

23-6867 ORIGINAL

No. _____

In the
Supreme Court of the United States

Nelson L. Bruce,

Petitioner,

v.

BANK OF AMERICA, N.A.,

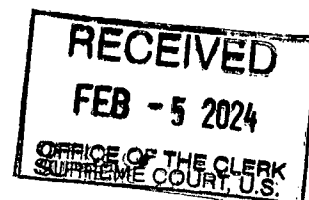
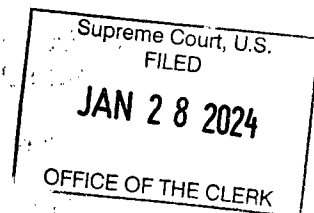
Respondent.

ON PETITION FOR A WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS FOR THE
FOURTH CIRCUIT

PETITION FOR WRIT OF CERTIORARI

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January 28, 2024



QUESTIONS PRESENTED

This petition arises out of a Fair Credit Reporting Act in which the respondents violated and the named plaintiff suffered typical damages and injuries as a result. The named plaintiff claimed that each dispute triggers the duty re-investigate information being reported and starts a new statute of limitation for each dispute which starts a new statute of limitation as it relates to the duties of both the Credit reporting agencies and the data furnishers to do a reasonable re-investigation and report accurate, complete, and verified information related to the consumer and the information reported. The failure of the defendants of their duty under the FCRA caused the petitioner emotional distress caused by the injury and loss as a result of credit lines being closed, applications for credit being denied, sleep loss, loss of investment opportunities in real estate investment opportunities, job changes to a more flexible job to have more time to attend to the situation at hand including bring lawsuits against others to obtain the information defendants are required to produce when requested. This petition further arises out of the district courts failure to acknowledge that there is good cause for the petitioner to wait to amend his complaint after the same actions are no longer pending before a different court/tribunal thereby avoiding duplicate filings for the same issues. The trial court denied petitioner's amended complaint for allegations that the petitioners' claims were barred by the statute of limitations for both of petitioners FCRA and state SCCPC claims while doing so alleging that

1. 11/15/11
2. 11/15/11

because the claims are time barred, there was no good cause to amend his complaint thereby denying petitioner's amended verified complaint.

The questions presented are:

1. Whether each dispute sent to a Credit reporting agency or a data furnisher by a consumer that has not been determined to be frivolous or irrelevant starts a new statute of limitation under the FCRA?
2. Whether there is good cause to wait until claims that are before another court/tribunal is dismissed without prejudice to file the same claims in another court proceeding?
3. Whether Federal Rule of Civil Procedure Rule 60(c) prescribes a 1 year statute to file a Rule 60(b)(1)(2)(3) motion?

CORPORATE DISCLOSURE STATEMENT

Petitioner Nelson L. Bruce is not a corporation therefore has no parent corporation, and no publicly held company holds 10% or more of its stock.

PARTIES TO THE PROCEEDING

Petitioner Nelson L. Bruce, and defendant-Appellee, BANK OF AMERICA, N.A. Respondent in this matter, are whom received disputes from petitioner and non-party credit reporting agencies related to plaintiff's disputes on or about June 2015, October 2015, November 2015, September 2016 and June 2019.

STATEMENT OF RELATED PROCEEDINGS

This case arises from the following proceedings:

- Nelson L. Bruce v. Bank of America, N.A., et al. No. 2:2019-cv-03456 (U.S. District Court District of SC, Charleston Div.) (order denying motion to amend complaint ECF No. 63 filed 11-17-2020); and
- Nelson L. Bruce v. Bank of America, N.A., et al. No. 20-2297 (4th Cir.) (Judgement, order and opinion dismissing appeal App. Doc. No.'s 11 and 12, filed 3-26-2021); and
- Nelson L. Bruce v. Bank of America, N.A., et al. No. 2:2019-cv-03456 (U.S. District Court District of SC, Charleston Div.) (Order denying motion to vacate ECF No. 119 filed 2-10-2022 and Judgement ECF No. 120); and
- Nelson L. Bruce v. Bank of America, N.A., et al. No. 20-2297 (4th Cir.) (order dismissing motion to reopen App. Doc. No. 15, filed 5-20-2022); and
- Nelson L. Bruce v. Bank of America, N.A., et al. No. 22-1431 (4th Cir.) (order dismissing appeal App. Doc. No. 11, filed 6-2-2022); and
- Nelson L. Bruce v. Bank of America, N.A., et al. No. 22-1578 (4th Cir.) (Opinion, Judgement and order dismissing appeal App. Doc. No. 15 and 16, filed 8-31-2023); and
- Nelson L. Bruce v. Bank of America, N.A., et al. No. 22-1578 (4th Cir.) (Order denying Motion to

