

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA**

<b>RAHEEM LA'MONZE PLATER,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>v.</b>	)	<b>Case No. CIV-22-688-J</b>
	)	
<b>PHOENIX FINANCIAL</b>	)	
<b>SERVICES, et al.,</b>	)	
	)	
<b>Defendants.</b>	)	

**REPORT AND RECOMMENDATION**

Plaintiff, a state prisoner, filed a pro se “Fair Credit Reporting Act Complaint.” Doc. 1.<sup>1</sup> United States District Judge Bernard M. Jones has referred the matter to the undersigned Magistrate Judge for proceedings consistent with 28 U.S.C. § 636(b)(1)(B), and (C). Doc. 4. The undersigned recommends the Court dismiss Plaintiff’s complaint for failure to state a claim upon which relief may be granted.

**I. Screening.**

Federal law requires the Court to screen complaints filed by prisoners seeking relief against a governmental entity or its officers or employees. 28 U.S.C. § 1915A(a). The Court must dismiss the complaint, or any portion of the

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<sup>1</sup> Citations to a court document are to its electronic case filing designation and pagination. Except for capitalization, quotations are verbatim unless otherwise indicated.

complaint, if it is “frivolous, malicious, or fails to state a claim upon which relief may be granted” or seeks monetary relief from a defendant who is immune from such relief. *Id.* §§ 1915A(b), 1915(e)(2)(B).

To survive screening, the 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 *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007)). “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.* (citing *Twombly*, 550 U.S. at 556); *see also Gee v. Pacheco*, 627 F.3d 1178, 1184 (10th Cir. 2010).

This Court construes “[a] pro se litigant’s pleadings . . . liberally,” holding them “to a less stringent standard than formal pleadings drafted by lawyers.” *Hall v. Bellmon*, 935 F.2d 1106, 1110 (10th Cir. 1991); *see Haines v. Kerner*, 404 U.S. 519, 520 (1972) (per curiam). The Court, however, may not serve as Plaintiff’s advocate, creating arguments on his behalf. *See Yang v. Archuleta*, 525 F.3d 925, 927 n.1 (10th Cir. 2008).

## **II. Plaintiff’s claim.**

In Plaintiff’s sole claim for relief, he alleges a “violation of the Fair Credit Reporting Act [(FCRA)].” Doc. 1, at 2. Plaintiff sues Phoenix Financial Services, which he identifies as a “collection agency”; Experian, which he identifies as a

“credit reporting agency”; “True Partners Comanche EM Specs (Comanche County Memorial Hospital),” which he identifies as his “original creditor”; and the “Board of County Commissioners for Comanche County /Comanche County Detention Center,” which he identifies as the “original debtor.” *Id.* at 1-2.

Plaintiff states:

On March 4, 2022[,] Defendant Phoenix Financial Services reported account number 897595XX for \$713 and 897661XX for \$1,031 to Defendant Experian with Defendant True Partners Comanche EM Specs as the original creditor. Since then, Plaintiff has sent dispute letters to Defendant Experian and Phoenix Financial Services requesting removal of debt as it is the responsibility to pay by Comanche County Detention Center aka Board of County Commissioners of Comanche County by state law.

*Id.* at 2.<sup>2</sup> He requests that the Court order the “removal of both accounts immediately from Plaintiff’s credit report,” and he seeks “compensatory damages of \$2,500.00 and punitive damages of \$2,500.00,” along with “court costs and fees.” *Id.* at 3.

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<sup>2</sup> In attachments to his complaint, Plaintiff explains that other inmates assaulted him while he was a pretrial detainee in the Comanche County Detention Center. Doc. 1, Exs. 1-2. He states that he “sustained injuries to his hand, face and other body parts as a result of defending” himself and that Detention Center staff took him to the Comanche County Memorial Hospital for treatment. *Id.* Ex. 2. He now has a “duo of medical debts” from the hospital, but he asserts that “[a]ll medical documentation bearing [his] signature [were] obtained under the premise that the County of Comanche/CCDC is to pay all debts incurred by [his] assault.” *Id.*

**III. Plaintiff fails to state a claim against Defendants under the FCRA.**

**A. FCRA law.**

Congress enacted the 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) (citing 15 U.S.C. § 1681). The FCRA allows consumers to bring a private right of action against a consumer reporting agency (CRA) that violates its provisions. 15 U.S.C. §1681n (permitting right of action against willful violators); *id.* § 1681o (permitting right of action against negligent violators). And this Court has jurisdiction to consider “[a]n action to enforce any liability created under this subchapter . . . without regard to the amount in controversy.” *Id.* § 1681p.

