

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

JUDY ALBRITTON and RONALD )  
ALBRITTON, on behalf of themselves )  
and all others similarly situated, )  
 )  
Plaintiffs, )  
 )  
vs. )  
 )  
NATIONAL CONSUMER )  
TELECOM & UTILITIES )  
EXCHANGE, INC. )

Defendant.

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**CLASS ACTION COMPLAINT**

NOW COME the plaintiffs, JUDY ALBRITTON, RONALD ALBRITTON, by and through their attorneys SKAAR & FEAGLE, LLP, suing on behalf of themselves and all others similarly situated, and for their complaint against NATIONAL CONSUMER TELECOM & UTILITIES EXCHANGE, INC., the plaintiffs state as follows:

**PRELIMINARY STATEMENT**

1. This is an action for actual and statutory damages for violations of the Fair Credit Reporting Act, 15 U.S.C. §§ 1681-1681x (FCRA), for redress of injuries suffered by Plaintiffs and others similarly situated, when Defendant improperly failed to provide them with the information in the files it compiles and maintains about them upon request.

2. The disclosure requirements of the FCRA are designed to ensure that consumers have access to *all* information in their files that consumer reporting

agencies such as Defendant compile, maintain, and sell about them. 15 U.S.C. § 1681g. Defendant nonetheless systematically deprives consumers of complete and proper disclosures of their files as required by the FCRA, and consumers are thus unable to learn of and/or dispute the information Defendant maintains and sells.

## **II. JURISDICTION AND VENUE**

3. Jurisdiction of this Court arises under 15 U.S.C. § 1681p and 28 U.S.C. § 1331.

4. Venue lies properly in this district pursuant to 28 U.S.C. § 1391(b)

## **III. PARTIES**

5. Plaintiffs Judy Albritton and Ronald Albritton are both adult individuals who reside in Marietta, GA.

6. Defendant National Consumer Telecom & Utilities Exchange, Inc. (NCTUE) is a corporation doing business in Atlanta, GA.

## **IV. FACTUAL ALLEGATIONS**

7. NCTUE describes itself as “a membership of companies that provide services (telecommunication, pay TV and utilities) and report and share data relative to their customers’ accounts,” including payment and account history. <http://www.nctue.com/about> (last visited September 5, 2017).

8. NCTUE maintains a database of consumer data and sells it to member companies in order to evaluate customers’ eligibility for services. see [http://www.nctue.com/member\\_benefits](http://www.nctue.com/member_benefits) (last visited September 5, 2017).

9. NCTUE holds itself out as a “consumer reporting agency that maintains data such as payment and account history, reported by telecommunication, pay TV and utility service providers that are members of NCTUE.” see <http://www.nctue.com/about> (last visited September 5, 2017).

10. NCTUE's current website represents that consumers may obtain their NCTUE file by writing to P.O. Box 105161, Atlanta, GA 30348. see <http://www.nctue.com/consumers> (last visited September 5, 2017).

11. In 2015 and until some time in 2017, NCTUE's website represented that consumers could have obtained their NCTUE file by writing to P.O. Box 105161, Atlanta, GA **30374**. (Bold emphasis added).

12. Thus, at all times pertinent hereto, NCTUE was a consumer reporting agency (CRA) as defined by section 1681a(f) of the FCRA.

13. The FCRA unambiguously requires CRAs such as NCTUE to “clearly and accurately disclose to the consumer [a]ll information in the consumer’s file” upon the consumer’s request. 15 U.S.C. § 1681g(a).

14. Nevertheless, and despite the clear mandate of FCRA section 1681g(a), NCTUE routinely fails to provide consumers with all the information that it compiles, maintains, and sells about them.

15. On or about September 17, 2015, Plaintiff Judy Albritton wrote to NCTUE at the P.O. Box referenced above and requested all the information in her NCTUE file.

16. NCTUE did not provide any response to Mrs. Albritton’s request.

17. On or about September 17, 2015, Plaintiff Ronald Albritton wrote to NCTUE at the P.O. Box referenced above and requested all the information in his NCTUE file.

