

**IN THE CIRCUIT COURT OF THE THIRTEENTH JUDICIAL CIRCUIT  
IN AND FOR HILLSBOROUGH COUNTY, FLORIDA  
GENERAL CIVIL DIVISION**

JOSE L. GARCIA on behalf of )  
himself and all others similarly )  
situated, )  
 )  
                  *Plaintiff(s)* )  
 )  
          v. )  
 )  
Contemporary Information Corp., )  
 )  
                  *Defendant.* )  
\_\_\_\_\_ )

**CLASS ACTION COMPLAINT AND DEMAND FOR JURY TRIAL**

COMES NOW the Plaintiff, JOSE LUIS GARCIA, on behalf of himself and all others similarly situated (“Plaintiffs”), by and through his undersigned Counsel, and alleges the following against Defendant, CONTEMPORARY INFORMATION CORP. (“CIC” or “Defendant”).

**PRELIMINARY STATEMENT**

1. This is an action for actual, statutory, and punitive damages, costs, and attorneys’ fees brought pursuant to the Fair Credit Reporting Act (“FCRA”) 15 U.S.C. §§ 1681a–x and the common law tort of defamation.

2. Plaintiff brings claims individually under § 1681e(b) and defamation against CIC because it falsely reported that he had pled guilty to sexual assault and traffic violations.

3. CIC is a consumer reporting agency and provides its customers with consumer reports (background checks) used for employment purposes. The background checks qualify as consumer reports because the information contained in CIC's reports constitutes:

written, oral, or other communication of any information by a consumer reporting agency bearing on a consumer's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living which is used or expected to be used or collected in whole or in part for the purpose of serving as a factor in establishing the consumer's eligibility for [in this case, employment.

15 U.S.C. § 1681a(d)(1).

4. The FCRA requires that companies like CIC—which sell information used in consumer reports that have a serious and decisive impact on the ability of consumers to obtain employment and/or housing opportunities—follow reasonable procedures to assure the maximum possible accuracy of the information they report. Congress described these obligations placed on consumer reporting agencies as “grave responsibilities.” 15 U.S.C. § 1681.

5. Consumer reporting agencies (“CRAs”) such as CIC that create consumer reports are charged with using reasonable procedures designed to ensure

the maximum possible accuracy of the information they report. Defendant's practices harm consumers seeking employment by prejudicing prospective employers with inaccurate adverse information.

6. To further protect consumers, the FCRA makes it presumptively illegal for a consumer reporting agency like CIC to furnish a report in the employment context. A consumer reporting agency may issue such a report "only if" it first obtains from the person to whom it plans to issue the report a certification that it has provided the consumer with a disclosure, obtained the consumer's written authorization and if applicable, will provide the consumer with pre-adverse action notice *before* taking an adverse employment action.

7. The FCRA requires that a consumer reporting agency reporting negative public record information likely to adversely affect a consumer's ability to obtain employment, must provide the consumer with contemporaneous notice of the information it is reporting and to whom it is reporting it.

8. Moreover, the FCRA further requires that upon a consumer's request, CRAs must disclose all of the information contained in the consumer's file at the time of the request, the source of the information, and the identities of all persons to whom the consumer's information was reported.

9. Combined, these interlocking measures are intended to protect consumer privacy by restricting the use of consumer reports to permissible purposes;

implement safeguards to ensure the information being reported is accurate and up to date; ensure dissemination of consumer reports is limited to persons abiding by the FCRA's statutory requirements; and ensure consumers are timely informed what is being reported about them and to whom it is being reported.

### **JURISDICTION AND VENUE**

10. The jurisdiction of this Court is conferred by 15 U.S.C. § 1681p and 28 U.S.C. § 1331.

11. Venue is proper in this Court because Plaintiff's allegations arise from events occurring in Hillsborough County and Defendant transacts and does business in Hillsborough County, Florida. The damages in this case exceed \$50,000.00.

### **PARTIES**

12. Plaintiff Jose Luis Garcia is a natural person and a resident of the State of Florida. He is a "consumer" as defined by 15 U.S.C. § 1681a(c).

13. Defendant is a consumer reporting agency as defined in 15 U.S.C. § 1681a(f) and it disburses consumer reports to third parties for monetary compensation. It is headquartered in Duluth, Georgia.

### **FACTUAL ALLEGATIONS**

#### ***Section 1681e(b) of The Fair Credit Reporting Act Requires Substantive Investigations***

14. “Congress enacted FCRA in 1970 out of concerns about abuses in the consumer reporting industry. *See* S. Rep. No. 91–517, at 3 (1969); 116 Cong. Rec. 35941 (1970) (statement of Sen. Proxmire); *id.* at 36570 (statement of Rep. Sullivan); . . . In enacting FCRA Congress adopted a variety of measures designed to ensure that agencies report accurate information.” *Dalton v. Capital Associated Indus., Inc.*, 257 F.3d 409, 414–15 (4th Cir. 2001). “In recognition of the critical role that CRAs play in the credit markets and the serious consequences borne by consumers because of inaccurate information disseminated in consumer credit reports prepared by CRAs, Congress placed on a CRA what can only be described as very high legal duties of care, set forth . . . in 15 U.S.C. §§ 1681e(b), 1681i(a)(1)(A), and 1681i(a)(3)(A).” *Burke v. Experian Info. Sols., Inc.*, No. 1:10-cv-1064 AJT/TRJ, 2011 WL 1085874, at \*4 (E.D. Va. Mar. 18, 2011).