reconsider App. Doc. No. 152, filed 11-22-2023;
and

- Nelson L. Bruce v. Bank of America, N.A., et al. No. 2:2019-cv-03456 (U.S. District Court District of SC, Charleston Div.) (Order denying Motion to Reopen Case ECF No. 152 filed 1-12-2024);

There are no other proceedings in state or federal trial or appellate courts, or in this Court, directly related to this case within the meaning of this Court's Rule 14.1(b)(iii).

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PETITION FOR WRIT OF CERTIORARI

Petitioner, respectfully petitions for a writ of certiorari to review the judgments, orders and opinions of the United States District Court for the State of South Carolina and the Court of Appeals for the Fourth Circuit in this case. The District Court for the State of South Carolina has placed several orders and a judgment improperly dismissing petitioner's claims with decisions that are not supported by law and conflicts with the FCRA and South Carolina State consumer laws (see...App.1-5, 8-15 and 21).

OPINION BELOW

The District Court for the State of South Carolina has placed several orders and a judgments improperly dismissing petitioner's claims with decisions that are not supported by law and conflicts with the FCRA as written (see...App.1-5, 8-15 and 21) being negligent to any and all aspects where justice so requires. The opinions of the U.S. District Court for the District of South Carolina appears at App. 1-5, 8-15 and 21 to this petition. Any Fourth circuit opinions attached as an Appendix (See...Appendix B, D, E, F, and G) are unpublished decisions are only opinions based on their jurisdiction.

JURISDICTION

The Fourth Circuit has been dismissing all of Petitioner, **Nelson L. Bruce** appeals with the latest one being on 8-31-2023 (see...App. 18-20) and recently denied petitioners motion for reconsideration on November 22, 2023 (see...App.22) and

the district court denied the motion to reopen on January 12, 2024 (see...App.21). On November 16, 2023, this Court "extended" "the deadline to file any petition for a writ of certiorari due on January 28, 2024." This Court has jurisdiction under 28 U.S.C. §1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The relevant provisions of FCRA, 15 U.S.C. §1681i(a)(1)(A), 15 U.S.C. §1681i(a)(3), 15 U.S.C. §1681s-2(b)(1), 15 U.S. Code § 1681s-2(a)(8)(F), 15 U.S. Code § 1681p. Federal Rule of Civil Procedure 60(b) and (c)(1), 28 U.S. Code 2071 and 2072 which are all hereby incorporated by reference in their entirety.

STATEMENT OF THE CASE

A. Legal and Factual Background

1. This case presents an ongoing recognized and vitally important questions that has caused multiple U.S. Courts (district and appeals) across the nation to become divided in their decisions and have been providing conflicting decisions for years concerning the start of the statute of limitations under the Fair Credit Reporting Act (FCRA). This case also raises vitally important questions related to the Federal Rules of civil procedures and limitation periods for filing a motion under Rule 60(b) and a person's due process right to file a motion within 1 year.

2. Congress enacted FCRA “to ensure fair and accurate credit reporting, promote efficiency in the banking system, and protect consumer privacy.” *Safeco Ins. Co. of Am. v. Burr*, 551 U.S. 47, 52 (2007). The “FCRA imposes a host of duties and requirement for credit reporting agencies and Data Furnishers concerning consumer disputes. The procedural requirements at issue here are 15 U.S.C. §1681i(a)(1)(A) which creates liability each time a reporting agency fails to do a reasonable re-investigation of a consumers dispute. 15 U.S.C. §1681i(a)(3) requires a credit reporting agency to notify the consumer that their dispute is frivolous or irrelevant within 5 business days after making such determination after they receive a consumer dispute. 15 U.S.C. §1681s-2(b)(1) which creates liability each time a data furnisher such as the respondent in this case fails to do a reasonable re-investigation of a consumers dispute. 15 U.S. Code §1681s-2(a)(8)(F) requires a data furnisher to notify the consumer that their dispute is frivolous or irrelevant within 5 business days after making such determination after they receive a consumer dispute. As provided under this section, this includes the submission by a consumer of a dispute that is substantially the same as a dispute previously submitted by or for the consumer, either directly to the person or through a consumer reporting agency under subsection (b), with respect to which the person has already performed the person’s duties under this paragraph or subsection (b), as applicable which is the issues that are alleged by multiple court resulting in the in conflicting split decision without recognizing that the FCRA prescribes a duty for them to

