

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 01-30740

KRISTEN K. WHITE, Individually and on
behalf of others similarly situated,

Plaintiff-Appellee,

versus

IMPERIAL ADJUSTMENT CORPORATION, et al;

Defendants

IMPERIAL ADJUSTMENT CORPORATION;
IMPERIAL FIRE AND CASUALTY COMPANY,

Defendants-Appellants.

Appeal from the United States District Court
For the Eastern District of Louisiana
(99-CV-3804)

June 10, 2002

Before HIGGINBOTHAM, WIENER, and BENAVIDES, Circuit Judges.

PER CURIAM:*

This is an appeal from the certification of a class under Rule 23 F.R.C.P. It is plain that the order certifying the class must be vacated. Class members consist of "all persons whose consumer reports were provided to Imperial Adjustment Corporation or

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

Imperial Fire and Casualty Company for an impermissible purpose under the Fair Credit Reporting Act for December 20, 1997" (emphasis supplied). A class defined by persons injured by any violation of the act, an act that can be violated in many distinct ways, is too amorphous.

The able district judge may have intended the definition as a shorthand for a discrete set of persons that the parties have otherwise identified, such as those persons whose credit histories were ordered by defendant in an effort to locate them. This is surmise, and even it has its difficulties since it is not clear that illegality even among such a defined group is determinable on a class as distinguished from an individual basis.

We do not foreclose further consideration by the district court of a possible class. We mention the "location" claimants because although inadequate alone, it does have the virtue of attempting to define a class injured by an act or practice, the legality of which is at issue. Contrast, for example, the difference between a class including "all persons injured by Acme's violations of the securities laws" and "all persons who purchased the securities of Acme between X and Y dates."¹

VACATED and REMANDED.

¹ See *Forbush v. J.C. Penney Co., Inc.*, 994 F.2d 1101, 1105 (5th Cir. 1993).