The FCRA defines a CRA as an agency that “regularly engages . . . in the practice of assembling or evaluating consumer credit information . . . for the purpose of furnishing consumer reports to third parties.” *Id.* § 1681a(f). Under the FCRA, a CRA must follow “reasonable procedures to assure maximum possible accuracy of the information concerning the individual about whom the report relates.” *Id.* § 1681e(b).

To state a claim against a CRA for negligently or willfully failing to correct a report of inaccurate information, a plaintiff must show that he informed the CRA about the inaccuracy, that the CRA failed to follow

reasonable procedures in reinvestigating the report, that the report was in fact inaccurate, that the plaintiff suffered injury, and that the CRA caused the injury.<sup>3</sup> *Wright v. Experian Info. Sols., Inc.*, 805 F.3d 1232, 1239 (10th Cir. 2015); *see also Eller v. Trans Union, LLC*, 739 F.3d 467, 473 (10th Cir. 2013). “A reasonable reinvestigation, however, does not require CRAs to resolve legal disputes about the validity of the underlying debts they report.” *Wright*, 805 F.3d at 1242 (citing *Carvalho v. Equifax Info. Servs., LLC*, 629 F.3d 876, 892 (9th Cir. 2010) (“We agree that reinvestigation claims are not the proper vehicle for collaterally attacking the legal validity of consumer debts.”)).

The FCRA also places duties on furnishers of credit information to provide “accurate information” to a CRA. 15 U.S.C. § 1681s-2(a). A furnisher of credit information is “an entity that furnishes information relating to consumers to one or more consumer reporting agencies for inclusion in a consumer report.” 16 C.F.R. § 660.2(c).

Section 1681s-2(a)(8) addresses a consumer’s ability to dispute information directly with a furnisher of credit information. However, FCRA does not provide a private cause of action for a violation of Section 1681s-2(a). *See* 15 U.S.C. § 1681s-2(c); *see also*

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<sup>3</sup> Plaintiff does not identify a particular section of the FCRA that the Defendants violated. But based on Plaintiff’s claim that his credit report is inaccurate and has not been corrected, the Court liberally construes his complaint to assert a claim under 15 U.S.C. § 1681i(a), which requires a CRA, after notification, to conduct a reasonable reinvestigation to determine whether disputed information is inaccurate.

*Sanders v. Mountain Am. Fed. Credit Union*, 689 F.3d 1138, 1147 (10th Cir. 2012) (citations omitted); *Pinson v. Equifax Credit Info. Servs., Inc.*, 316 F. App'x 744, 751 (10th Cir. 2009).

FCRA only provides a private right of action against a furnisher of information for a violation of Section 1681s-2(b), which enumerates the duties of the furnisher upon notice of a dispute, specifically, “[a]fter receiving notice pursuant to section 1681i(a)(2)” from a credit reporting agency. *See* 15 U.S.C. § 1681s-2(b)(1); *see also Pinson*, 316 F. App'x at 751 (“notice of a dispute received directly from the consumer does not trigger furnishers’ duties under subsection (b)”) (internal quotation omitted). As explained by the Tenth Circuit: “While Congress did not want furnishers of credit information to be exposed to suit by any and every consumer dissatisfied with the credit information furnished, Congress allows consumers to enforce the duty of accurate reporting through the FCRA’s dispute process. When the furnisher receives notice of a dispute from the credit reporting agency, it must perform the verification and correction duties described in 15 U.S.C. § 1681s-2(b) . . . . [A] breach of those duties might expose the furnisher to liability.” *Sanders*, 689 F.3d at 1147 (citing *Pinson*, 316 F. App'x at 751).