18. NCTUE did not provide any response to Mr. Albritton’s request.

19. Both Plaintiffs incurred postage costs in mailing their file disclosure requests.

20. NCTUE fails, as a matter of policy and practice, to provide consumers with a complete copy of their NCTUE file as required by the FCRA at 15 U.S.C. § 1681g(a)(1).

21. Moreover, and in violation of 15 U.S.C. § 1681g(c)(2), and contrary to the practice of other CRAs, NCTUE intentionally, recklessly, and as a matter of course fails to provide consumers the summary of their rights under the FCRA as prepared by the Federal Trade Commission, thus further limiting a consumer's ability to correct any inaccurate information reported by NCTUE about him or her.

22. NCTUE's practice not only violates the FCRA as a matter of law, it exacts serious consequences on consumers and interstate commerce by denying them valuable information to which they are entitled by law, and prejudicing them in their ability to adequately determine whether NCTUE is properly reporting information about them.

#### V. CLASS ACTION ALLEGATIONS

23. Plaintiffs bring this action on behalf of the following class of consumers: All natural persons residing within the United States and its Territories who, within two years prior to the filing of this action and extending through the resolution of this litigation, made a request to NCTUE for a copy of their NCTUE file or report, and to whom NCTUE did not provide a copy of the file or report. Excluded from the class are class counsel, any persons employed at the law firms of class counsel, and any such person's immediate family.

24. **Numerosity. FED. R. CIV. P. 23(a)(1).** The Class members are so numerous that joinder of all is impractical. Upon information and belief, NCTUE receives hundreds if not thousands of file disclosure requests from consumers each year, and fails as a matter of policy and practice to provide any response.

25. **Existence and Predominance of Common Questions of Law and Fact. FED. R. CIV. P. 23(a)(2).** Common questions of law and fact exist as to all members of the Class, and predominate over the questions affecting only individual members. The common legal and factual questions include, among others:

- a. Whether NCTUE violated section 1681g(a) of the FCRA by failing to disclose the information in its files on consumers in response to those consumers' requests for their files;
- b. Whether NCTUE's failure to provide consumers with their files upon request was willful.

26. **Typicality. FED. R. CIV. P. 23(a)(3).** Plaintiffs' claims are typical of the claims of each Class member. Plaintiff has the same claims for statutory and punitive damages that they seek for absent class members.

27. **Adequacy. FED. R. CIV. P. 23(a)(4).** Plaintiffs are adequate representatives of the Class. Their interests are aligned with, and are not antagonistic to, the interests of the members of the Class they seek to represent, they have retained counsel competent and experienced in class action litigation, and they intend to prosecute this action vigorously. Plaintiffs and their Counsel will fairly and adequately protect the interests of members of the Classes.

28. **Predominance and Superiority. FED. R. CIV. P. 23(b)(3).** Questions of law and fact common to the Class members predominate over questions affecting only individual members, and a class action is superior to other available methods for fair and efficient adjudication of the controversy. The statutory and punitive damages sought by each member are such that individual prosecution would prove burdensome and expensive given the complex and extensive litigation necessitated by Defendant's conduct. It would be virtually impossible for the members of the Class individually to redress effectively the wrongs done to them. Even if the members of the Class themselves could afford such individual litigation, it would be an unnecessary burden on the courts. Furthermore, individualized litigation presents a potential for inconsistent or contradictory judgments and increases the delay and expense to all parties and to the court system presented by the complex legal and factual issues raised by Defendant's conduct. By contrast, the class action device

will result in substantial benefits to the litigants and the Court by allowing the Court to resolve numerous individual claims based upon a single set of proof in a unified proceeding.

#### **VI. COUNT ONE - FCRA**

29. Plaintiff incorporates the foregoing paragraphs as though the same were set forth at length herein.

30. Defendant is a “person” and “consumer reporting agency as those terms are defined by sections 1681a(b) and (f) of the FCRA.

31. Each plaintiff is a “consumer” as that term is defined by section 1681a(c) of the FCRA.

32. Pursuant to sections 1681n and 1681o of the FCRA, NCTUE is liable for willfully and/or negligently violating the FCRA by engaging in the following conduct:

- a. failing to disclose to consumers all information in their file, in violation of 15 U.S.C. § 1681g(a)(1);
- b. failing to provide consumers a summary of their rights under the FCRA as prepared by the Federal Trade Commission, in violation of 15 U.S.C. § 1681g(c)(2).