15. “Section 1681e(b) sets forth the CRAs’ overall du[t]y:

(b) Accuracy of report. Whenever a consumer reporting agency prepares a consumer report it shall follow reasonable procedures to assure maximum possible accuracy of the information concerning the individual about whom the report relates.”
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<i>Burke</i> , 2011 WL 1085874, at *4.
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16. As the Fourth Circuit explained in *Johnson v. MBNA*:

The key term at issue here, “investigation,” is defined as “[a] detailed inquiry or systematic examination.” *Am. Heritage Dictionary* 920 (4th ed. 2000); *see Webster’s*

Third New Intl Dictionary 1189 (1981) (defining “investigation” as “a searching inquiry”).

357 F.3d 426, 430 (4th Cir. 2004).

17. Further, as the CRA Defendant is aware, courts have held that even though the term “investigation” is not used in § 1681e(b), it is clear that CRAs have a duty to conduct a reasonable initial investigation pursuant to § 1681e(b) and that this is “central” to the CRAs’ duties of care under that portion of the Act:

This conclusion flows from the plain meaning of both [§ 1681e(b) and § 1681i(a)]. For example, Section 1681e(b) requires (1) “reasonable procedures” that (2) “assure” (3) “maximum possible accuracy.” To “assure” means “to make sure or certain: put beyond all doubt.” *Webster’s Third New International Dictionary* 133 (1993). “Maximum” means the “greatest in quantity or highest degree attainable” and “possible” means something “falling within the bounds of what may be done, occur or be conceived . . .” *Id.* at 1396, 1771. It is difficult to imagine how “maximum possible accuracy” could be guaranteed without an adequate investigation. Likewise, Section 1681i(a)(1)(A) requires a “reinvestigation,” necessarily implying that an “investigation” was required to have been performed in the first instance.

*Burke*, 2011 WL 1085874, at \*4.

18. It has long been the law – since 1970 in fact – that:

[W]hen a CRA learns or should reasonably be aware of errors in its reports that may indicate systematic problems (by virtue of information from consumers, report users, from periodic review of its reporting system, or otherwise), it must review its procedures for assuring accuracy and take any necessary steps to avoid future

problems. Similarly, it should establish procedures to avoid reporting information from its furnishers that appears implausible or inconsistent.

Fed. Tr. Comm'n, 40 YEARS OF EXPERIENCE WITH THE FAIR CREDIT REPORTING ACT (July 2011), at 67.<sup>1</sup>

### *Underlying Facts*

19. In October 2021 Plaintiff applied for employment with Realty Capital Partners, LLC (“Realty Capital Partners”).

20. As part of the application process, Plaintiff was required to undergo a background check.

21. Plaintiff was not provided with a compliant FCRA disclosure by Realty Capital Partners.

22. Realty Capital Partners ordered Plaintiff’s background report from LoneStar IT Solutions LLC (“LoneStar”) in or around late October/early November 2021.

23. LoneStar is a CIC “reseller.” LoneStar procures consumer report information from CIC’s electronic database, which it then assembles and merges into a consumer report it brands as its own.

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<sup>1</sup> Available at <https://www.ftc.gov/sites/default/files/documents/reports/40-years-experience-fair-credit-reporting-act-ftc-staff-report-summary-interpretations/110720fcrareport.pdf>.

24. At all relevant times, CIC and LoneStar were parties to a reseller agreement defining the relationship between the two companies.

25. CIC had knowledge that LoneStar was in the business of providing its customers, the end-users, with information used for varying purposes, including employment screening.

26. CIC did not require LoneStar to identify the end-user of each consumer report it procured.

27. Neither CIC nor LoneStar required Realty Capital Partners to certify the specific purpose for which Plaintiff's consumer report would be used and certify that his report would not be used for any other purpose.

28. Through investigation, Plaintiff learned CIC had sold his consumer report to LoneStar, which in turn LoneStar sold to Realty Capital Partners. This report identified Plaintiff as a **sex offender** from Nevada with a prior felony conviction for "attempted sexual assault," and presently residing in El Paso, Texas.

29. The report also falsely attributed a March 2021 guilty plea to careless driving in Pennsylvania to Plaintiff. Excerpts from the report are pasted below:



Order Date: 11/1/2021  
 Investigation: Tenant Screening Standard  
 Prepared for: Sophia Millan Valentin  
 Realty Capital Advisors



IDENTIFYING INFORMATION	REPORT SUMMARY						
<b>Name:</b> Jose Luis Garcia	<b>Status:</b> Complete						
<b>Social Security Number:</b> [REDACTED]	<b>Complete Date:</b> 11/1/2021						
<b>Date of Birth:</b> [REDACTED]							
<b>Address:</b> [REDACTED]							
	<table border="1"> <thead> <tr> <th>SEARCH TYPE</th> <th>RESULTS</th> <th>DETAILS</th> </tr> </thead> <tbody> <tr> <td>Nationwide Criminal Results</td> <td>Review</td> <td></td> </tr> </tbody> </table>	SEARCH TYPE	RESULTS	DETAILS	Nationwide Criminal Results	Review	
SEARCH TYPE	RESULTS	DETAILS					
Nationwide Criminal Results	Review						