follow to make such a determination which would not trigger a dispute if followed. 15 U.S. Code § 1681p provides the statute of limitations for bringing for a claim against a credit reporting agency and a data furnisher under the FCRA.

3. The majority of courts have determined that each disputed creates a separate statute of limitations therefore all of the Petitioners FCRA and SCCPC claims cannot be time-barred. See...*Broccuto v. Experian Info. Sols., Inc.*, 2008 WL 1969222, at *4 (E.D. Va. May 6, 2008); *Escobar*, 2018 WL 1740364, at *4 and *5; *Hyde v. Hibernia Nat. Bank in Jefferson Par.*, 861 F.2d 446, 450 (5th Cir. 1988); *Larson v. Ford Credit*, 2007 WL 1875989, at *2 (D. Minn. June 28, 2007); *Maiteki v. Marten Transportation Ltd.*, 4 F.Supp.3d 1249, 1252-54 (D. Colo. 2013); *Marcinski v. RBS Citizens Bank, N.A.*, 36 F.Supp.3d 286, 290 (S.D.N.Y. 2014); *Milgram v. Chase Bank USA, N.A.*, 2020 WL 409546, at *4 (S.D. Fla. Jan. 25, 2020); *Owens v. TransUnion, LLC*, 2021 WL 5086370, at *7 (E.D. Tex. Aug. 30, 2021); *Thomas v. Wells Fargo Bank, N.A.*, 2018 WL 3719589, at *7 (N.D.Ga. May 30, 2018); *Vasquez v. Bank of Am., N.A.*, 2015 WL 7075628, at *2 (N.D. Cal. Nov. 13, 2015); *Wylie v. First Nat'l Bank Corp.*, 2019 WL 3006631, at *4 (W.D. Pa. July 10, 2019); *Young v. LVNV Funding LLC*, 2013 WL 4551722, at *1 (E.D. Mo. Aug. 28, 2013). The remainder of the courts making opposite determinations conflicting with the other courts

decisions determined that a consumer cannot restart the statute of limitations by filing a new dispute of the same information which conflict with other court decisions. See...*Blackwell v. Cap. One Bank*, 2008 WL 793476, at *3 (S.D. Ga. Mar. 25, 2008); *Bittick v. Experian Info. Sols., Inc.*, 419 F.Supp.2d 917, 919 (N.D. Tex. 2006); *Hancock v. Charter One Mortg.*, 2008 WL 2246042, at *2 (E.D. Mich. May 30, 2008); *Hatten v. Experian Info. Sols., Inc.*, 2013 WL 5179190, at *4 (E.D. Mich. Sept. 12, 2013). It appears that the courts have been using the terms “restart” and overlooking the fact that each dispute triggers a duty to re-investigate and each failure to do a reasonable reinvestigation creates a cause of action which is what triggers the “start”, not “restart” of a new statute of limitations related to the new disputes. The courts appear to also be overlooking the fact that the FCRA prescribes a duties to notify a consumer when the duty to investigate is not triggered which congress prescribed when enacting the FCRA under 15 U.S.C. §1681i(a)(3) and 15 U.S. Code § 1681s-2(a)(8)(F) related to consumers disputes. That once they CRA and Data Furnisher conducts a re-investigate and produce dispute results related to the new disputes, there is a new statute of limitations associate with those results because it evidences a new failure to do a reasonable re-investigation. Opinions such as those provided by the courts in conflict with the other courts such as those alleging that, “Allowing Plaintiff to restart the statute of limitations period by resubmitting identical disputes would, under these

circumstances, render the FCRA's statute of limitations "a nullity." See...*Blackwell v. Capital One Bank*, 2008 WL 793476 (S.D.Ga. 2008). Such decisions conflicts with congress intent in the clear writing of the FCRA.

