

UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

Thurgood Marshall U.S. Courthouse 40 Foley Square, New York, NY 10007 Telephone: 212-857-8500

MOTION INFORMATION STATEMENT

Docket Number(s): 22-87

Caption [use short title]

Motion for: Leave to Participate in Oral Argument

Set forth below precise, complete statement of relief sought:

The CFPB requests that oral argument time be increased by three minutes and those minutes allotted to the CFPB. In the alternative, the CFPB requests that three minutes of Plaintiff-Appellant's time be reallocated to the CFPB.

Sessa v. Trans Union, LLC

MOVING PARTY: Amicus Consumer Financial Protection Bureau

OPPOSING PARTY: Trans Union, LLC

- Plaintiff Defendant Appellant/Petitioner Appellee/Respondent

MOVING ATTORNEY: Ryan Cooper [name of attorney, with firm, address, phone number and e-mail]

OPPOSING ATTORNEY: Michael O'Neil

Consumer Financial Protection Bureau 1700 G St NW Washington, DC 20552 202-702-7541 / ryan.cooper@cfpb.gov

Reed Smith LLP 37th Floor, 10 South Wacker Driver Chicago, IL 60606 312-207-1000 / michael.oneil@reedsmith.com

Court- Judge/ Agency appealed from: Hon. Kenneth M. Karas (S.D.N.Y.)

Please check appropriate boxes: Has movant notified opposing counsel (required by Local Rule 27.1): Yes No (explain):

FOR EMERGENCY MOTIONS, MOTIONS FOR STAYS AND INJUNCTIONS PENDING APPEAL: Has this request for relief been made below? Has this relief been previously sought in this court? Requested return date and explanation of emergency:

Opposing counsel's position on motion: Unopposed Opposed Don't Know Does opposing counsel intend to file a response: Yes No Don't Know

Is oral argument on motion requested? Yes No (requests for oral argument will not necessarily be granted) Has argument date of appeal been set? Yes No If yes, enter date: 3/3/2023

Signature of Moving Attorney: /s/ Ryan Cooper Date: 1/30/2023 Service by: CM/ECF Other [Attach proof of service]

**IN THE UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT**

GIA SESSA, on behalf of herself and all
others similarly situated,

Case No. 22-87

Plaintiff-Appellant,

v.

TRANS UNION, LLC,

Defendant-Appellee.

**MOTION OF *AMICUS
CURIAE* CONSUMER
FINANCIAL PROTECTION
BUREAU FOR LEAVE TO
PARTICIPATE IN ORAL
ARGUMENT**

The Consumer Financial Protection Bureau (Bureau) moves, pursuant to Federal Rules of Appellate Procedure 27 and 29(a)(8), for leave to participate in oral argument in this case. Oral argument is scheduled for March 3, 2023. The Bureau and the Federal Trade Commission (FTC) filed a brief (Doc. No. 49) as *amici curiae* in this case on May 5, 2022. In order to ensure a full presentation of the issues, the Bureau respectfully requests that the Court increase the argument time by three minutes and allocate that additional time to the Bureau. If the Court does not wish to increase the argument time, the Bureau alternatively requests that it be given three minutes of time currently allocated to Plaintiff-Appellant Sessa.

This case is about a provision of the Fair Credit Reporting Act (FCRA),

15 U.S.C. § 1681 *et seq.*, that requires credit reporting agencies (CRAs) “to follow reasonable procedures to assure the maximum possible accuracy” of the information contained in consumer reports. 15 U.S.C. § 1681e(b). This provision is critical in protecting consumers from the harms that inaccurate credit reporting can cause.

The Bureau has significant regulatory authority with respect to FCRA and has a substantial interest in ensuring its proper interpretation and application. The Bureau has exclusive rule-writing authority for most provisions of FCRA, 15 U.S.C. § 1681s(e), and it, along with various other federal and state regulators, may enforce the Act’s requirements. 15 U.S.C. § 1681s(a)-(c). The amicus brief filed by the Bureau and the FTC addresses whether inaccuracies that are “legal” rather than “factual” can trigger 1681e(b) liability (and, if not, where to draw the line between “legal” and “factual” inaccuracy) and whether an inaccuracy triggers 1681e(b) liability even if the CRA’s relied on a third-party furnisher that provided the CRA with inaccurate information. The Bureau respectfully submits that its participation in oral argument will aid the Court’s consideration of this appeal and should impose no burden or inconvenience on the Court.

The Bureau conferred with counsel for the parties. Plaintiff-Appellant consents to the Bureau’s request to increase the argument time by three minutes and to allocate that time to the Bureau and, in the alternative, consents to the

Bureau's request to cede three minutes of Plaintiff-Appellant's argument time to the Bureau. Defendant-Appellee opposes the Bureau's requests.

For these reasons, the Bureau respectfully requests leave to participate in oral argument.

Dated: January 30, 2023

Respectfully submitted,

/s/ Ryan Cooper

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CERTIFICATE OF COMPLIANCE

I hereby certify that this motion complies with the Federal Rule of Appellate Procedure 27(d)(2)(A), along with Local Rule 27.1(a)(1), because excluding the parts of the document exempted by Federal Rule of Appellate Procedure 32(f), the document contains 392 words as counted by the word processing software used to create the document. I further certify that this document complies with Federal Rule of Appellate Procedure 32(a)(5) and Federal Rule of Appellate Procedure 32(a)(6) because it has been prepared using Times New Roman 14-point font.

Dated: January 30, 2023

/s/ Ryan Cooper

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CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Second Circuit by using the appellate CM/ECF system on January 30, 2023.

I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

Dated: January 30, 2023

/s/ Ryan Cooper

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