

Docket No. 20-658

United States Supreme Court

—0—

SHERRI COHEN

Petitioner,

-against-

EQUIFAX INFORMATION SERVICES LLC and
TRANSUNION LLC

Respondents.

On Petition for Writ of Certiorari to the
United States Court of Appeals for the
Second Circuit, No. 19-3063

RULE 15.8 SUPPLEMENT

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January 25 2021

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QUESTIONS PRESENTED

This is supplemental information supporting my Question 3. These actions occurred in the District Court after I filed my Writ of Certiorari on November 8, 2020. The first of these actions began on November 24, 2020 and relates to my Question 3, which I raised in my Writ, that the District Court applied different standards to me as a *pro se* plaintiff than it applied to the party represented by counsel. There was an *ex parte* motion, initiated by opposing counsel and ruled on by the District Court's clerk without notification to me, and fully admitting this course of action.

The questions presented are:

Question 1. Whether CRAs like TransUnion and Equifax can satisfy the requirement of §1681i(a) of the FCRA that they “conduct a reasonable investigation” of the disputes consumers raise regarding the accuracy of information in their credit files by merely asking furnishers to verify the information provided and then re-parroting the furnisher’s response back to the consumer, effectively wiping out any independent investigation by the CRAs.

Question 2. Whether CRAs like TransUnion and Equifax can extort consumers into dropping their FCRA suits by making the consumer’s credit file inaccessible to creditors and to the consumer—making the consumer disappear to creditors—unless the consumer agrees to drop their lawsuit.

Question 3. Whether the district and appellate courts can hold the claims of *pro se* parties to different standards than represented parties, requiring lesser types of proof from represented parties and letting licensed attorneys engage in conduct courts would not allow against represented parties. I’m an upstate New York housewife with some college, no degree, and no legal training whatsoever. I did not have the money to hire an attorney full time, so I took this case on *pro se*, seeking help where I could. The District Court seemed to hold my *pro se* status against me and let the defendants act abusively. The Second Circuit seemed to be suspicious of my *pro se* status because I did get legal help and my briefs were of a decent quality. Because of this, both courts discriminated against me and denied me the same rights and protections and did not apply the same rules and legal standards to me that they normally afford to represented parties. Both the lower court and the Second Circuit departed from the accepted and usual course of judicial proceedings and denied me the same rights and protections which they grant to represented parties because I am *pro se*, and this Honorable Court needs to step in and exercise its supervisory power to correct this injustice and reestablish that *pro se* parties are entitled to have their cases evaluated on the same standards and bases as parties with attorneys.

Question 4. Whether disputes made through credit repair agencies should be considered disputes for the purposes of the FCRA.

TABLE OF AUTHORITIES AND CASES

STATUTES AND RULES:

1. Fed. R. Civ. P. Title 28 U.S.C. Rule §5(a)(1)	5
2. Fed. R. Civ. P. Title 28 U.S.C. Rule §54(d)	5
3. Fed. R. Civ. P. Rule, Local 6.1	5
4. Judge Rakoff Court Rules	4

JURISDICTIONAL STATEMENT

This brief is filed pursuant to Supreme Court Rule 15.8 which allows parties to file supplemental briefs where new information arises after a petition is filed.

SUPPLEMENTAL INFORMATION

This is a 15.8 supplemental brief. I am adding the email pictured below because it totally explains and evidences exactly what happened (a picture is worth a thousand words). I am also listing it as an exhibit. This is new information. My question 3 stated that I was held to a different standard than the represented party. The lower court(s) denied me the same rights and protections that I deserved per legal standard and would have gotten had I been represented by counsel. This honorable court needs to step in and use its judicial authority to correct this injustice and ensure that legal proceedings are the same for all.

Cohen v. Equifax et al., 18-cv-6210 - Motion for Attorney's Fees

4 messages

Audrey Adu-Appiah <Audrey_AduAppiah@nysd.uscourts.gov>
To: "cnicodemus@schuckitlaw.com" <cnicodemus@schuckitlaw.com>, "myverypersonalpapers@gmail.com"
<myverypersonalpapers@gmail.com>

Tue, Nov 24, 2020 at 3:54 PM

Counsel:

I am the primary point of contact for the above-captioned case. Chambers received a voicemail message yesterday seeking leave to file a motion for attorney's fees. Leave to file is granted. An opposition is due 14 days after the motion for attorney's fees is filed; a reply is due 7 days after the opposition.