4. The federal rules of civil procedure rule 60(C)(1) prescribes the rules for allowing a party to a case up to 1 year to file a motion under rule 60(B)(1)(2)(3). These rules do not prescribe any other timeframe other than 1 year. Multiple cases have been decided confirming this timeframe. See...*Mitchell v. Rivera*, C/A No. 4:13-1949-TMC, at 3 (D.S.C. Oct. 13, 2015) (Concluding that a Rule 60(b)(c) addresses the timing of a Rule 60(b) motion and states that a motion under Rule 60(b)(3) must be made within a reasonable time and no more than a year after the entry of the judgment or order or the date of the proceeding.) *Tyler v. Williams*, C.A. No. 9:19-2421-HMH-BM, at 5 (D.S.C. Oct. 20, 2020) (Judgment was entered on March 23, 2020, and the motion for reconsideration was filed on September 15, 2020. The court finds Tyler's motion is timely.) *United States v. McRae*, 793 F.3d at 400 (4th Cir. 2015); *Fortune v. Clarke*, No. 17-7231, at 3 (4th Cir. Feb. 23, 2018); *United States v. Shrader*, No. 20-6728 at 2 (4th Cir. Sep. 25, 2020) (concluding that Rule 60(b)(1)-(3) motions must be made "no more than a year after the entry of the judgment or order of the date of the proceeding"). The Circuit Courts do not have general rule making power, that is invested in the Supreme Court (see...28 U.S. Code § 2071). The

procedure for cases in the United States district courts must be prescribed by The Supreme Court does (see...28 U.S. Code § 2072). Therefore any attempts by the circuit courts and district courts to prescribe a different timeframe outside of the 1 year limit to file a Rule. 60(b) motion violates petitioners and any other citizens due process rights.

5. Petitioner originally filed a complaint in U.S. District Court for the District of South Carolina on 12-12-2019 (ECF No. 1). On 8-18-2020 Petitioner filed a motion to amend his complaint (ECF No. 39). On 8-25-2020 respondent filed an opposition to petitioners' motion to amend (ECF No. 41). On 9-2-2023 petitioner filed a reply to respondent's opposition (ECF No. 43). On 10-22-2020 the magistrate file a Report and Recommendation ("R&R") related to petitioners motion to amend (ECF No.52). On 11-19-2020 petitioner filed objections to the R&R (ECF No. 60). On 11-12-2020 respondent filed a reply to petitioner's objections (ECF No. 61). On 11-17-2020 the court placed an order ruling on the R&R denying petitioners motion to amend (ECF No. 63). On 11-30-2020 petitioner filed a notice of appeal related to the ruling on the R&R (ECF No. 66). On 3-26-2021 the 4th Circuit filed an unpublished opinion. On 4-30-2021 respondent filed a motion for summary judgment (ECF No. 83). On 6-4-2021 petitioner filed an opposition to respondent's motion for summary judgment (ECF No. 87). On 6-8-2021 respondent filed a reply to petitioner's opposition (ECF No. 88). On 6-23-2021 petitioner filed a sur-reply

to respondents reply (ECF No. 97). On 7-26-2021 petitioner filed a motion to vacate the courts order ruling on magistrates R&R (ECF No. 103). On 8-2-2021 respondent filed an opposition to petitioner's motion to vacate (ECF No. 105). On 9-23 the magistrate filed a R&R related to petitioner's motion to vacate (ECF No. 110). On 10-21-2021 petitioner filed an objections to magistrates R&R (ECF No. 116). On 11-2-2021 respondents filed a reply to petitioner's objections (ECF No. 117). On 12-8-2021 petitioner filed a notice attaching his reply to respondents reply (ECF No. 118). On 2-10-2022 the District Court entered an order ruling on the magistrates R&R (ECF No. 119). On 2-11-2022 the District court entered a judgment (ECF No. 120). On 3-10-2022 petitioner filed a motion to reconsider (ECF No. 122). On 3-11-2022 petitioner filed a notice of appeal (ECF No. 123). On 3-11-2022 petitioner filed a motion to stay the proceedings pending the decision on the motion for a new trial (ECF No. 124). On 3-22-2022 respondent filed an opposition to petitioner's motion for reconsideration (ECF No. 128). On 3-31-2022 petitioner filed a reply to respondent's opposition (ECF No. 129). On 4-20-2022 the District Court entered an order denying petitioner's motion to reconsider (ECF No. 130). On 4-25-2022 petitioner filed an amended notice of appeal (ECF No. 123-1). On 5-19-2022 petitioner filed a motion to reopen an appeal related to his first appeal notice dated 11-30-2020 and filed with the 4th circuit on 12-3-2020 (Doc. No. 14 for Appellate Case No. 20-2297). On 5-20-2022 the appellate court denied petitioner's motion to