### Nationwide Criminal Search Results - REVIEW

Last update: 11/01/2021

OFFENDER	SUMMARY
<b>Full Name:</b> JOSE ANTONIO GARCIA	<b>Category:</b> SEX OFFENDER
<b>Date of Birth:</b> 19680000	<b>Source:</b> NV NORTH LAS VEGAS SEX OFFENDER REGISTRY
<b>Sex:</b> MALE	<b>Offenses:</b> 2
<b>Race:</b> HISPANIC	
<b>Hair Color:</b> BLACK	
<b>Eye Color:</b> BROWN	
<b>Weight:</b> 230 LBS	
<b>Height:</b> 5'08"	
<b>Comments:</b> CUSTODYSTATUS: PROBATIONID;ID NUMBERS: SEX OFFENDER REGISTRATION NUMBER:1263593; SEX OFFENDER REGISTRATION NUMBER:1263593; OFFENDER RISK LEVEL: TIER 3. VEHICLES: [MAKE:FORD; [MODEL:EXPLORER; [YEAR:2016; [COLOR:WHITE; [LICENSEPLATENUMBER:249L39; [REGISTRATIONSTATE:NV; [MAKE:FORD; [MODEL:F150; [YEAR:2005; [COLOR:WHITE; [LICENSEPLATENUMBER:811AYZ; [REGISTRATIONSTATE:NV; [MAKE:FORD; [MODEL:F150; [YEAR:2005; [COLOR:WHITE; [LICENSEPLATENUMBER:811AYZ; [REGISTRATIONSTATE:NV; [MAKE:FORD; [MODEL:EXPLORER; [YEAR:2016; [COLOR:WHITE; [LICENSEPLATENUMBER:249L39; [REGISTRATIONSTATE:NV;	

(PERSON) MAILING (M) E (NV)

OFFENSES

Offense 1:

Offense Description: ATT SEX ASSLT

Disposition Date: 07/08/2009

Offense 2:

Offense Description: ATT SEX ASSLT

Disposition Date: 07/08/2009

Full Name: JOSE ANTONIO GARCIA  
Date of Birth: 19680000  
Sex: MALE  
Race: WHITE  
Hair Color: BLACK  
Eye Color: BROWN  
Weight: 230 LBS  
Height: 5'08"

Category: SEX OFFENDER  
Source: NV SEX OFFENDER  
REGISTRY  
Offenses: 1

Comments: ETHNICITY:  
HISPANIC; OFFENDER RISK  
LEVEL: TIER 3; VEHICLES:



Full Name: JOSE I GARCIA  
Date of Birth: [REDACTED]  
Sex: MALE  
Address: [REDACTED]  
Comments: CASE CATEGORY:  
TRAFFIC, STATUTE  
TYPE: STATUTE

Jurisdiction: NORTHUMBERLAND  
Category: TRAFFIC  
Source: PA ADMINISTRATIVE  
OFFICE OF COURTS  
State: PA  
Case Number: MJ-08201-TR-0000701-  
2021  
Offenses: 2

OFFENSES

Offense 1:

Offense Description: CARELESS DRIVING

Offense Date: 03/04/2021

Offense Code: 75.3714.A

Case filing Date: 03/05/2021

Disposition: GUILTY PLEA

Disposition Date: 03/25/2021

Conviction Location: NORTHUMBERLAND COUNTY

Court: MAGISTERIAL DISTRICT COURT

Offense 2:

Offense Description: CARELESS DRIVING

Offense Date: 03/04/2021

Offense Code: 75.3714.A

Case filing Date: 03/05/2021

Disposition: DISPOSITION NOT PROVIDED BY SOURCE

Conviction Location: NORTHUMBERLAND COUNTY

Court: MAGISTERIAL DISTRICT COURT

30. All of this information was false. Plaintiff is not nor has ever been a registered sex offender. Plaintiff has never set foot in Texas, Nevada, or Pennsylvania. Plaintiff has never been convicted of any crimes or pled guilty to careless driving.

31. This inaccurate information never would have been published if CIC had followed reasonable procedures to ensure the maximum possible accuracy of the information in Plaintiff's consumer report as required by 15 U.S.C. § 1681e(b).

32. Not surprisingly, Realty Capital Partners denied Plaintiff employment based on the contents of the report obtained from LoneStar and populated with [inaccurate] information obtained from CIC.

33. The inaccurate report caused Plaintiff substantial hardship, and Plaintiff suffered financial loss, humiliation, loss of sleep, anxiety, and embarrassment directly attributable to being falsely depicted as a sex offender.

34. CRAs such as CIC deal in volume and use standardized procedures to gather information and attribute it to individuals. They therefore use processes designed to be cost-effective rather than accurate, because ensuring accuracy often costs CRAs additional money.

35. CIC failed to follow reasonable procedures to assure the maximum possible accuracy regarding the information it sold about the Plaintiff.

36. CIC failed to use the available identifying information to match the records of sex offender “Jose *Antonio* Garcia” to Plaintiff, Jose *Luis* Garcia. CIC mixed the files of Plaintiff and a different “Jose Garcia,” failing to match the full middle name and full date of birth. In addition, the criminal record that was reported within Plaintiff’s background report was regarding an individual in Nevada. Plaintiff has no connection to crimes Defendants reported. In fact, Plaintiff has no criminal record.

37. CIC’s standard practice is to use only partial matching and not full identifying information in the preparation of a consumer’s report.

38. CIC did not require a match to Plaintiff’s full identifying information such as the Plaintiff’s full first, middle, and last name; full street address, year of birth, social security number or any generational designation prior to preparing the report regarding Plaintiff.

39. CIC does not use a reasonable number of identifiers that would prevent the information belonging to one consumer from appearing in another consumer’s background report.

40. CIC’s reporting of the inaccurate information concerning Plaintiff was not accidental or a result of simple negligence but instead a result of deliberate disregard for its FCRA obligations and flawed policies and procedures. For instance, CIC failed to inform Plaintiff it was reporting negative public record information

about him that was likely to have an adverse effect on his employment opportunities at the time it reported the [inaccurate and false] information.

41. Plaintiff was denied employment without receiving notice and a copy of his report from Realty Capital Partners.

42. The information contained in the report was false and flat out wrong. Plaintiff had never been arrested, charged, or convicted for any crimes, let alone sexual assault and for those reasons, Plaintiff has never been on probation or required to register as a sex offender.