Please note Chambers staff will be working remotely at times. Going forward, if you wish to schedule a telephone conference with Chambers for any purpose relating to your case, please email me, copying plaintiff, and I will provide the best phone number for you to call.

Regards,

Audrey L. Adu-Appiah
Law Clerk to the Hon. Jed S. Rakoff
U.S. District Court for the Southern District of New York
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street, Room 1340
New York, NY 10007
Office: (212) 805-0401

days—instead of the usual 21 days—to reply to a motion that was time-barred and never served upon me, and this decision was made based on a voicemail that opposing counsel, Camille Nicodemus, left *ex parte*. An *ex parte* hearing and a ruling done by a clerk and initiated by opposing counsel for TransUnion would never have been done had I been represented by legal counsel. The federal rules of civil procedure and local rules both require that a party serve the other party with any motion they file and that rule was broken. See Rule 54(d), Rule 5(a)(1), local Rule 6.1.

TransUnion had 14 days after the court issued its judgement to seek fees. That time passed on 9/27/19 after the judgement was passed on 9/13/19. Ms. Nicodemus has been practicing law for 24 years and is accepted to the following bars and districts: Indiana, 2004, New York, 1997, U.S. District Courts (Northern District of Illinois, Northern District of Indiana, Southern District of Indiana, Southern District of New York, Eastern District of New York, Western District of New York, Eastern District of Michigan, Western District of Michigan, Western District of Wisconsin), U.S. Court of Appeals (Second Circuit, Third Circuit, Seventh Circuit, Eighth Circuit, Ninth Circuit), and the US Supreme Court. She knows right from wrong and is an expert on procedure. She was also supposed to send me a copy of the bill for my review, and instead, she requested of the court to allow her to fill in that information later, in essence giving her a blank check. I am including Judge Rakoff's rules which are perhaps a stricter version of the SDNY rules and the general rules of civil procedure. Judge Rakoff will not allow any *ex parte* communications, even if the two parties have agreed to such a communication.

After much back and forth with Ms. Nicodemus, she eventually agreed to have a conference phone call with Judge Rakoff, and that happened on 12/2/20. Judge Rakoff

was alerted to what happened, and also had more than likely viewed my letter filed in the *pro se* office per regulation rules. To my astonishment, Judge Rakoff hardly had a reaction. It was as if he was treating a premeditated murder case as if it were a minor traffic violation. He did ask Ms. Nicodemus to check with her client to see if her client was willing to drop the futile claims she had put forth. Ms. Nicodemus agreed to get back to him and stated that she must go forward with her request for fees.

The fact that this is even being litigated, despite the fact is that TransUnion's request for fees does not meet the requirement for judicial review, which explains why Ms. Nicodemus went in through the back door, through a clerk whom she had a long-term relationship with (or quickly made one). Eventually, after I put several letters into the *pro se* file in objection to what happened, Judge Rakoff did what seemed to be the proper avenue and referred it back to the original magistrate for review and to make a recommendation as to what to do to Judge Rakoff. This all seems fine, but the real problem is that regardless of the magistrate's recommendation Judge Rakoff will not be making the decision; the same clerk will be dealing with this issue.

In my motion for summary judgement, I believe a different clerk also made the decision. To note, Magistrate Parker had recommended for summary judgement that two of my issues go to trial, and the issue of the litigation lock was totally ignored by Judge Rakoff and/or his clerk and the second circuit stated it was a legitimate issue (see *Spector v Equifax*), but had also stated that I did not have proof, when I had included counsel's own statements and a transcript of a tape recording. My case mimicked Spector, and the magistrate's recommendation indicated the same. My case

Rakoff and/or his clerk and the second circuit stated it was a legitimate issue (see Spector v Equifax), but had also stated that I did not have proof, when I had included counsel's own statements and a transcript of a tape recording. My case mimicked Spector, and the magistrate's recommendation indicated the same. My case was treated differently in that regard. Counsel for TransUnion also admits and defends this practice for all its 7,000 cases.¹

While some legitimate differences of opinions can occur, this was not the case. Ms. Nicodemus continued to misquote me and general case laws. The case laws that I quoted, which are also well-known and established law, were totally ignored by the lower court/s. In fact, thirty years of established law was totally ignored. One of the reasons for this was that the party with representation was taken very seriously because of her status as officer of the court, when in fact she put forth falsehoods.

