

Press Coverage | March 29, 2023

FCRA, Data Breach Suits Fuel Consumer Protection Docket

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David Anthony, Alan Wingfield, and Cindy Hanson, partners in Troutman Pepper's Consumer Financial Services Practice Group, are quoted in the March 29, 2023 *Law360* article, "[FCRA, Data Breach Suits Fuel Consumer Protection Docket](#)."

Troutman Pepper partners David Anthony, Alan Wingfield and Cindy Hanson said in a joint email that the FCRA statistics "accurately reflect the litigation climate" they're seeing, although "these numbers may miss the distinct trend of increasing state court filings, particularly for class cases."

The attorneys also pointed out that the increased number of filings coincides with what they said was the plaintiffs bar "seeking to impose FCRA liability on a much wider universe of companies."

"All in all, the trends in FCRA filings confirm that this remains a serious litigation and increasing risk for businesses operating in or adjacent to the consumer reporting industry," Anthony, Wingfield and Hanson said, adding that the potential liability under the FCRA can be "unlimited" since the statute lacks a damages cap.

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While these and other companies are still facing FDCPA suits, the lower litigation numbers in this area reported by Lex Machina "may be largely attributed to a long period of relatively good economic times and the emergence of clearer rules that have led to better compliance," said Anthony, Wingfield and Hanson, the Troutman Pepper partners.

However, "as foreclosures reemerge post-COVID and should inflation continue at high rates, we expect an increase in FDCPA litigation," the attorneys said.

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Anthony, Wingfield and Hanson of Troutman Pepper also pointed out that while the Supreme Court's Facebook autodialer decision and "effective compliance strategies" are driving down TCPA litigation, they've observed "the severity of the average claim seems to have gone up from previous years."

"Thus, this remains an important area of risk, which the raw numbers might not fully reveal," they said.

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