#### **VII. JURY TRIAL DEMAND**

33. Plaintiffs demand trial by jury on all issues so triable.

#### **VIII. PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs seek judgment in their favor and for the Class as follows:

(a) That an order be entered certifying the proposed Class under Rule 23 of the Federal Rules of Civil Procedure and appointing Plaintiffs and their counsel to represent the Class;

(b) That judgment be entered against Defendant for statutory damages in the amount of not less than \$100 and not more than \$1,000 per violation per Class member, pursuant to 15 U.S.C. § 1681n(a);

(c) That judgment be entered against Defendant for punitive damages pursuant to 15 U.S.C. § 1681n(a)(2);

(d) That judgment be entered against Defendant for actual damages, including but not limited to postage, pursuant to 15 U.S.C. § 1681n(a)(1) and/or 1681o(a)(1);

(e) That the Court award Plaintiffs costs and reasonable attorney's fees pursuant to 15 U.S.C. § 1681n and o; and

(f) That the Court grant such other and further relief as may be just and proper.

Respectfully submitted,

**SKAAR & FEAGLE, LLP**

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Admission forthcoming)*

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Admission forthcoming)*

*Attorneys for Plaintiff and Classes*

Dated: September 11, 2017



CIVIL COVER SHEET

The JS44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form is required for the use of the Clerk of Court for the purpose of initiating the civil docket record. (SEE INSTRUCTIONS ATTACHED)

I. (a) PLAINTIFF(S)

JUDY ALBRITTON and RONALD ALBRITTON, on behalf of themselves and all others similarly situated

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF (EXCEPT IN U.S. PLAINTIFF CASES)

DEFENDANT(S)

NATIONAL CONSUMER TELECOM & UTILITIES EXCHANGE, INC.

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED

(c) ATTORNEYS (FIRM NAME, ADDRESS, TELEPHONE NUMBER, AND E-MAIL ADDRESS)

SKAAR & FEAGLE, LLP
2374 Main Street, Suite B
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Tel: (404) 373-1970
jfeagle@skaarandfeagle.com

ATTORNEYS (IF KNOWN)

II. BASIS OF JURISDICTION (PLACE AN "X" IN ONE BOX ONLY)

- 1 U.S. GOVERNMENT PLAINTIFF
2 U.S. GOVERNMENT DEFENDANT
3 FEDERAL QUESTION (U.S. GOVERNMENT NOT A PARTY)
4 DIVERSITY (INDICATE CITIZENSHIP OF PARTIES IN ITEM III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN "X" IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT) (FOR DIVERSITY CASES ONLY)

- PLF DEF PLF DEF
1 CITIZEN OF THIS STATE
2 CITIZEN OF ANOTHER STATE
3 CITIZEN OR SUBJECT OF A FOREIGN COUNTRY
4 INCORPORATED OR PRINCIPAL PLACE OF BUSINESS IN THIS STATE
5 INCORPORATED AND PRINCIPAL PLACE OF BUSINESS IN ANOTHER STATE
6 FOREIGN NATION

IV. ORIGIN (PLACE AN "X" IN ONE BOX ONLY)

- 1 ORIGINAL PROCEEDING
2 REMOVED FROM STATE COURT
3 REMANDED FROM APPELLATE COURT
4 REINSTATED OR REOPENED
5 ANOTHER DISTRICT (Specify District)
6 MULTIDISTRICT LITIGATION
7 FROM MAGISTRATE JUDGE JUDGMENT
APPEAL TO DISTRICT JUDGE

V. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE - DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY)

This is an action for damages for violations of the Fair Credit Reporting Act, 15 U.S.C. §§ 1681-1681x.

(IF COMPLEX, CHECK REASON BELOW)

- 1. Unusually large number of parties.
2. Unusually large number of claims or defenses.
3. Factual issues are exceptionally complex
4. Greater than normal volume of evidence.
5. Extended discovery period is needed.
6. Problems locating or preserving evidence
7. Pending parallel investigations or actions by government.
8. Multiple use of experts.
9. Need for discovery outside United States boundaries.
10. Existence of highly technical issues and proof.