In conclusion, throughout this case the court(s) held me to a different standard than the represented party TransUnion. The fortunate aspect of this situation is that the Supreme Court now has the evidence it needs. Since Ms. Nicodemus has illustrated herself in many situations not to follow the rules, and in this particular situation has proven herself to deliberately go against the rules that govern her license, what she puts

¹ TransUnion having 7,000 lawsuits in recent years is very offensive in and of itself. I did a google search of Ms. Appiah, and she is a recent law school grad new to the legal community. I thought judges and magistrates made rulings, and not clerks. A clerk is allowed by law to do a lot of projects/activities but must be supervised by the presiding judge. Ultimately the presiding judge is responsible for their clerks' behavior. I am concerned at this proven/documentated behavior by Ms. Nicodemus and Judge Rakoff's clerk. Ms. Nicodemus claims that there was not an actual communication because she had left a voicemail. Her defense, evidenced by the Judges clerk, shows (actual email). The court departed from fair and equal practice and denied me my rights still exists and needs to be corrected. If Ms. Abu Appiah made a ruling based upon the voicemail left by Ms. Nicodemus, there was still an ex parte communication without prior notification to me. and a ruling was made.

forth to this court should and must not be taken as factual and must be highly scrutinized, Ms. Nicodemus has not behaved in accord with her status as an officer of the court, representing her client, TransUnion. The allowance of counsel to be able to break all the rules and for the court to allow it, proven in this supplementation has gone on throughout the case in both lower court/s. This should not have been allowed, as it is departed from their original rules that were set up to keep it all equal and fair and should be corrected by this Supreme Court.

This concludes the 15.8 supplementations. Thank you for adding this supplementation to my Writ of Certiorari and for your attention to this matter.

Sincerely,



Sherri Cohen Pro Se

20 658

See exhibit one email where Ms. Nicodemus, counsel for Transunion requests of court a deviation from the accepted rules 11 (b) 54 (d) / asks the court to consider allowing her to handle the case differently for her client, when the rules clearly state I must be afforded the opportunity to view the bill first. Ms. Nicodemus was never entitled to put in this motion because she was time barred and other considerations. This is another example of how this court has erred by breaking its own rules and the Federal Rules of Civil Procedure.

EXHIBIT One

a-ex parte communication from Transunions counsel Ms Nicodemus to Judges clerk, where clerk made an instant decision without notification to me and gave me less time than is per procedure

b-Ms Nicodemus ttransunions counsel request of court to allow her to violate the FRCP rules and continue to not supply the original document of costs for my review and to allow her to fill in the amount later.



sherri cohen <myverypersonalpapers@gmail.com>

Cohen v. Equifax et al., 18-cv-6210 - Motion for Attorney's Fees

4 messages

Audrey Adu-Appiah <Audrey_AduAppiah@nysd.uscourts.gov>

Tue, Nov 24, 2020 at 3:54 PM

To: "cnicodemus@schuckitlaw.com" <cnicodemus@schuckitlaw.com>, "myverypersonalpapers@gmail.com" <myverypersonalpapers@gmail.com>

Counsel:

I am the primary point of contact for the above-captioned case. Chambers received a voicemail message yesterday seeking leave to file a motion for attorney's fees. Leave to file is **granted**. An opposition is due 14 days after the motion for attorney's fees is filed; a reply is due 7 days after the opposition.

Please note Chambers staff will be working remotely at times. Going forward, if you wish to schedule a telephone conference with Chambers for any purpose relating to your case, please email me, copying plaintiff, and I will provide the best phone number for you to call.

Regards,

Audrey L. Adu-Appiah
Law Clerk to the Hon. Jed S. Rakoff
U.S. District Court for the Southern District of New York
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street, Room 1340
New York, NY 10007
Office: (212) 805-0401

sherri cohen <myverypersonalpapers@gmail.com>

Fri, Nov 27, 2020 at 4:03 PM

To: Audrey Adu-Appiah <Audrey_AduAppiah@nysd.uscourts.gov>

hello, i am sherri cohen, the pro se litigant in the case called sherri cohen v equifax et.al, which includes transunion. i am completely confused by your email and the fact that my opponent was permitted to request and receive permission via a voice mail of which i had not been alerted or been a part of. i wish to be included in all requests and ask that exparte requests by my opponents/s not be allowed. would you be kind enough to email me back and let me know if i am correct that the judges rules requires that all parties be on the line or file a joint letter/email. i read the judges rules again, and perhaps i misunderstood and perhaps all has changed and it could be that we can all leave a message on your voice mail and then get permission for what we are seeking. i thank you very much for your time and for getting back to me to clarify. thanks so much, i appreciate you getting back to me.