43. CIC failed to use the available identifying information to match the records of careless driver “Jose *I* Garcia” to Plaintiff, Jose *Luis* Garcia. CIC mixed the files of Plaintiff and a different “Jose Garcia,” failing to match the full middle name and full date of birth. Plaintiff has never been charged with reckless driving or even been to Pennsylvania.

44. CIC did not require LoneStar or Realty Capital Partners to identify Realty Capital Partners as the user of the consumer report information or certify the purpose for which the report would be used.

45. In fact, Plaintiff did not learn CIC had falsely reported him as sex offender until 2023, when he obtained documents identifying CIC as the “source” CRA during discovery in another action.

46. Plaintiff first attempted to obtain his full file disclosure from CIC in August 2023. However, despite Plaintiff providing CIC all information, including his driver's license, CIC created an additional obstacle, requesting Plaintiff provide his full social security number.

47. Nowhere is it contemplated by the FCRA that a consumer reporting agency receiving appropriate proof of a consumer's identity withhold or delay providing the consumer with a full file disclosure by suggesting receipt of the social security number will "expedite the request." The FCRA unambiguously requires CRAs to provide the full file disclosure at the time of the request.

48. CIC failed to disclose to Plaintiff that it had transmitted inaccurate and harmful information to LoneStar or Realty Capital Partners in November 2021.

***The Consequences of CIC's Compliance Failures Harmed Plaintiff***

49. CIC never required certification from Realty Capital Partners certifying it intended to use Plaintiff's consumer report for employment purposes and no other.

50. In fact, CIC never required Realty Capital Partners to identify itself or certify *any* purpose for which it was using Plaintiff's consumer report.

51. Realty Capital Partners was never required to certify Plaintiff had been provided a written disclosure, given his written authorization to have his consumer report procured, or that Plaintiff, if applicable, would be provided with notice and a copy of his report before an adverse employment action would be taken against him.

52. If CIC had required LoneStar to require Realty Capital Partners make the requisite certifications before obtaining Plaintiff's consumer report, Plaintiff would have received a compliant disclosure form and would have received pre-adverse action notice, including a copy of his consumer report, before being subjected to an adverse employment action.

53. CIC failed to implement reasonable procedures to ensure the maximum possible accuracy of the information in Plaintiff's consumer report as required by 15 U.S.C. § 1681e(b), the consumer report information procured by LoneStar and ultimately transmitted to Realty Capital Partners, would have accurately reflected Plaintiff's "squeaky clean" history.

54. CIC failed to maintain strict procedures to ensure the public record information it reports that is likely to have an adverse effect on a consumer's ability to obtain employment is complete and up to date. If CIC had maintained such strict procedures, it would have disseminated an accurate report and Plaintiff would not have been rejected for employment.

55. CIC never provided Plaintiff with contemporaneous notice that it was reporting negative public record information about him to LoneStar or Realty Capital Partners.

56. If Plaintiff had been provided with contemporaneous notice such information was being reported about him by CIC, Plaintiff would have known his reputation was being damaged by a report falsely depicting him as a sex offender.

57. CIC never required LoneStar to identify the end-user of Plaintiff's consumer report information at the time LoneStar purchased the information from CIC or sold it to Realty Capital Partners.

58. If CIC had required LoneStar to identify Realty Capital Partners as the end-user or Realty Capital Partners to identify itself to CIC as the end-user and LoneStar or Realty Capital Partners to certify the purpose for which Plaintiff's consumer report was being used, CIC would have been able to provide Plaintiff with a full and complete disclosure of the information in his consumer report file.

59. However, CIC did not require identification or certification of purpose by the end-user, and therefore failed to disclose to Plaintiff the recipients of his consumer report or that it had been used for employment purposes. Thus, Plaintiff was denied information about the use and dissemination of his personal, sensitive information.

60. Discovery will prove CIC sold thousands, if not hundreds of thousands, of consumer reports to resellers without requiring the reseller to identify the end-user of the consumer report.



61. Discovery will prove CIC sold thousands, if not hundreds of thousands, of end-users without requiring identification or certification of the specific purpose for which the consumer report was being used.

***Plaintiff Suffered Actual Harm***

62. As a result of Defendant' reporting of the inaccurate information about Plaintiff he has suffered damages, including, but not limited to:

- a. Stress associated with being rejected for employment; and
- b. Financial loss; and
- c. Loss of time attempting to cure the error; and
- d. Mental anguish, stress, aggravation, and other related impairments to the enjoyment of life from being labeled a sex offender.

***Plaintiff's Privacy Rights Were Violated Because CIC Illegally Trafficked His Personal and Sensitive Information***

63. To legally sell consumer reports to third parties, CRAs must implement reasonable procedures for requiring prospective users identify themselves, certify the purpose for which the information will be used, and certify it will not be used for any other purpose.

**Compliance Procedures [15 U.S.C. § 1681e]**

- (a) *Identity and purposes of credit users.* Every consumer reporting agency shall maintain reasonable procedures designed to avoid violations of section 605 [§ 1681c] and to limit the furnishing of consumer reports to the purposes listed under Section 604 [§ 1681b]

of this title. These procedures shall require the prospective users of the information identify themselves, certify the purposes for which the information is sought, and certify that the information will be used for no other purpose.

15 U.S.C § 1681e(a)

64. The FCRA makes it presumptively illegal for a CRA like CIC to furnish a report in the employment context. A consumer reporting agency may issue such a report “only if” it first obtains from the person to whom it plans to issue the report a certification that it has provided the consumer with a disclosure, obtained the consumer’s written authorization and if applicable, will provide the consumer with pre-adverse action notice.