CONTINUED ON REVERSE

FOR OFFICE USE ONLY

RECEIPT # AMOUNT \$ APPLYING IFP MAG. JUDGE (IFP)
JUDGE MAG. JUDGE (Referral) NATURE OF SUIT CAUSE OF ACTION

VI. NATURE OF SUIT (PLACE AN "X" IN ONE BOX ONLY)

CONTRACT - "0" MONTHS DISCOVERY TRACK

- 150 RECOVERY OF OVERPAYMENT & ENFORCEMENT OF JUDGMENT
152 RECOVERY OF DEFAULTED STUDENT LOANS (Excl. Veterans)
153 RECOVERY OF OVERPAYMENT OF VETERAN'S BENEFITS

CONTRACT - "4" MONTHS DISCOVERY TRACK

- 110 INSURANCE
120 MARINE
130 MILLER ACT
140 NEGOTIABLE INSTRUMENT
151 MEDICARE ACT
160 STOCKHOLDERS' SUITS
190 OTHER CONTRACT
195 CONTRACT PRODUCT LIABILITY
196 FRANCHISE

REAL PROPERTY - "4" MONTHS DISCOVERY TRACK

- 210 LAND CONDEMNATION
220 FORECLOSURE
230 RENT LEASE & EJECTMENT
240 TORTS TO LAND
245 TORT PRODUCT LIABILITY
290 ALL OTHER REAL PROPERTY

TORTS - PERSONAL INJURY - "4" MONTHS DISCOVERY TRACK

- 310 AIRPLANE
315 AIRPLANE PRODUCT LIABILITY
320 ASSAULT, LIBEL & SLANDER
330 FEDERAL EMPLOYERS' LIABILITY
340 MARINE
345 MARINE PRODUCT LIABILITY
350 MOTOR VEHICLE
355 MOTOR VEHICLE PRODUCT LIABILITY
360 OTHER PERSONAL INJURY
362 PERSONAL INJURY - MEDICAL MALPRACTICE
365 PERSONAL INJURY - PRODUCT LIABILITY
367 PERSONAL INJURY - HEALTH CARE/ PHARMACEUTICAL PRODUCT LIABILITY
368 ASBESTOS PERSONAL INJURY PRODUCT LIABILITY

TORTS - PERSONAL PROPERTY - "4" MONTHS DISCOVERY TRACK

- 370 OTHER FRAUD
371 TRUTH IN LENDING
380 OTHER PERSONAL PROPERTY DAMAGE
385 PROPERTY DAMAGE PRODUCT LIABILITY

BANKRUPTCY - "0" MONTHS DISCOVERY TRACK

- 422 APPEAL 28 USC 158
423 WITHDRAWAL 28 USC 157

CIVIL RIGHTS - "4" MONTHS DISCOVERY TRACK

- 441 VOTING
442 EMPLOYMENT
443 HOUSING/ ACCOMMODATIONS
444 WELFARE
440 OTHER CIVIL RIGHTS
445 AMERICANS with DISABILITIES - Employment
446 AMERICANS with DISABILITIES - Other
448 EDUCATION

IMMIGRATION - "0" MONTHS DISCOVERY TRACK

- 462 NATURALIZATION APPLICATION
465 OTHER IMMIGRATION ACTIONS

PRISONER PETITIONS - "0" MONTHS DISCOVERY TRACK

- 463 HABEAS CORPUS- Alien Detainee
510 MOTIONS TO VACATE SENTENCE
530 HABEAS CORPUS
535 HABEAS CORPUS DEATH PENALTY
540 MANDAMUS & OTHER
550 CIVIL RIGHTS - Filed Pro se
555 PRISON CONDITION(S) - Filed Pro se
560 CIVIL DETAINEE: CONDITIONS OF CONFINEMENT

PRISONER PETITIONS - "4" MONTHS DISCOVERY TRACK

- 550 CIVIL RIGHTS - Filed by Counsel
555 PRISON CONDITION(S) - Filed by Counsel

FORFEITURE/PENALTY - "4" MONTHS DISCOVERY TRACK

- 625 DRUG RELATED SEIZURE OF PROPERTY 21 USC 881
690 OTHER

LABOR - "4" MONTHS DISCOVERY TRACK

- 710 FAIR LABOR STANDARDS ACT
720 LABOR/MGMT. RELATIONS
740 RAILWAY LABOR ACT
751 FAMILY and MEDICAL LEAVE ACT
790 OTHER LABOR LITIGATION
791 EMPL. RET. INC. SECURITY ACT