transfer and reopen appeal (Appellate Doc. No. 15 for Appellate case No. 20-2297). On 5-24-2022 petitioner filed another notice of appeal related to the claims that the parties agreed to proceed with in another appeal case (ECF No. 134). On 6-2-2022 the 4th circuit dismissed the petitioners appeal related to his 3-11-2022 and 4-25-2022 notice of appeal and amended notice of appeal (App. 17). On 8-31-2023, the 4th circuit filed an unpublished opinion and judgment dismissing petitioners appeal (App. 18-20). On 9-11-2023 petitioner filed a motion to reconsider with the 4th Circuit in case no. 22-1578. On 10-24-2023 and 10-27-2023, petitioner filed a motion to reopen the appeal period in district court (ECF No.'s 147 and 148). On 11-22-2023, the 4th circuit denied the petitioners motion to reconsider (App. 22). On 1-12-2024 the district court denies petitioners motion to reopen the appeal period (ECF No. 152).

B. District Court Proceedings

Petitioner filed an amended complaint to sue the respondent, alleging that respondent violated its obligation under FCRA by failing to conduct a reasonable re-investigation of the information reported in his consumer file/report (ECF No. 39). See 15 U.S.C. §1681i(a)(1)(A), 15 U.S.C. §1681s-2(b)(1). Petitioner alleged that the district court violated his due process right to a rule 60(b) motion within the 1 year limitation period. The district court improperly denied petitioner's amendment with allegations that all his new claims are barred by the 2 year statute of limitations deciding that there was no good cause to amend the complaint, and

without identifying the exact information they claim was disputed in past disputes that was the same as the ones disputed in the more recent disputes. Under the FCRA, the a duty to re-investigation is triggered for a data furnisher and CRA unless they send the consumer a notice that their dispute is Frivolous or irrelevant as prescribed under 15 U.S.C. §1681i(a)(3) and 15 U.S. Code § 1681s-2(a)(8)(F). Upon discovering all the material facts that the CRA and or the Data Furnisher, such as the respondents failed to conduct a reasonable reinvestigation, a statute of limitation is started under 15 U.S. Code § 1681p. The district court appears to be re-writing the FCRA by ignored the clear writing of the FCRA and the duties of CRA's and Data furnishers, that each dispute where in investigation was triggered starts a separate statute of limitation for the new particular dispute. Such misinformation placed on the public records of the court conflicts with the FCRA as it is written as the District courts do not have any authority to re-write the FCRA as it is written. *See...McLean v. United States*, C/A No. 9:17-2702-DCC at 17 (D.S.C. Feb. 12, 2019). The role of this Court is to apply the statute as it is written—even if we think some other approach might accord with good policy." (Emphasis added)); *See...Meyers v. Comm'r of Soc. Sec. Admin.*, No. 18-2312 (4th Cir. Jan. 28, 2020) (It is true that "we must [start] with the plain language of the statute because 'when the statute's language is plain, the sole function of the courts . . . is to enforce it according to its terms;'" also see...*Tetteh v. Garland*, 995 F.3d at 366 (4th Cir. 2021) ("when the terms of a statute are clear and unambiguous, our inquiry ends, and we should stick to our duty of enforcing the terms of the statute as Congress has drafted it.") That as long as there is proof that an investigation was conducted for the specified