**(b) Conditions for Furnishing and Using Consumer Reports for Employment Purposes**

(1) *Certification from user.* A consumer reporting agency may furnish a consumer report for employment purposes only if:

(A) the person who obtains such report from the agency certifies to the agency that:

(i) the person has complied with paragraph (2) with respect to the consumer report, and the person will comply with paragraph (3) with respect to the consumer report if paragraph (3) becomes applicable...

15 U.S.C. §§ 1681b(b)(1)(A)(i)-(ii).

65. These requirements must be met as to *each report* a CRA issues; blanket or prospective certifications of compliance by the users of reports are not permitted. That means that for *every report* a CIC employer-client procured from CIC, the recipient must make the requisite certifications to CIC. *Id.*

66. CIC furnished consumer reports to its reseller clients without first obtaining certification that the end-user had provided the consumer a lawful disclosure and the consumer had authorized, in writing the procurement of the consumer report, or certification the employer would provide pre-adverse action notice, when applicable. Because CIC failed to obtain this certification, Plaintiff was not provided a compliant disclosure and never received pre-adverse action notice or a copy of his consumer report prior to the adverse employment action.

67. Any consumer report published without the requisite certifications in place is not published for a permissible purpose.

68. Discovery will prove CIC published hundreds of thousands of consumer reports for which it did not obtain the requisite certifications from the user.

69. In the employment context, the FCRA imposes upon CRAs additional requirements designed to protect consumers' rights. In keeping with the FCRA's fundamental goal of transparency, the FCRA requires that CRAs that provide reports that contain public-record information likely to have an adverse effect on a consumer's ability to obtain employment, the CRA must either:

(1) at the time such public record information is reported to the user of such consumer report, notify the consumer of the fact that public record information is being reported by the consumer reporting agency, together with the name and address of the person to whom such information is being reported; or

(2) maintain strict procedures designed to ensure that whenever public record information which is likely to have an adverse effect on a consumer's ability to obtain employment is reported it is complete and up to date. For purposes of this paragraph, items of public record relating to arrests, indictments, convictions, suits, tax liens, and outstanding judgments shall be considered up to date if the current public record status of the item at the time of the report is reported.

15 U.S.C. § 1681k(a)(1), (2).

70. CIC violated 15 U.S.C. § 1681k(a)(1) when it failed to provide Plaintiff with contemporaneous notice when it furnished Plaintiff's consumer report information to LoneStar or when the information was transmitted to Realty Capital Partners. The information CIC furnished – charges and a guilty plea for sexual offenses against a minor – fit the bill of “negative information” likely to have an adverse effect on employment. However, CIC never notified Plaintiff that it was reporting negative information about him or reporting such information to anyone at all.

71. CIC also violated 15 U.S.C. § 1681k(a)(2) because it did not maintain strict procedures to ensure the public-record information it reports is complete and

up to date. Discovery will prove CIC simply relied upon a vendor to maintain such procedures, which the vendor clearly failed to maintain, and as a result, reported incomplete and outdated information about Plaintiff.

72. CIC also violated, 15 U.S.C. §§ 1681g(a)(1), (2), (3) when delayed providing Plaintiff his consumer report by implying a full social security number was required, when in fact it had sufficient information to verify Plaintiff's identity and failed to disclose all persons who had previously obtained his consumer report. The FCRA requires CRAs to clearly and accurately disclose to consumers all the information in the consumer's file, the sources of the information, and the identification of each person that procured a consumer report for employment purposes in the preceding two years.

**COUNT I – VIOLATION OF FAIR CREDIT REPORT ACT**

**15 U.S.C. § 1681e(b)  
(Plaintiff, Individually)**

73. Plaintiff restates the allegations set forth in Paragraphs 19-61 as set forth herein.

74. Defendant failed to follow reasonable procedures to assure the maximum possible accuracy of the information contained in Plaintiff's consumer report, falsely reporting Plaintiff as a having pled guilty to committing sex offenses against a minor and registering as a sex offender. Nothing could be farther from the

truth, Plaintiff has never been arrested, or even been charged with a crime in his entire life.

75. Defendant also falsely reported Plaintiff had been found guilty of traffic violations in states Plaintiff has never even visited.

76. As a result of Defendant's failures, Plaintiff suffered actual damages, including but not limited to the loss of his ability to obtain employment, loss of sleep, damage to reputation, embarrassment, humiliation, and other mental and emotional distress.

77. The Plaintiff is entitled to recover actual damages, costs, and attorneys' fees from the Defendant in an amount to be determined by the Court pursuant to 15 U.S.C. § 1681o.

78. Because Defendant's conduct was also willful, Plaintiff is entitled to uncapped punitive damages in addition to the amounts above. 15 U.S.C. § 1681n.

**COUNT II – DEFAMATION**  
**(Plaintiff, Individually)**

79. Plaintiff restates the allegations set forth in Paragraphs 19-61 set forth herein.

80. Plaintiff asserts this claim in the alternative to his FCRA claims, to the extent the Defendant may argue that the FCRA does not apply to them.

81. Within the context of the foregoing allegations, Defendant made multiple false and defamatory statements regarding the Plaintiff.

82. In each statement, the Defendant identified Plaintiff by name on a report Defendant had knowledge was intended to reflect Plaintiff's character and lifestyle. Each statement was also false, as Plaintiff never plead guilty to sex offenses against a minor.

83. Labeling Plaintiff a sex offender was defamatory because such a label tends to lower one's reputation within the community or expose one to ridicule.

84. Defendant intended to publish the statements, and the statements were false.

85. Defendant published the statements knowing they were false or acting in reckless disregard for the truth or falsity of the statements.

