

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF  
VIRGINIA, ALEXANDRIA DIVISION

Harry Smith v. InformData, LLC, formerly known as Wholesale  
Screening, LLC

Civil Action No. 1:25-cv-826 (RDA/WEF) · No. Civil Action No. 1:25-cv-826 (RDA/WEF) · Decided March  
11, 2026

SUMMARY

The United States District Court for the Eastern District of Virginia considers InformData, LLC’s motion to compel arbitration or dismiss Harry Smith’s amended complaint. The court denies arbitration because InformData was not a party or qualifying beneficiary of the arbitration agreement between Smith and Turn Technologies, and equitable estoppel does not apply. The court addresses Smith’s Fair Credit Reporting Act, negligence, and defamation claims, including whether reporting expunged convictions may constitute an inaccurate consumer report.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                                                                                       |
|-----------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | United States District Court for the Eastern District of Virginia,<br>Alexandria Division                                                                                                                                                                                                                                                             |
| WRITING FOR THE COURT | Rossie D. Alston, Jr.                                                                                                                                                                                                                                                                                                                                 |
| JURISDICTION          | United States District Court for the Eastern District of Virginia,<br>Alexandria Division                                                                                                                                                                                                                                                             |
| DECIDED               | March 11, 2026                                                                                                                                                                                                                                                                                                                                        |
| DOCKET                | Civil Action No. 1:25-cv-826 (RDA/WEF)                                                                                                                                                                                                                                                                                                                |
| DISPOSITION           | dismissed                                                                                                                                                                                                                                                                                                                                             |
| PROCEDURAL POSTURE    | Defendant moved to compel arbitration or, alternatively, to dismiss the First Amended Complaint under Rule 12(b)(6). The court denied arbitration but granted dismissal of all claims for failure to state a claim.                                                                                                                                   |
| STANDARD OF REVIEW    | For arbitration, the court applied the Federal Arbitration Act and interpreted the arbitration agreement under assumed Delaware law. For dismissal, the court applied Rule 12(b)(6), accepting well-pleaded factual allegations as true, drawing reasonable inferences for plaintiff, and determining whether the complaint plausibly stated a claim. |
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## TOPICS

credit reporting

arbitration

motions to dismiss

consumer protection

civil procedure

## PRACTICE AREAS

consumer protection

credit reporting

civil procedure

arbitration

defamation

## QUESTIONS PRESENTED

1. Whether InformData, a nonsignatory to the arbitration agreement between plaintiff and Turn Technologies, could compel arbitration as a beneficiary or under equitable estoppel.
2. Whether plaintiff plausibly alleged that InformData reported inaccurate information in violation of 15 U.S.C. § 1681e(b).
3. Whether Delaware's economic loss doctrine barred plaintiff's negligence claim.
4. Whether plaintiff plausibly alleged defamation where the reported criminal convictions were historically true but had been expunged.

## HOLDINGS

1. InformData could not enforce the arbitration agreement because the agreement covered disputes between plaintiff and Turn Technologies and limited the definition of covered beneficiaries to users or beneficiaries of Turn's services or sites; the complaint did not allege that InformData was such a user or beneficiary.
2. Equitable estoppel did not permit InformData to compel arbitration because plaintiff alleged misconduct by InformData alone and did not allege substantially interdependent and concerted misconduct by InformData and Turn Technologies.
3. Plaintiff failed to plausibly allege an actionable inaccuracy because reporting convictions that had later been expunged was not inaccurate under the applicable federal definition of conviction and accuracy, particularly where the expungement was not publicly verifiable.
4. The negligence claim was barred because plaintiff alleged purely economic damages and did not establish an applicable exception to Delaware's economic loss doctrine.
5. The defamation claim failed because the complaint established that the reported criminal convictions were substantially true, and expungement did not convert historically true facts into falsehoods.

## KEY QUOTATIONS

*“In the absence of allegations of coordination or concerted activity, the Court does not find this to be persuasive.”* (at 10-11)

*“Thus, under Roberts, the alleged inaccuracy — or really incompleteness as argued by Plaintiff — could not be verified by Defendant because there was no record of expungement.”* (at 14)

*“expungement “creates legal fictions, but it does not and cannot undo historical facts or convert once-true facts into falsehoods.”” (at 19)*

## FACTUAL BACKGROUND

Plaintiff alleged that InformData prepared and sold a consumer report containing criminal convictions that had previously been pardoned and expunged under Delaware law. The report was provided to Turn Technologies, resold to prospective employer GoShare, and allegedly contributed to the denial of plaintiff's employment application. Plaintiff asserted FCRA, negligence, and defamation claims against InformData, while InformData sought to enforce an arbitration agreement between plaintiff and Turn Technologies.

## PROCEDURAL HISTORY

Plaintiff filed suit on May 13, 2025, alleging violations of the Fair Credit Reporting Act, negligence, and defamation per se arising from a consumer report containing expunged criminal convictions. Plaintiff amended the complaint twice. Defendant filed the pending motion to compel arbitration or dismiss, which the court granted in part and denied in part.