dispute, an investigation has been triggered and is evidence of the start of the statute of limitation for that particular dispute. The district court ignored the fact that information furnished by a data furnisher is updated on a monthly basis therefore the information reported for example payments made on a report updated on October 5, 2020 would not be the same exact information furnished by the data furnisher and updated on the reported on the September 5, 2022 consumer file/report because the balance has decreased from the amount and number of payments on the previous month report which updated on a monthly bases. The district court neglected that there is also good cause to amend a complaint when the claims are no longer pending before another court. Courts have stated that duplicative filings in federal and state court are "generally disfavored . . . as 'wasteful' and . . . 'against [the interests of] judicial efficiency.'" (See...*Stevens v. Arco Management of Wash. D.C., Inc.*, 751 A. 2d 995, 1002 (D. C. 2000); alteration in original). "[I]n order to serve the ends of justice where technical forfeitures would unjustifiably prevent a trial on the merits, the doctrine of equitable tolling may be applied to toll the running of the statute of limitations." *Hooper v. Ebenezer Sr. Services & Rehab. Ctr.*, 386 S.C. 108, 115 (2009) (internal quotations omitted). "Equitable tolling is judicially created; it stems from the judiciary's inherent power to formulate rules of procedure where justice demands it." *Id.* "Where a statute sets a limitation period for action, courts have invoked the equitable tolling doctrine to suspend or extend the statutory period to ensure fundamental practicality and fairness." *Id.* (internal quotations omitted).

C. The Fourth Circuit's Opinion

The 4th Circuits filed numerous unpublished opinions determining that they do not have jurisdiction, there was an agreement to dismiss the appeal. The 4th Circuit denied reopening previous appeals after they obtained jurisdiction determining without complete detail that, "upon consideration the motion to reopen and transfer has been denied." Based extraordinary circumstances petitioner informed that 4th circuit by filing a motion to reconsider that based on the same agreement to dismiss the appeal, the parties agreed that certain claims would proceed forward in a new or continued appeal. The Appellate court continuously drag out the timeframe of petitioners appeal just to deny and further deny review of the district court unlawful decisions.

REASONS FOR GRANTING THE PETITION

This case presents an entrenched conflict among courts of appeals and other district court on an important and recurring question of law: Whether each dispute sent to a Credit reporting agency or a data furnisher by a consumer that has not been determined to be frivolous or irrelevant starts a new statute of limitation under the FCRA? This case further represents conflicts with the Rules of the District Court, Whether Federal Rule of Civil Procedure Rule 60(c) prescribes a 1 year statute to file a Rule 60(b)(1)(2)(3) motion and Whether there is good cause to wait until claims that are before another court/tribunal is dismissed without prejudice to file the same claims in another court proceeding? By the clear writing of the FCRA text, it clearly evidences that each dispute triggers a duty to re-investigate therefore creates a statute of limitation for each dispute investigated unless a notice has been sent to the consumer determining that the dispute is either frivolous or

irrelevant. As presented by the numerous cases in this filing, it is clear that this will be a recurring issue if not addressed and for these reasons, the petition for a writ of certiorari should be granted.

A. The Decision Below Deepens A Conflict Among The U.S. District And Appellate Courts around the nation and conflicts with the FCRA as it is written and the Intent of congress

The Conflicting Decisions of the below courts has been causing a nationwide reoccurring conflict as some courts are properly addressing the question of whether each dispute creates a separate statute of limitations and the remainder courts have been creating conflicts amongst the court by deciding that each dispute does not restart the statute of limitations or renew the statute of limitations. The following cases represent this reoccurring question:

See...*Escobar*, 2018 WL 1740364, at *5 (describing the split); *Owens v. TransUnion, LLC*, 2021 WL 5086370, at *7 (E.D. Tex. Aug. 30, 2021), report and recommendation adopted as modified, 2021 WL 4451890 (E.D. Tex. Sept. 29, 2021), reconsideration denied, 2021 WL 8441703 (E.D. Tex. Oct. 12, 2021). The Third Circuit has not yet made any determination on the issue. See...*Ostrander v. Trans Union LLC*, 2021 WL 3271168, at *5 (E.D. Pa. July 30, 2021); *Escobar*, 2018 WL 1740364, at *4; See, e.g., *Harris v. Pennsylvania Higher Educ. Assistance Agency/Am. Educ. Servs.*, 696 Fed.Appx. 87, 90 (3d Cir. 2017); *Seamans v. Temple Univ.*, 744 F.3d 853, 864 (3d Cir. 2014). In this