86. As a result of Defendant's conduct, actions and inactions, Plaintiff suffered various types of damages as set forth herein, including specifically the loss of the ability to obtain employment, mental and emotional pain, anguish, humiliation, and embarrassment of being inaccurately labeled a sex offender, and damage to his reputation.

87. This defamation was malicious, willful, deliberate, intentional and/or with reckless disregard for the interests and rights of the Plaintiff, so as to justify an

award of punitive damages against the Defendant in an amount to be determined by the Court.

### **CLASS ACTION ALLEGATIONS**

88. Plaintiff asserts a claim against CIC on behalf of a “Certification Class,” defined as:

**All employees and job applicants in the United States who were the subject of a consumer report furnished by CIC and obtained through CIC that was provided without the user’s certification of compliance with 15 U.S.C. § 1681b(b)(2) and 15 U.S.C. § 1681b(b)(3), within five years of the filing of this lawsuit through the date of final judgment in this action.**

89. Plaintiff also asserts a claim against CIC on behalf of a “1681k Class,” defined as:

**All employees and job applicants in the United States who were the subject of a consumer report furnished by CIC and obtained through CIC that included criminal history entries of the grade of misdemeanor or higher, within five years of the filing of this lawsuit through the date of final judgment in this action.**

90. Plaintiff also asserts a claim against CIC on behalf of a “1681e(a) class,” defined as:

**All consumers in the United States who were the subject of a consumer report released by CIC without CIC first requiring the user of the consumer report to identify itself and certify the purpose for which the consumer report would be used, within five years of the filing of this lawsuit through the date of final judgment in this action.**



91. Plaintiff also asserts a claim against CIC under §§ 1681g(3)(A)-(B) on behalf of a “Failure to Disclose Full Consumer Report File Class,” defined as:

**All consumers in the United States who were the subject of a consumer report (or whose consumer report information) furnished by CIC but to whom CIC failed to disclose a the consumer’s request, the identification of each person that procured their consumer report, the sources of the information contained in their consumer report, or the identification of each person that procured their consumer report, including the trade name under which the person conducts business, within five years of the filing of this lawsuit through the date of final judgment in this action.**

92. This action has been brought and may be maintained as a class action because: (1) the classes are so numerous that joinder of all members is impracticable; (2) there are questions of fact or law common to the classes, which common questions predominate over any questions affecting only individual members; (3) Plaintiff and his Counsel will fairly and adequately protect the interest of the classes; and (4) the class action is an appropriate method for the fair and efficient adjudication of the controversy.

93. **Numerosity.** The members of the putative classes are so numerous that the joinder of all class members is impracticable. CIC regularly compiles consumers’ personal, private, and sensitive information into consumer reports for sale to employers. Plaintiff is informed and believes that during the relevant time period,

tens of thousands of employees and prospective employees, if not hundreds of thousands, satisfy the definition of the putative classes. Based on the number of putative class members and their geographic dispersal, joinder is impracticable. The names and addresses of the class members are identifiable through CIC's records and putative class members may be notified of this action by mailed notice.

94. **Predominance of Common Questions of Law or Fact.** Class treatment is also appropriate because questions of law or fact common to the putative Classes predominate over any questions affecting only individual members of the putative Classes, and also because a class action is superior to other available methods for the fair and efficient adjudication of this litigation. CIC's conduct stems from common and uniform policies and practices, resulting in common violations of the FCRA. Such common questions include, among others:

- a. whether Defendant furnished consumer reports for employment purposes without the user's certification of compliance with 15 U.S.C. § 1681b(b)(2), before furnishing such reports;
- b. whether Defendant furnished consumer reports for employment purposes without the user's certification of compliance with 15 U.S.C. § 1681b(b)(3), if applicable;
- c. whether Defendant's violations of the FCRA were willful;
- d. the proper measure of statutory damages; and

e. the proper form of relief.

95. Members of the putative Class do not have an interest in pursuing separate actions against CIC, as the amount of each class member's individual claim for damages is small in comparison to the expense and burden of individual prosecution. Class certification will also obviate the need for unduly duplicative litigation that might result in inconsistent judgments concerning Defendant. Moreover, management of this action as a class action will not present any foreseeable difficulties. In the interests of justice and judicial efficiency, it would be desirable to concentrate the litigation of all putative class members' claims in a single action, brought in a single forum.

96. This case is further maintainable as a class action because prosecution of actions by or against individual members of the putative class would result in inconsistent or varying adjudications and create the risk of incompatible standards of conduct for CIC. Further, adjudication of each individual class member's claim as separate action would potentially be dispositive of the interest of other individuals not a party to such action, thereby impeding their ability to protect their interests.

97. This case is also maintainable as a class action because CIC acted or refused to act on grounds that apply generally to the putative Class.

98. Class certification is also appropriate because questions of law and fact common to the putative class predominate over any questions affecting only

individual members of the putative class, and also because a class action is superior to other available methods for the fair and efficient adjudication of this litigation. CIC's conduct stems from common and uniform policies and practices, resulting in common violations of the FCRA. Members of the putative class do not have an interest in pursuing separate actions against CIC, as the amount of each class member's individual claim for damages is small in comparison to the expense and burden of individual prosecution. Class certification will also obviate the need for unduly duplicative litigation that might result in inconsistent judgments concerning Defendant. Moreover, management of this action as a class action will not present any foreseeable difficulties. In the interests of justice and judicial efficiency, it would be desirable to concentrate the litigation of all putative class members' claims in a single action, brought in a single forum.

99. **Adequacy of Representation.** Plaintiff will fairly and adequately protect the interests of the putative Classes and has retained Counsel experienced in complex class action litigation, including nationwide class actions pursuing claims under the FCRA.