|
[Quoted text hidden]

sherri cohen <myverypersonalpapers@gmail.com>

Sat, Nov 28, 2020 at 10:34 AM

To: Audrey Adu-Appiah <Audrey_AduAppiah@nysd.uscourts.gov>

what method of delivery is now being used. please supply permission on how to send
[Quoted text hidden]



sherri cohen <myverypersonalpapers@gmail.com>

sherri cohen respectful request for time extension to submit reply brief

3 messages

sherri cohen <myverypersonalpapers@gmail.com>

Thu, Jan 7, 2021 at 10:26 AM

To: Parker NYSD Chambers <Parker_NYSDChambers@nysd.uscourts.gov>, "Camille R. Nicodemus" <cnicodemus@schuckitlaw.com>

Dear Magistrate Parker, I am very respectfully requesting an extension in time to submit my reply brief to transunions motion against me.. I am almost done, but not quite as organized as i would like it to be for easier court reading. The more limited hours of the pro se office due to the corona virus and that i believe they may be backlogged due to the recent holidays and the limited hours of the secretary service i am using to file electronically has added to my delay.

Thank you for your consideration of this request. I have sent a copy of this email to opposing counsel, at the same time, per court rules.

if i do not hear from this honorable court or it would cause the court too much difficulty, i will do my best to submit what i have so far on the original due date

Sincerely, sherri cohen

Camille R. Nicodemus <cnicodemus@schuckitlaw.com>

Thu, Jan 7, 2021 at 11:13 AM

To: sherri cohen <myverypersonalpapers@gmail.com>, Parker NYSD Chambers <Parker_NYSDChambers@nysd.uscourts.gov>

Dear Judge Parker,

We represent Trans Union in this matter. After the Court granted Trans Union's Motion for Summary Judgment and denied Plaintiff's Motion for Summary Judgment, Trans Union filed its Motion for Fees, Document No. 204. Plaintiff filed her Opposition to same and Cross-Motion for Fees, at Document No. 206. Thereafter, she filed Addendums to her Opposition, at Document Nos. 217 and 219. She also filed several other Letters to the Court addressing the Fee Motions.

Plaintiff filed another Motion seeking fees, her "Rule 11" Motion, Document No. 209. Trans Union's response to Plaintiff's Fee Motions were filed together as Document No. 218.

It is Trans Union's understanding that Briefing on the Fee Motions is closed, but would appreciate any clarification from the Court. In particular, we note that Plaintiff's filing at No. 219 objects to Trans Union's not having specified the amount of fees it seeks. The Proposed Order on Trans Union's Fee Motion provides that the proposed amount and supporting documents may be submitted for the Court's consideration upon the Motion being granted, unless the Court directs otherwise.

Thank you very much for your time and consideration.

Respectfully submitted,

EXHIBIT TWO

Judge Rakoffs individual rules, in particular the forbidding of any *ex parte* communication, even if the opposing party consents. It seems that an exception was made in the case of Ms. Nicodemus, counsel for Transunion, that most likely would not have happened if I was represented by counsel

INDIVIDUAL RULES OF PRACTICE HON. JED S. RAKOFF

Chambers

Room 1340
United States Courthouse
500 Pearl Street
New York, NY 10007
(212) 805-0401

Courtroom

Room 14-B
United States Courthouse
500 Pearl Street
New York, NY 10007
(212) 805-0129

1. Written or E-mail Communications

(a) All communications with Chambers must be by means of joint telephone calls, as described in Rule 2, infra. Correspondence with the Court (whether by letter, email, or otherwise), filing correspondence on ECF or docketing correspondence with the Clerk of Court, and copying the Court on correspondence with others, is strictly forbidden, except as specifically authorized by these rules or expressly requested by the Court. Even if the Court emails an order, opinion, or other communication to the parties, the parties may not respond by email unless the Court directs them to do so.