context, some district courts have concluded that subsequent credit report disputes, even when based on the same previously disputed information, nonetheless trigger the statutory duties imposed on furnishers and, accordingly, restart the statute of limitations period under Section 1681p. See, e.g., *Escobar*, 2018 WL 1740364, at *4; *Wylie v. First Nat'l Bank Corp.*, 2019 WL 3006631, at *4 (W.D. Pa. July 10, 2019); *Vasquez v. Bank of Am., N.A.*, 2015 WL 7075628, at *2 (N.D. Cal. Nov. 13, 2015); *Marcinski v. RBS Citizens Bank, N.A.*, 36 F.Supp.3d 286, 290 (S.D.N.Y. 2014); *Broccuto v. Experian Info. Sols., Inc.*, 2008 WL 1969222, at *4 (E.D. Va. May 6, 2008); *Maiteki v. Marten Transportation Ltd.*, 4 F.Supp.3d 1249, 1252-54 (D. Colo. 2013); *Young v. LVNV Funding LLC*, 2013 WL 4551722, at *1 (E.D. Mo. Aug. 28, 2013); *Milgram v. Chase Bank USA, N.A.*, 2020 WL 409546, at *4 (S.D. Fla. Jan. 25, 2020); *Thomas v. Wells Fargo Bank, N.A.*, 2018 WL 3719589, at *7 (N.D.Ga. May 30, 2018), report and recommendation adopted, 2018 WL 3708441 (N.D.Ga. Aug. 3, 2018); *Larson v. Ford Credit*, 2007 WL 1875989, at *2 (D. Minn. June 28, 2007). See *Bittick v. Experian Info. Sols., Inc.*, 419 F.Supp.2d 917, 919 (N.D. Tex. 2006) (concluding additional dispute to credit reporting agency did not “restart the limitations clock” with respect to Section 1681b, 1681e, and 1681i claims); *Hatten v. Experian Info. Sols., Inc.*, 2013 WL 5179190, at *4 (E.D. Mich. Sept. 12, 2013) (similar with respect to Section 1681s-2(b) claim); *Hancock v. Charter One Mortg.*, 2008 WL 2246042, at *2 (E.D. Mich. May 30, 2008) (similar with

respect to Section 1681i and Section 1681s-2(b) claims); ***Blackwell v. Cap. One Bank*, 2008 WL 793476, at *3 (S.D. Ga. Mar. 25, 2008)** (similar with respect to Section 1681s-2(b) claim).

B. The decision below opposes a conflict with the established federal rules of civil procedures and the due process rights to file a rule 60(b) motion within 1 year

The decision of the District Court for the State of Carolina and the 4th Circuit raises a conflict with the already established rules of the court. If left to stand would give the circuit courts and the district courts the authority to amend the federal district court rules at any time without the supreme courts authorization and without properly notifying the public of the new limitations causing a reoccurring due process rights violation as a party to a case would not know of such a limitation until they are denied. As presented in this matter, the only court with the authority to prescribe changes to the Federal Rules of Civil procedure is the Supreme Court (see...28 U.S. Code § 2072 and 28 U.S. Code § 2071(b)) as the rules currently and clearly evidence up to a 1 year limitation.

C. The Questions Presented Are An Important And Recurring One That Warrants The Court's Review In This Case

The questions presented in this case is a frequently recurring one of substantial legal and practical

importance. The Court's intervention is necessary to safeguard the Congress intent and the Federal Civil Rules and to provide clarity and uniformity in the law and rules of the court. This case, which cleanly presents the questions, is an optimal vehicle for the Court's review. 1. As demonstrated, the FCRA prescribes a start of a statute of limitation for each dispute where a reinvestigation was triggered. 2. That there is a duty under the FCRA to notify the consumer that their dispute is frivolous or irrelevant thereby not triggering a investigation. 3. That the only court authorized to prescribe a limitation period to file a certain motion is the Supreme Court. 4. If the conflicts are allowed to stand would cause reoccurring divided decisions across the nation by the district courts and the Appeal Courts and conflicts with congress intent under the FCRA. 5. This case is an excellent vehicle in which to decide the questions presented. That these questions are pure questions of law and court procedure.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully Presented,

"Without Prejudice"

Nelson L. Bruce 1-28-24

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