## DISPOSITION

dismissed

## CASES CITED

- Moses H. Cone Mem'l Hosp. v. Mercury Constr. Corp., 460 U.S. 1, 24 (1983)
- Rader v. Nw. Fed. Credit Union, 2024 WL 388097, at \*4 (E.D. Va. Feb. 1, 2024)
- Alta Berkeley VIC.V. v. Omneon, Inc., 41 A.3d 381, 385 (Del. 2012)
- Elliott Assocs., L.P. v. Avatex Corp., 715 A.2d 843, 854 (Del. 1998)
- Lowe Bros. v. Church Home Found. Inc., 1980 WL 6372, at \*1 (Del. Ch. Apr. 16, 1980)
- Falcon Tankers, Inc. v. Litton Sys., Inc., 300 A.2d 231, 233-37 (Del. Super. Ct. 1972)
- Douzinas v. Am. Bureau of Shipping, Inc., 888 A.2d 1146, 1153 (Del. Ch. 2006)
- Wilcox & Fetzer, Ltd. v. Corbett & Wilcox, 2006 WL 2473665, at \*5 (Del. Ch. Aug. 22, 2006)
- Noye v. Johnson & Johnson Services, Inc., 765 F. App'x 742, 747-48 (3d Cir. 2019)
- Santiago v. Neno Research, Inc., 2024 WL 4625783, at \*4, \*7 (M.D. Fla. Oct. 30, 2024)
- Brantley v. Republic Mortg. Ins. Co., 424 F.3d 392, 396 (4th Cir. 2005)
- Republican Party of N.C. v. Martin, 980 F.2d 943, 952 (4th Cir. 1992)
- Coleman v. Maryland Ct. of App., 626 F.3d 187, 189 (4th Cir. 2010), aff'd sub nom. Coleman v. Court of App. of Md., 566 U.S. 30 (2012)
- Ashcroft v. Iqbal, 556 U.S. 662, 678-79 (2009)
- Bell Atl. Corp. v. Twombly, 550 U.S. 544, 555-70 (2007)
- E.I. du Pont de Nemours & Co. v. Kolon Indus., Inc., 637 F.3d 435, 440 (4th Cir. 2011)
- Francis v. Giacomelli, 588 F.3d 186, 193 (4th Cir. 2009)

- *Roberts v. Carter-Young, Inc.*, 131 F.4th 241, 250-52 (4th Cir. 2025)
- *Monzalvo v. Bondi*, 601 U.S. 712, 726 (2025)
- *Moran v. Screening Pros, LLC*, 943 F.3d 1175, 1185 (9th Cir. 2019)
- *Hope v. Dep't of Health & Human Servs.*, 2020 WL 2527032, at \*5 (W.D.N.C. May 18, 2020)
- *Rhodes v. First Advantage Background Servs. Corp.*, 2024 WL 4615775, at \*6 (11th Cir. Oct. 30, 2024)
- *Aldaco v. RentGrow, Inc.*, 921 F.3d 685 (7th Cir. 2019)
- *Bugoni v. Emp. Background Investigations, Inc.*, 2022 WL 888434, at \*3 (D. Md. Mar. 25, 2022), *aff'd*, 2023 WL 3721210 (4th Cir. May 30, 2023)
- *Dickerson v. New Banner Inst., Inc.*, 460 U.S. 103, 111-16 (1983), superseded by statute as stated in *Logan v. United States*, 552 U.S. 23 (2007)
- *Bray v. Gamestop Corp.*, 2018 WL 11226516, at \*4 (D. Del. Mar. 16, 2018)
- *Fryfogle v. First Nat'l Bank of Greencastle*, 2009 WL 700161, at \*7 (W.D. Va. Mar. 17, 2009)
- *G.D. v. Kenny*, 15 A.3d 300, 310, 313-16 (N.J. 2011)
- *Eagle v. Morgan*, 88 F.3d 620, 625-26 (8th Cir. 1996)
- *Nunez v. Pachman*, 578 F.3d 228, 229 (3d Cir. 2009)
- *Bickling v. Kent Gen. Hosp., Inc.*, 872 F. Supp. 1299, 1307 (D. Del. 1994)
- *Delaware Express Shuttle, Inc. v. Older*, 2002 WL 31458243, at \*3 (Del. Ch. 2002)
- *Holmes v. The News Journal Co.*, 2015 WL 1893150, at \*3 (Del. Super. Ct. Apr. 20, 2015)
- *Martin v. Hearst Corp.*, 777 F.3d 546, 551 (2d Cir. 2015)
- *Lueckenbach v. Horizon Mississippi Publications, Inc.*, 2017 WL 473903, at \*2 (N.D. Miss. Feb. 3, 2017)
- *Bahr v. Statesman Journal Co.*, 624 P.2d 664, 666-67 (Or. Ct. App. 1981)
- *Leichling v. Honeywell Int'l, Inc.*, 842 F.3d 848, 850-51 (4th Cir. 2016)
- *Alston v. Anderson*, 2023 WL 416197, at \*7 (E.D. Va. Jan. 25, 2023)