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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ANDERSON/GREENWOOD DIVISION

FRANKLIN E. CLARK, and on behalf of)
himself and all others similarly)
situated,)

Plaintiff)

-versus-)

8:00-1217)

EXPERIAN INFORMATION SOLUTIONS, INC.)

9-23-03)

Defendant)

Spartanburg, SC)

FRANKLIN E. CLARK, LATANJALA D.)
MILLER, on behalf of themselves and)
all others similarly situated,)

Plaintiffs)

-versus-)

8:00-1218)

EQUIFAX, INC., EQUIFAX CREDIT)
INFORMATION SERVICES, INC.,)

Defendants)

FRANKLIN E. CLARK, and on behalf of)
himself and all others similarly)
situated,)

Plaintiff)

-versus-)

8:00-1219)

TRANS UNION CORPORATION,)
TRANS UNION, LLC,)

Defendants)

FAIRNESS HEARING
(Volume 1, Pages 1 - 260)

BEFORE THE HONORABLE MARGARET B. SEYMOUR
UNITED STATES DISTRICT JUDGE, presiding

1 MR. LIMBAUGH: No, the same.

2 THE COURT: Same?

3 MR. LIMBAUGH: Same. And frankly, as I expect the
4 court has recognized, the difficulty in the underlying lawsuit
5 in this case from the class perspective was primarily the result
6 of the fact that no court in the United States to my knowledge,
7 I still think that's true, ever ruled in favor of a plaintiff on
8 this. The defendants always win when it gets litigated. So
9 there was -- there was a tremendous risk involved, but it was a
10 legal -- I mean there was no question nobody was ever denying
11 how they reported this information. The real issue was whether
12 it was a violation of the FCRA, and nobody had ever won on that
13 before. So I think that that -- I'm sorry.

14 I'm sorry, your Honor. The court also had the
15 question about conflict, interclass conflict between those with
16 large claims and small claims, and I guess adequacy of the
17 settlement in terms of that potential conflict. That we don't
18 perceive there to be conflict at all, and the reason is really
19 quite simple, and it goes back to that number twenty-two, again,
20 which is the number of people who had filed cases.

21 The objectors, in very large part their objections
22 on this -- on this issue when analyzed closely tend to try and
23 protect a group of people that the evidence has demonstrated
24 beyond a doubt don't exist. And the people that I'm referring
25 to are the people who would file individual claims for damages

1 he doesn't have to wait around all day.

2 MR. DOUG SMITH: Thank you.

3 THE COURT: Okay. All right. We'll start at ten
4 am. We're adjourned until ten am.

5 MR. HARNEY: Your Honor, if I could make sure that I
6 don't -- do not do what somebody might thought I was going to
7 do. As I understand it, I'm not supposed to bring any credit
8 report or disclosures tomorrow. They may or may not bring some.

9 THE COURT: It sounds like it wouldn't be helpful,
10 and so we'll rely on what the objectors claim they have, which
11 would be more helpful they say. Okay?

12 MR. WILKINS: Your Honor, may I ask one more
13 question --

14 THE COURT: Yes.

15 MR. WILKINS: -- for clarification? When we put our
16 witnesses up, are you going to allow us some narrow direct in
17 addition to the affidavit or --

18 THE COURT: Yes.

19 MR. WILKINS: -- we just stand on the affidavit?

20 THE COURT: Yes. Yes. If you -- if it's something
21 that wasn't covered in the affidavit or declaration and you want
22 to add to that before you tender them, you're welcome to do
23 that.

24 MR. WILKINS: Thank you.

25 (Recessed for the evening.)

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I N D E X

WITNESS FOR OBJECTORS

DAVID SZWAK

DIRECT EXAMINATION BY MR. CADDELL: 97

CROSS-EXAMINATION BY MR. SMITH: 126

CROSS-EXAMINATION BY MR. KOGAN: 146

CROSS-EXAMINATION BY MR. HARNEY: 172

REDIRECT EXAMINATION BY MR. CADDELL: 209

RECROSS EXAMINATION BY MR. HARNEY: 232

E X H I B I T S

(Objector's Exhibit Number 1, Byerson credit report,
marked into evidence.) 100

(Plaintiff's Exhibit Number 1, letter from David Szwak,
marked into evidence.) 145

I certify that the foregoing is a correct transcript from the
record of proceedings in the above entitled matter.

Jan L Cole

10-8-03