*Dill v. Comenity Bank/Sports Auth.*, No. CIV-13-1321-D, 2014 WL 1432502, at \*2-3 (W.D. Okla. Apr. 14, 2014).

**B. Defendant Board of County Commissioners for Comanche County/Comanche County Detention Center is neither a CRA nor a furnisher of credit information and cannot be sued under the FCRA.**

Plaintiff names as a Defendant the “Board of County Commissioners for Comanche County/Comanche County Detention Center” and identifies this Defendant as the “original debtor.” Doc. 1, at 2. Nowhere in his complaint does Plaintiff identify this Defendant as either a CRA or a furnisher of credit

information as contemplated by the FCRA. *See* 15 U.S.C. § 1681a(f); 16 C.F.R. § 660.2(c). Plaintiff has no plausible cause of action against this Defendant under the FCRA. *See, e.g., Sanders*, 689 F.3d at 1147 (holding that the FCRA’s private right of action “is limited to claims against the credit reporting agency”). The undersigned therefore recommends the Court dismiss this Defendant.

**C. Plaintiff fails to state a claim under the FCRA against the potential furnishers of his credit information.**

Plaintiff alleges “Defendant Phoenix Financial Services reported” two overdue accounts “to Defendant Experian with Defendant True Partners Comanche EM Specs as the original creditor.” Doc. 1, at 2. Assuming Plaintiff is seeking to hold these Defendants liable for violating their duties as furnishers of credit information under the FCRA, Plaintiff has failed to state a valid claim against them under 15 U.S.C. § 1681s-2b. *See, e.g., Sanders*, 689 F.3d at 1147 (“While Congress did not want furnishers of credit information to be exposed to suit by any and every consumer dissatisfied with the credit information furnished, Congress allows consumers to enforce the duty of accurate reporting through the FCRA’s dispute process.” (internal quotation marks and alteration omitted)); *see also Emmit House v. Credit One Bank*, No. CIV-17-957-R, 2018 WL 1440981, at \*1 (W.D. Okla. Mar. 22, 2018) (“Only Section 1681s-2(b) is privately enforceable—it imposes on furnishers a duty to

investigate and correct misleading information following a dispute—whereas federal or state agencies enforce Section 1681s-2(a)’s duties to provide accurate information in the first place.”).

“[T]he FCRA obligates furnishers of information . . . to provide accurate information to consumer reporting agencies, and, upon receiving notice of a dispute from a CRA,” to perform certain duties to investigate the disputed information. *Pinson*, 316 F. App’x at 750 (internal citations omitted); see 15 U.S.C. § 1681s-2(a). In his complaint, Plaintiff states that *he* “sent dispute letters to Defendants Experian and Phoenix Financial Services requesting removal of [the] debt[s].” Doc. 1, at 2. But “notice of a dispute received directly from the consumer does not trigger furnishers’ duties” to investigate under the FCRA. *Pinson*, 316 F. App’x at 751 (internal quotation marks and emphasis omitted). And Plaintiff does not assert that Defendant Experian, which he identifies as the CRA, notified either Defendant Phoenix Financial Services or Defendant True Partners Comanche EM Specs of the dispute. “This omission is fatal to Plaintiff’s FCRA claim against [these] Defendant[s] as . . . ‘furnisher[s] of credit information.’” *Dill*, 2014 WL 1432502, at \*3 (quoting *Pinson*, 316 F. App’x at 751). The undersigned therefore recommends dismissal of Plaintiff’s FCRA claims against these Defendants for failure to state a claim. See, e.g., *Sanders*, 689 F.3d at 1147 (affirming district court’s dismissal of



FCRA claim based on plaintiffs' failure to initiate the dispute process under § 1681s-2(b)).

