

## THE WASHINGTON REPORT November 2014

### On Capitol Hill

The congressional elections kicked off the month, and the outgoing Congress has since returned to Washington for a final “Lame Duck” session expected to stretch into early December in order to finish its work before the new Congress takes office in January.

The current Congress is not expected to accomplish much before it concludes, other than funding the government’s observations beyond December 11<sup>th</sup>, when current funding is set to expire, Senate confirm of various nominees of President Obama’s before the Republicans take control of the Senate in January, and possibly other high profile issues such as the Keystone XL pipeline.

Over the next several weeks, the House and Senate will move forward with plans for organizing the new Congress when it officially convenes in January. The parties have already decided that their key senior leadership will remain the same in the new Congress, with the exception that current Senate Majority Leader Reid (D-NV) will become Minority Leader when the Republicans take control and Senator McConnell will become Majority Leader. Other details are still being worked out, including who will Chair and be Ranking Member for various House and Senate Committees. The number of seats that each party will have on committees is also still being negotiated as The Washington Report goes to press. These decisions will have an important impact on the agenda for the new Congress. The Washington Report will look at the agenda of the new Congress in the months ahead.

### At the Supreme Court

Plaintiffs in a class action suit against Sam’s Club, *Steven E. Hammer et al. v. Sam's East Inc.*, have asked the Supreme Court revive their Fair Credit Reporting Act (FCRA) suit against the Company over its credit card receipt truncation practices. The Eighth Circuit ruled against the Plaintiffs, holding that even if the Defendant had violated the truncation requirements, the violations were not “willful” for purposes of FCRA liability. The Plaintiffs allege that the Eighth Circuit’s holding is inconsistent with opinions from other Circuits interpreting the Supreme Court’s 2006 opinion in *Safeco v. Burr*. If the Supreme Court were to take the case, it could lead to additional guidance on what constitutes a willful violation of the FCRA, which could have broad implications for all FCRA cases, including those against employment and tenant screeners, alleging willful violations of the FCRA.

### At the CFPB

The Consumer Financial Protection Bureau (CFPB) finally has published a user-friendly version of its “Summary of Your Rights Under the Fair Credit Reporting Act” (FCRA). The summary is required under §609(c)(1) of the FCRA, and must be provided to job applicants during the pre-adverse action process. Previously, the CFPB only linked to the official Federal Register copy, which included a series of blurry images of each page of the notice. The

summary document now is available in both English and Spanish.” The document makes minor edits to addresses and includes the toll free number for opting out of firm offers of credit and insurance, but the document does not include new substantive language.

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