(b) Where specifically authorized by these rules or expressly requested by the Court, e-mail communication shall be sent to RakoffNYSDChambers@nysd.uscourts.gov as .pdf attachments with copies simultaneously delivered to all counsel. Emails shall state clearly in the subject line (i) the full caption of the case, including the party names and docket number, and (ii) the

contents of the email. The beginning of the email communication must clearly state the contents and purpose of the email. Copies of correspondence between counsel shall not be sent to the Court.

2. Oral Communication; Motions and Applications

(a) No ex parte communication with Chambers is permitted, even on consent of opposing counsel, except for those limited applications in criminal cases expressly permitted by statute to be made ex parte or when counsel for a party has not yet entered a notice of appearance. Counsel for all affected parties must be on the line whenever a telephone call to Chambers is placed; however, all similarly situated parties may, if they wish, designate a "lead" counsel in advance to represent them on any such call. The Judge and/or his clerks are normally available to receive telephone calls between 9:00 a.m. - 1:00 p.m. and 2:00 p.m. - 6:00 p.m. If calling within these hours, counsel need not schedule a telephone call to Chambers in advance. Please first provide the docket number of the case when a Chambers staff member answers the telephone. If all lines are busy, the call will be transferred to voicemail. Any message left on the Chambers voicemail or with Chambers staff must include the docket number of the case and the names and telephone numbers of all participating counsel.

On calls to Chambers, parties should be prepared to state clearly and succinctly (1) the nature of their application (the relief requested of the Court); (2) the reasons for their application; and (3) whether a given application is opposed by another party.

(b) In order to bring on any contemplated motion or application of any kind whatever, excepting only a motion for admission pro hac vice (which may be filed without prior

authorization) or the ex parte criminal applications referred to above, counsel for all affected parties must jointly call Chambers in the manner prescribed above. No party will ever be denied the right to make a motion permitted by law; but if the Court determines that the matter can be resolved telephonically, it will hear the application or motion immediately and issue a ruling then or shortly thereafter (orally, or, if so requested by counsel, in writing). If, conversely, the matter requires motion papers and/or in-court argument, a schedule for same will be determined at the time of the call. In criminal cases, however, any party can demand that any non-scheduling matter brought up in a telephone conference be the subject of an in-court hearing before decision.

(c) If counsel for any party seeks to convene a call to Chambers, counsel for all other affected parties are expected to make themselves available for such a call within 24 hours of the request. If, after successive attempts, counsel for any affected party is unavailable for the call, the initiating party may then send Chambers and all affected counsel an email or a letter, not to exceed two double-spaced pages, describing the efforts made to convene a conference call and briefly describing the proposed motion or application. In such a case, per Rule 1, supra, no reply or other correspondence is permitted, but a conference with the Court will be promptly arranged. Notwithstanding these rules applicable to parties represented by counsel, if one of the parties is an incarcerated person proceeding pro se, the initiating party may send all affected counsel, the pro se party, and Chambers a letter describing the application.

(d) Where motion papers are necessary, counsel for the moving party, following the scheduling of the motion, shall file a short Notice of Motion setting forth a one-sentence description of the motion, the schedule for service and filing

of the various parties' papers, and the date and time of oral argument as set by the Court. Motion papers shall consist of moving papers, answering papers, and the moving party's reply papers (when permitted). Any legal memoranda must include a table of authorities, arranged alphabetically, with case citations including accurate pin or jump citations. Each party must file its respective papers with the Clerk of the Court on the same date that such papers are served. Additionally, counsel filing those papers must arrange to deliver courtesy hard copies to the Courthouse for delivery to Chambers by the next business day following the filing.

(e) Unless otherwise specified by the Court, any memorandum of law submitted with the moving papers or the answering papers on any motion is limited to 25 double-spaced pages, and any reply memorandum is limited to 10 double-spaced pages. Both the text and footnotes in such memoranda of law must be in 12 point type on 8½ by 11 inch paper (or the electronic equivalent), with Times New Roman type preferred. If the Court permits letter briefing in lieu of formal memoranda, the rule on font size for text and footnotes still applies. With respect to motions for summary judgment, Local Civil Rule 56.1 will be strictly enforced. Citations to the record in any memorandum of law filed in connection with a motion for summary judgment must include a citation to the party's Local Civil Rule 56.1 Statement of Material Fact or opposition thereto.

(f) All documents filed on ECF must be word-searchable to the extent reasonably practicable.

3. Initial Conferences and Civil Discovery

(a) In civil cases, an initial conference will be held no later than six weeks after filing of the Complaint (and often