**D. Plaintiff fails to state a claim against Defendant Experian.**

Plaintiff alleges he sent a dispute letter to Defendant Experian requesting removal of the hospital debts from his credit report. Doc. 1, at 2. He disputes who is responsible for paying his medical debts and claims he does not owe the debts even though he signed "medical documentation" at the hospital for his treatment. *Id.* at 2 & Ex. 2. The Court finds Plaintiff has failed to adequately allege Defendant Experian either dealt in inaccurate information or failed to conduct a reasonable reinvestigation under the FCRA.

Upon notice of a dispute of an inaccurate report, a CRA is obligated to conduct a reasonable reinvestigation into the alleged inaccuracy. *Wright*, 805 F.3d at 1242. "To determine whether a consumer has identified a factual inaccuracy on his or her credit report that would activate § 1681i's reinvestigation requirement, the decisive inquiry is whether the defendant credit bureau could have uncovered the inaccuracy if it had reasonably reinvestigated the matter." *DeAndrade v. Trans Union LLC*, 523 F.3d 61, 68 (1st Cir. 2008) (internal quotation marks and alterations omitted).

Plaintiff does not state what type of reinvestigation, if any, Defendant Experian has conducted regarding the accuracy of the debts. But the FCRA

does not require Defendant Experian to resolve a legal dispute “about the validity of the underlying debts” to comply with its statutory obligations. *Wright*, 805 F.3d at 1242. And a CRA is under no obligation to either not report or to remove a disputed debt “simply because the consumer asserts a legal defense.” *Carvalho*, 629 F.3d at 892; *see also DeAndrade*, 523 F.3d at 68 (“Whether the mortgage is valid turns on questions that can only be resolved by a court of law, such as whether [the plaintiff] ratified the loan. This is not a factual inaccuracy that could have been uncovered by a reasonable reinvestigation, but rather a legal issue that a credit agency such as Trans Union is neither qualified nor obligated to resolve under the FCRA.”). It is clear from the face of Plaintiff’s complaint that his FCRA claim against Defendant Experian does not involve a factual inaccuracy that triggered § 1681i’s reinvestigation requirement. Rather, it involves a legal issue that Defendant Experian is under no obligation to resolve—namely, whether Plaintiff or another party is responsible for paying his medical debts. Plaintiff has thus not stated a proper claim against Defendant Experian under the FCRA. *Wright*, 805 F.3d at 1242; *cf. Pinson*, 316 F. App’x at 751 (“A successful FCRA claim brought under 15 U.S.C. § 1681e(b) must be based on inaccurate information disclosed in a consumer credit report[.]”).

Plaintiff wants the Court to conclude that his medical debts are invalid. But an FCRA claim is “not the proper vehicle for collaterally attacking the legal validity of consumer debts.” *Carvalho*, 629 F.3d at 891-92 (“The proper recourse for the consumer, therefore, was to resolve the issue in a suit against the creditor; [i]f a court had ruled the mortgage invalid and Trans Union had continued to report it as a valid debt, then [the consumer] would have grounds for a potential FCRA claim.” (quoting *DeAndrade*, 523 F.3d at 68)). The undersigned therefore recommends the Court dismiss Plaintiff’s FCRA claim against Defendant Experian for failure to state a claim.

**IV. Recommendation and notice of right to object.**

The undersigned recommends the Court dismiss Plaintiff’s complaint in its entirety for failure to state a claim. The undersigned also recommends Plaintiff’s motions to supplement his complaint with the updated addresses of two Defendants and his motion for service of process be denied as moot. Docs. 6, 8, 10.

The undersigned advises Plaintiff of his right to object to this Report and Recommendation by November 14, 2022, under 28 U.S.C. § 636(b)(1) and Fed. R. Civ. P. 72(b)(2). The undersigned further advises Plaintiff that failure to make timely objection waives his right to appellate review of both factual and

legal issues contained herein. *See Moore v. United States*, 950 F.2d 656, 659 (10th Cir. 1991).

This Report and Recommendation terminates the referral to the undersigned Magistrate Judge in this matter.

**ENTERED** this 24th day of October, 2022.



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SUZANNE MITCHELL  
UNITED STATES MAGISTRATE JUDGE