

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

WILLIAM H. BALL,
Plaintiff,
vs.
EQUIFAX INC.,
Defendant.

Case No.: 2:23-cv-001817-GMN-DJA
ORDER GRANTING MOTION TO
DISMISS

This case arises from Defendant Equifax, Inc.’s alleged violations of the Fair Credit Reporting Act. Pending before the Court is Equifax’s Motion to Dismiss, (ECF No. 8). Plaintiff William H. Ball filed a Response, (ECF No. 13), to which Equifax filed a Reply, (ECF No. 15). The Court GRANTS the Motion to Dismiss because Equifax is not a consumer reporting agency subject to the FCRA.

Dismissal is appropriate under Rule 12(b)(6) where a pleader fails to state a claim upon which relief can be granted. Fed. R. Civ. P. 12(b)(6); Bell Atl. Corp. v. Twombly, 550 U.S. 544, 555 (2007). A pleading must give fair notice of a legally cognizable claim and the grounds on which it rests, and although a court must take all factual allegations as true, legal conclusions couched as factual allegations are insufficient. Twombly, 550 U.S. at 555. Accordingly, Rule 12(b)(6) requires “more than labels and conclusions, and a formulaic recitation of the elements of a cause of action will not do.” Id. “To survive a motion to dismiss, a complaint must contain sufficient factual matter, accepted as true, to ‘state a claim to relief that is plausible on its face.’” Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009) (quoting Twombly, 550 U.S. at 570). “A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.” Id. This standard “asks for more than a sheer possibility that a defendant has acted unlawfully.” Id.

1 The Fair Credit Reporting Act (“FCRA”) imposes duties on consuming reporting
2 agencies. *See* 15 U.S.C. § 1681 *et seq.* The FCRA defines a consumer reporting agency as
3 follows:

4 any person which, for monetary fees, dues, or on a cooperative nonprofit basis,
5 regularly engages in whole or in part in the practice of assembling or evaluating
6 consumer credit information or other information on consumers for the purpose
7 of furnishing consumer reports to third parties, and which uses any means or
facility of interstate commerce for the purpose of preparing or furnishing
consumer reports.

8 15 U.S.C.A. § 1681a. That is, for a plaintiff to state a claim under the FCRA, the defendant
9 must be “in the business of assembling or evaluating consumer information for the purpose of
10 preparing consumer reports.” *Slice v. Choicedata Consumer Servs., Inc.*, No. 3:04-CV-428,
11 2005 WL 2030690, at *3 (E.D. Tenn. Aug. 23, 2005).

12 Other courts have found, as a matter of law, that Equifax “is not a consumer reporting
13 agency subject to the requirements of the FCRA.” *Greear v. Equifax, Inc.*, No. 13-11896, 2014
14 WL 1378777, at *1 (E.D. Mich. Apr. 8, 2014); *see also* *Slice*, 2005 WL 2030690, at *3;
15 *Ransom v. Equifax Inc.*, No. 09-80280-CIV, 2010 WL 1258084, at *1 (S.D. Fla. Mar. 30,
16 2010); *Channing v. Equifax, Inc.*, No. 5:11-CV-293-FL, 2013 WL 593942, at *2 (E.D.N.C.
17 Feb. 15, 2013). Equifax “is not a CRA, but rather is a holding company which does not own,
18 receive, store, maintain, process, or otherwise exercise control over plaintiff’s consumer credit
19 information.” *Channing*, 2013 WL 593942, at *2. Thus, it appears that Plaintiff has sued the
20 wrong party, and Plaintiff cannot state a claim against Equifax under the FCRA.¹

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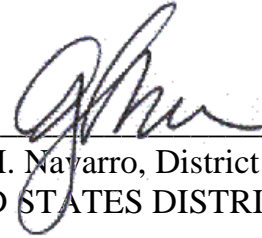
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24 ¹ Plaintiff argues that Equifax is subject to the FCRA because it is in the business of providing credit reports to
25 lenders. (Resp. at 1, ECF No. 13). Plaintiff may have mistaken Equifax for one of its subsidiaries. *See*
Channing, 2013 WL 593942, at *2 (“Defendant’s subsidiary, Equifax Information Services LLC (‘EIS’), is a
consumer reporting agency (‘CRA’) as defined by the FCRA and maintains a consumer database including
information regarding plaintiff.”). This Order does not preclude Plaintiff from suing the proper defendant.

1 **IT IS HEREBY ORDERED** that Equifax’s Motion to Dismiss, (ECF No. 8), is
2 **GRANTED.** Plaintiff’s claim against Equifax is dismissed **with prejudice** because Plaintiff
3 cannot state a claim against Equifax as a matter of law.

4 The Clerk’s Office is kindly instructed to close this case.

5 **DATED** this 8 day of May, 2024.

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Gloria M. Navarro, District Judge
UNITED STATES DISTRICT COURT