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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 Glynis Brooks,

10 Plaintiff,

11 v.

12 Equifax Information Services LLC,

13 Defendant.
14

No. CV-17-00569-PHX-GMS

ORDER

15 Pending before the Court is Defendant's Motion for Partial Judgment on the
16 Pleadings. (Doc. 21). For the reasons discussed below, the Court denies the motion.

17 **BACKGROUND**

18 Plaintiff Glynis Brooks received a letter from Wells Fargo on August 31, 2015
19 stating that her credit account "has been settled for less than the full balance" and "[n]o
20 further liability remains with our company." (Doc. 1 at 12). Nearly one year later,
21 Defendant Equifax sent Ms. Brooks an "Equifax Credit Report" that listed her Wells
22 Fargo account as having a delinquent, unpaid balance. (Doc. 1 at 15–16). On August 23,
23 2016, Ms. Brooks requested that Equifax investigate and correct the mistake. (Doc. 1 at
24 14). On September 20, 2016, Equifax responded to Ms. Brooks' request and maintained
25 that the credit report correctly listed the delinquent balance at Wells Fargo. (Doc. 1 at
26 19–20).

27 Ms. Brooks filed a lawsuit on January 26, 2017 in an Arizona Justice Court
28 alleging that Equifax failed to comply with the Fair Credit Report Act, codified in 15

1 U.S.C. § 1681 *et seq.* (Doc. 1 at 8). Equifax successfully removed to federal court.
2 (Doc. 1 at 1–2). In compliance with a court order, the parties conferred to determine
3 whether an amended complaint could cure a deficient pleading. They failed to reach a
4 consensus, and Equifax filed this Motion for Partial Judgment on the Pleadings. (Doc.
5 21).

6 DISCUSSION

7 I. Legal Standard

8 Pursuant to Federal Rule of Civil Procedure 12(c), a court may properly grant a
9 motion for judgment on the pleadings “when, taking all allegations in the pleading as
10 true, the moving party is entitled to judgment as a matter of law.” *Merchants Home*
11 *Delivery Serv., Inc. v. Frank B. Hall & Co.*, 50 F.3d 1486, 1488 (9th Cir. 1995); *Fajardo*
12 *v. Cty. Of L.A.*, 179 F.3d 698, 699 (9th Cir. 1999). To survive a Rule 12(c) motion, a
13 plaintiff must allege sufficient facts to state a claim that is plausible on its face. *Ashcroft*
14 *v. Iqbal*, 556 U.S. 662, 678 (2009). The court generally may not consider matters outside
15 the pleadings without converting the motion into a motion for summary judgment. Fed.
16 R. Civ. P. 12(d). However, the court may “consider documents on which the complaint
17 necessar[ily] relies.” *Rosa v. Cutter Pontiac Buick GMC of Waipahu, Inc.*, 120 Fed.
18 Appx. 76, 77 (9th Cir. 2005) (finding that a sales contract and its addendum were
19 documents upon which the complaint necessarily relied).

20 II. Analysis


21 Federal law requires credit reporting agencies to follow reasonable procedures
22 when preparing a consumer report. 15 U.S.C. § 1681e(b). To make a prima facie case
23 under § 1681e(b), a plaintiff “must present evidence tending to show that a credit
24 reporting agency prepared a report containing inaccurate information.” *Guimond v.*
25 *Trans Union Credit Information Co.*, 45 F.3d 1329, 1333 (9th Cir. 1995) (citation
26 omitted). Even if a credit agency generates an inaccurate report, it can escape liability if
27 it followed reasonable procedures. *Id.* Whether the credit agency followed reasonable
28 procedures “will be jury questions in the overwhelming majority of cases.” *Id.*

1 Concerning the question of whether a plaintiff must show that the credit agency
2 distributed the credit report to a third party, the Ninth Circuit stated that “[n]o court has
3 held that the prima facie case required that an inaccurate report was ever disseminated.”
4 *Trans Union Credit Information Co.*, 45 F.3d at 1333 n.3. See also *Ottiano v. Credit*
5 *Data Southwest, Inc.*, 54 Fed.Appx. 640 (9th Cir. 2003) (describing *Trans Union Credit*
6 *Information Co.* holding as “neither the transmission of the report to third parties, nor a
7 denial of credit, is a prerequisite to recovery under the FCRA”).¹ Therefore, a plaintiff
8 need not show that a credit agency disseminated a credit report to a third party to
9 establish a prima facie case.

10 Ms. Brooks’ pleading is based on two Equifax credit reports that erroneously
11 consider her previously resolved debt to Wells Fargo. These reports “tend[] to show that
12 a credit reporting agency prepared a report containing inaccurate information.” *Trans*
13 *Union Credit Information Co.*, 45 F.3d at 1333. These reports are sufficient for a prima
14 facie case, and Mr. Brooks need not show that Equifax disseminated a credit report to a
15 third party. The Court denies Defendant’s Motion for Partial Judgment on the Pleadings.

16 **IT IS THEREFORE ORDERED** that Defendant Equifax Information Service’s
17 Motion for Partial Judgment on the Pleadings, (Doc. 21), is **DENIED**.

18 Dated this 3rd day of January, 2018.

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20 
21 Honorable G. Murray Snow
22 United States District Judge

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25 ¹ On at least two other occasions in Ninth Circuit district courts, Equifax has
26 unsuccessfully argued that the FCRA requires a plaintiff to show that the credit reporting
27 agency distributed a consumer report to a third party. See *Cairns v. GMAC Mortg. Corp.*,
28 2007 WL 735564 at *3 (D. Ariz. March 5, 2007) (“the Court concludes that despite
[Equifax’s] assertion otherwise, the fact that Plaintiffs did not present evidence that the
reports were given to third parties does not preclude Plaintiff from surviving summary
judgment”); *Sanchez v. Department Stores Bank*, 2017 WL 5138294 at *2 (S.D. Cal.
Nov. 6, 2017) (“In any event, under Ninth Circuit case law, transmission of a consumer
report to a third party is not a prerequisite to establishing liability under § 1681e(b)”).