**COUNT III -FCRA Violation**  
**Failure to Obtain Certification Prior to Furnishing a**

**Consumer Report for Employment Purposes in Violation of 15 U.S.C. §  
1681b(b)(1)(A)  
(Individually and on behalf of the “Certification Class”)**

100. Plaintiff restates the allegations set forth in Paragraphs 19-61 set forth herein.

101. CIC willfully violated 15 U.S.C. § 1681b(b)(1)(A) because it provided consumer reports about Plaintiff and class members, which were used for employment purposes, without the user’s certification of compliance with the disclosure, authorization and notification requirements set forth in 15 U.S.C. §§ 1681b(b)(2) and 1681b(b)(3).

102. CIC invaded Plaintiff’s privacy by compiling Plaintiff’s personal, private, and sensitive information into a consumer report for employment purposes and furnishing said consumer report without a permissible purpose.

103. CIC caused Plaintiff injury because the report CIC furnished was used, in whole or in part, as the basis for an adverse employment action.

104. CIC caused Plaintiff injury because CIC permitted the user of its consumer reports to circumvent the disclosure, authorization, and notification requirements of the FCRA when using consumer reports for employment purposes by failing to require LoneStar or Realty Capital Partners to certify compliance therewith.

105. The forgoing violations were willful. At the time CIC violated 15

U.S.C. § 1681b(b)(1)(A), CIC knew it was required to obtain certification of compliance with 15 U.S.C. § 1681b(b)(2) from users of consumer reports for employment purposes and certification with the notification requirements of 15 U.S.C. § 1681b(b)(3), if applicable. CIC's willful conduct is also reflected by, among other things, the following facts:

- a. CIC knew of potential FCRA liability;
- b. CIC is a company with access to legal advice through its own;
- c. general counsel's office and outside employment counsel, and there will be no contemporaneous evidence that it determined that its conduct was lawful;
- d. The FCRA's certification requirement is clearly spelled out in the plain language of the statute;
- e. CIC knew or had reason to know that its conduct was inconsistent with published FTC guidance interpreting the FCRA and the plain language of the statute; and
- f. CIC voluntarily ran a risk of violating the law substantially greater than the risk associated with a reading that was merely careless.

106. Plaintiff and the Certification Class are entitled to statutory damages of between \$100.00 and \$1,000.00 for each and every one of these violations under 15 U.S.C. § 1681n(a)(1)(A), in addition to punitive damages under 15 U.S.C. §

1681n(a)(2).

107. Plaintiff and the Certification Class are further entitled to recover their costs and attorneys' fees, in accordance with 15 U.S.C. § 1681n(a)(3).

**COUNT IV – FCRA VIOLATION**

**Failure to Provide Contemporaneous Notice in Violation of 15 U.S.C. § 1681k.  
(Plaintiff, individually and on behalf of the “§ 1681k Class”)**

108. Plaintiff restates the allegations set forth in Paragraphs 19-61 set forth herein.

109. CIC willfully violated 15 U.S.C. § 1681k(a)(1) because it provided consumer reports about Plaintiff and Class Members, which were used for employment purposes and contained negative public-record information likely to have an adverse effect on consumers' ability to obtain employment, without providing the subjects of the report contemporaneous notice that it was furnishing the report to the users.

110. CIC cannot rely on the “strict procedures” requirement of Section 1681k(a)(2) because it takes no steps to ensure the public-record information it reports is complete and up to date.

111. Plaintiff suffered an invasion of privacy by CIC's failure to provide them with statutorily required notice before releasing their personal, sensitive information.

112. Plaintiff suffered informational injury by CIC's failure to provide them

with statutorily required information when such information was due.

113. CIC further caused Plaintiff injury because it deprived Plaintiff of the knowledge that it was reporting information about them that may affect their job prospects, eliminating those individuals' ability to correct inaccuracies or preemptively discuss any negative information with potential employers.

114. CIC unjustly enriched itself by selling Plaintiff's personal information of without providing him with the required notice and information.

115. The forgoing violations were willful. At the time CIC violated 15 U.S.C. § 1681k(a)(1), CIC knew it was required to provide contemporaneous notice of its furnishing of reports because it has no process in place to meet the strict procedures requirement of Section 1681k(a)(2) when it furnishes reports for employment purposes that contain negative public-record information. CIC's willful conduct is also reflected by, among other things, the following facts:

- a. CIC knew of potential FCRA liability;
- b. CIC is a company with access to legal advice through its own general counsel's office and outside employment counsel, and there will be no contemporaneous evidence that it determined that its conduct was lawful;
- c. The FCRA's at-the-time notice requirement is clearly spelled out in the plain language of the statute;



d. CIC knew or had reason to know that its conduct was inconsistent with published FTC guidance interpreting the FCRA and the plain language of the statute; and

e. CIC voluntarily ran a risk of violating the law substantially greater than the risk associated with a reading that was merely careless.

116. Plaintiff and the 1681k Class are entitled to statutory damages of between \$100.00 and \$1,000.00 for each and every one of these violations under 15 U.S.C. § 1681n(a)(1)(A), in addition to punitive damages under 15 U.S.C. § 1681n(a)(2).

117. Plaintiff and the 1681k Class are further entitled to recover their costs and attorneys' fees, in accordance with 15 U.S.C. § 1681n(a)(3).