PROPERTY RIGHTS - "4" MONTHS DISCOVERY TRACK

- 820 COPYRIGHTS
840 TRADEMARK

PROPERTY RIGHTS - "8" MONTHS DISCOVERY TRACK

- 830 PATENT

SOCIAL SECURITY - "0" MONTHS DISCOVERY TRACK

- 861 HIA (1395ff)
862 BLACK LUNG (923)
863 DIWC (405(g))
863 DIWW (405(g))
864 SSID TITLE XVI
865 RSI (405(g))

FEDERAL TAX SUITS - "4" MONTHS DISCOVERY TRACK

- 870 TAXES (U.S. Plaintiff or Defendant)
871 IRS - THIRD PARTY 26 USC 7609

OTHER STATUTES - "4" MONTHS DISCOVERY TRACK

- 375 FALSE CLAIMS ACT
400 STATE REAPPORTIONMENT
430 BANKS AND BANKING
450 COMMERCE/ICC RATES/ETC.
460 DEPORTATION
470 RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS
480 CONSUMER CREDIT
490 CABLE/SATELLITE TV
891 AGRICULTURAL ACTS
893 ENVIRONMENTAL MATTERS
895 FREEDOM OF INFORMATION ACT
950 CONSTITUTIONALITY OF STATE STATUTES
890 OTHER STATUTORY ACTIONS
899 ADMINISTRATIVE PROCEDURES ACT / REVIEW OR APPEAL OF AGENCY DECISION

OTHER STATUTES - "8" MONTHS DISCOVERY TRACK

- 410 ANTITRUST
850 SECURITIES / COMMODITIES / EXCHANGE

OTHER STATUTES - "0" MONTHS DISCOVERY TRACK

- 896 ARBITRATION (Confirm / Vacate / Order / Modify)

\* PLEASE NOTE DISCOVERY TRACK FOR EACH CASE TYPE. SEE LOCAL RULE 26.3

VII. REQUESTED IN COMPLAINT:

CHECK IF CLASS ACTION UNDER F.R.Civ.P. 23 DEMAND \$

JURY DEMAND YES NO (CHECK YES ONLY IF DEMANDED IN COMPLAINT)

VIII. RELATED/REFILED CASE(S) IF ANY

JUDGE DOCKET NO.

CIVIL CASES ARE DEEMED RELATED IF THE PENDING CASE INVOLVES: (CHECK APPROPRIATE BOX)

- 1. PROPERTY INCLUDED IN AN EARLIER NUMBERED PENDING SUIT.
2. SAME ISSUE OF FACT OR ARISES OUT OF THE SAME EVENT OR TRANSACTION INCLUDED IN AN EARLIER NUMBERED PENDING SUIT.
3. VALIDITY OR INFRINGEMENT OF THE SAME PATENT, COPYRIGHT OR TRADEMARK INCLUDED IN AN EARLIER NUMBERED PENDING SUIT.
4. APPEALS ARISING OUT OF THE SAME BANKRUPTCY CASE AND ANY CASE RELATED THERETO WHICH HAVE BEEN DECIDED BY THE SAME BANKRUPTCY JUDGE.
5. REPETITIVE CASES FILED BY PRO SE LITIGANTS.
6. COMPANION OR RELATED CASE TO CASE(S) BEING SIMULTANEOUSLY FILED (INCLUDE ABBREVIATED STYLE OF OTHER CASE(S)):

7. EITHER SAME OR ALL OF THE PARTIES AND ISSUES IN THIS CASE WERE PREVIOUSLY INVOLVED IN CASE NO., WHICH WAS DISMISSED. This case IS IS NOT (check one box) SUBSTANTIALLY THE SAME CASE.

/s/ Cliff R. Dorsen

September 11, 2017

SIGNATURE OF ATTORNEY OF RECORD

DATE

# ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Lawsuit: NCTUE Unlawfully Ignored Consumers' File Requests](#)

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