

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 12-15408

D.C. Docket No. 2:09-cv-00489-SLB

CORY SINGLETERY,
individually and on behalf of class of similarly situated persons,

Plaintiff - Appellant,

versus

EQUIFAX INFORMATION SERVICES, LLC,

Defendant - Appellee.

Appeal from the United States District Court
for the Northern District of Alabama

(October 3, 2013)

Before CARNES, Chief Judge, TJOFLAT, Circuit Judge, and EVANS,^{*} District
Judge.

^{*} Honorable Orinda D. Evans, United States District Judge for the Northern District of Georgia, sitting by designation.

PER CURIAM:

After reading the briefs and the relevant parts of the record, and hearing oral argument, we affirm the district court's judgment based on its thorough and persuasive opinion, with one modification.

The district court's opinion states that: "Plaintiff has offered nothing to show that he requested a disclosure on the adverse action hotline," apparently crediting Equifax's evidence on that point. The opinion states that it "presented evidence that plaintiff, or his father, had not requested an adverse-action disclosure and that it had no record of an adverse action against plaintiff from GE Money."

But there was evidence that Singletery requested a disclosure on Equifax's adverse action hotline—Singletery's father testified in his deposition that he requested one by speaking or typing in his son's information when he called the 1-800 number. At the summary judgment stage, the district court should have taken the testimony of Singletery's father as true. But that error does not undermine the court's conclusion that there was no evidence in the record from which a jury could reasonably conclude that Equifax's failure to provide the adverse notice disclosure was *willful*.¹

AFFIRMED.

¹ Singletery's challenge to the court's denial of his motion for class certification is moot in light of our affirmance of the district court's grant of summary judgment, so we do not consider that issue.