencies.

Generally, under most circumstances under FCRA, there's this 30-day time period in which a dispute has to be responded to. Well, for indirect disputes, a data furnisher is never going to have 30 days, because the CRA has to receive that dispute. Then they have to account for time on the backend after they've received the response from the data furnisher in order to generate whatever they send out to the consumer. Most of the time, data furnishers are going to see an average of 24 to 25 days, sometimes less, for sure, but that timeframe to respond to consumer disputes. That's hopefully shed some light on the fact that we don't set that date.

The other thing I would share is really, also very critically important, and that is this: My team, whether that's my help desk, or staff here in Florida, we are not in the business of telling a data furnisher how to respond to a dispute. We can never tell a data furnisher, "You should use this element of data in your response," or, "you should respond this particular way to this consumer's dispute." It's just something that we don't do. We can talk all day long about how to use the application, but when it comes down to how to report data, really, it's rooted, or the decision process is rooted at the data furnisher. We always recommend that a data furnisher consult with

their risk, or compliance team, that they consult with counsel, whether that's internal counsel, or external counsel.

Certainly, data furnishers can also reach out to the Metro2 Task Force for information on how Metro2 works, or they can reach out to the CRAs directly. Although, I suspect that the CRAs are generally going to take a similar position that we do, that it's not our job to tell you how to, you being a data furnisher, how to report consumer trade line information. I think that's a really critical thing that sometimes furnishers expect, or believe that we can give them guidance, and we just can't do that.

Kim Phan:

Well, I appreciate you so much being here today, Joel. Thank you for sharing your insights about e-OSCAR, what you can, what you can't do for furnishers in responding to disputes under the FCRA. Thank you to our audience for tuning in to today's episode.

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