

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Khalilah Suluki,)	CASE NO. 1:21-cv-01156
Plaintiff,)	
v.)	
Credit One Bank, NA; <i>et al.</i> ,)	
Defendants.)	

PLAINTIFF'S REQUEST FOR LEAVE TO FILE SUPPLEMENTAL AUTHORITY IN SUPPORT OF HER MOTION FOR SUMMARY JUDGMENT

Plaintiff Kahlilah Suluki, by Counsel, requests the Court's leave to file as supplemental authority to her Motion for Summary judgment the attached publication of the Consumer Financial Protection Bureau, its *Consumer Financial Protection Circular 2022-07* (Nov. 10, 2022). (Ex. 1.) For the reasons below, the Court should permit Plaintiff's filing.

I. CFPB INTERPRETATIONS OF THE FCRA ARE PERSUASIVE AUTHORITY.

Since 2010, the CFPB has possessed the authority “to prescribe rules” or “issue guidelines” regarding the FCRA.” *Kidd v. Thomson Reuters Corp.*, 925 F.3d 99, 106 n.8 (2d Cir. 2019). Courts grant such guidance persuasive authority, *id.* at 106, and consider the CFPB and FTC “authoritative sources” in interpreting the FCRA. *Henderson v. Trans Union, LLC*, Civ. No. JAG-14-0679, 2017 WL 1734036, at *2 (E.D. Va. May 2, 2017); *Fernandez v. RentGrow, Inc.*, 341 F.R.D. 174, 193 (D. Md. 2022) (citing *Henderson* with approval for this point). The Court should therefore have little difficulty concluding that the CFPB guidance attached is appropriately considered as persuasive guidance in its analysis of Plaintiff's Motion for Summary Judgment.

**II. THE ATTACHED, RECENT PUBLICATION
WAS NOT AVAILABLE AT THE TIME THE PARTIES BRIEFED SUMMARY
JUDGMENT, BUT THE COURT SHOULD CONSIDER IT ANYWAY.**

The CFPB issued the publication Plaintiff seeks to include in the record on November 10. 2022, more than five months after summary-judgment briefing closed. (See ECF 82, filed May 25, 2022.) It therefore was not available at the time the Parties were briefing both sides' summary-judgment motions. Since the Court has not yet issued its ruling on either motion, it should consider this recent interpretation by the CFPB.

The CFPB opinion is relevant because it discusses the reasonableness of investigations of disputes. (See Ex. 1.) The reasonableness of Credit One's investigations into Plaintiff's disputes of its reporting of an account as belonging to her is the centerpiece of both motions for summary judgment, so this recent opinion by the CFPB is unquestionably relevant. The Court should therefore permit Plaintiff to file it and should make it part of the Court's analysis of the pending motions.

III. CONCLUSION.

For the foregoing reasons, the Court should permit Plaintiff to file the attached Exhibit 1 as persuasive authority for her Motion for Summary Judgment. The opinion is relevant to the Court's analysis, was unavailable at the time the Parties briefed summary judgment, and should therefore be part of the record here.

November 11, 2022

Respectfully submitted,

Khalilah Suluki

/s/ Craig C. Marchiando
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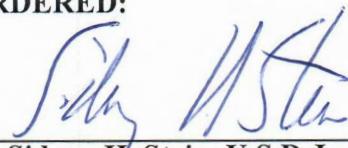
Attorneys for Plaintiff

Plaintiff's request to file supplemental authority is granted.

Dated: New York, New York
November ~~16~~, 2022

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SO ORDERED:



Sidney H. Stein, U.S.D.J.