WHEREFORE, Plaintiff, on behalf of himself and the putative Certification Class pray for relief as follows, in the form of an order:

- a. determining that this action may proceed as a class action;
- b. designating Plaintiff as class representative and designating Plaintiff's Counsel as counsel for the putative classes;
- c. requiring notice to the putative class at CIC's expense;
- d. finding that CIC committed multiple, separate violations of the FCRA;

- e. finding that CIC acted willfully in deliberate or reckless disregard of Plaintiff's rights and its obligations under the FCRA;
- f. awarding statutory damages as provided by the FCRA, including punitive damages, to members of the putative class; and
- g. awarding reasonable attorneys' fees and costs as provided by the FCRA.

**COUNT V**

**Failure to Obtain Identify of End User Before Furnishing a  
Consumer Report for Employment Purposes in Violation of 15 U.S.C. §  
1681e(a)**

118. Plaintiff restates the allegations set forth in Paragraphs 19-61 set forth herein.

119. CIC willfully violated 15 U.S.C. § 1681e(a) because it provided consumer reports about Plaintiff, which were used for employment purposes, without first obtaining the identity of the end-user.

120. CIC willfully violated 15 U.S.C. § 1681e(a) because it provided consumer reports about Plaintiff to end-users without first requiring the end-user to certify the specific permissible purpose for which the consumer report was being used.

121. CIC invaded Plaintiff's privacy and intruded upon his seclusion by compiling Plaintiff's personal, private, and sensitive information into a consumer report

for employment purposes and disseminating said consumer report without first obtaining the identity of the end-user and specific purpose of the report.

122. CIC invaded Plaintiff's privacy by compiling Plaintiff's personal, private, and sensitive information into a consumer report for employment purposes and furnishing said consumer reports to a user from whom it did not first obtain certification such report was being used for a permissible purpose.

123. CIC caused Plaintiff injury by depriving of information to which he was entitled – the identity of the persons to whom it had furnished his consumer report. By failing to first obtain the identity of the end user, CIC violated the FCRA's provision intended to ensure consumers have the ability to know who uses and possesses their personal and sensitive information.

124. CIC caused Plaintiff injury by releasing his consumer report information without first knowing the identity of the user or the purpose of its use. By failing to first obtain the identity of the end user, CIC violated the FCRA's provision intended to ensure consumers have the ability to know who uses and possesses their personal and sensitive information and to ensure such information is used for permissible purposes.

125. CIC caused Plaintiff injury because CIC permitted the user of their consumer reports to circumvent the disclosure, authorization, and notification

requirements of the FCRA when using consumer reports for employment purposes by failing to require LoneStar or Realty Capital Partners to certify compliance therewith.

126. The forgoing violations were willful. At the time CIC violated 15 U.S.C. § 1681e(a), CIC knew it was first required to obtain the identity of the user and certification from such user that the consumer report would be used for permissible purposes before releasing the consumer report:

- a. CIC knew of potential FCRA liability;
- b. CIC is a consumer reporting agency with access to legal advice through their own general counsel's office and outside employment counsel, and there is not contemporaneous evidence that it determined that its conduct was lawful;
- c. The FCRA's certification requirement is clearly spelled out in the plain language of the statute;
- d. CIC knew or had reason to know that their conduct was inconsistent with published FTC guidance interpreting the FCRA and the plain language of the statute; and
- e. CIC voluntarily ran a risk of violating the law substantially greater than the risk associated with a reading that was merely careless.

127. Plaintiff and the “§ 1681e(a) Class” are further entitled to recover their costs and attorneys’ fees, in accordance with 15 U.S.C. § 1681n(a)(3).

**Count VI**

**Failure to Provide Consumer with Full Contents of Their Full Consumer Report File in Violation of 15 U.S.C. §§ 1681g(a)(1)-(2)**

128. Plaintiff restates the allegations set forth in Paragraphs 19-61 set forth herein.

129. CIC willfully violated 15 U.S.C. §§ 1681g(a)(1)-(2) because it delayed providing Plaintiff his full consumer report file by implying a full social security number was required when in fact the FCRA contains no such requirement.

130. CIC willfully violated 15 U.S.C. §§ 1681g(a)(1)-(2) because it failed to provide Plaintiff with his full consumer report file, depriving him of information by failing to disclose to him a copy of the consumer report it had released to third persons.

131. CIC willfully violated 15 U.S.C. §§ 1681g(a)(1)-(2) because it failed to provide Plaintiff with his full consumer report file, depriving him of information by failing to disclose to him the persons to whom it had released his consumer report, regardless of purpose.

132. CIC caused Plaintiff injury by failing to disclose to him the information it had released about him, thereby invading his privacy and right to seclusion.

133. CIC caused Plaintiff injury by delaying his receipt of his full file disclosure, which proved to be inaccurate and incomplete.

134. The forgoing violations were willful. At the time CIC violated 15 U.S.C. § 15 U.S.C. §§ 1681g(a)(1)-(2), CIC knew it was required to provide Plaintiff with full breadth of information in his consumer report file, the source of the information and persons to whom the information had been provided:

- f. CIC knew of potential FCRA liability;
- g. CIC is a consumer reporting agency with access to legal advice through their own general counsel's office and outside employment counsel, and there is not contemporaneous evidence that it determined that its conduct was lawful;
- h. The FCRA's certification requirement is clearly spelled out in the plain language of the statute;
- i. CIC knew or had reason to know that their conduct was inconsistent with published FTC guidance interpreting the FCRA and the plain language of the statute; and
- j. CIC voluntarily ran a risk of violating the law substantially greater than the risk associated with a reading that was merely careless.

135. Plaintiff and the “Failure to Disclose Full Consumer Report File Class” are further entitled to recover their costs and attorneys’ fees, in accordance with 15 U.S.C. § 1681n(a)(3)

**JURY DEMAND**

Plaintiff and the putative class demand a trial by jury.

DATED this 27th day of December 2023.

Respectfully submitted,

**/s/ Marc R. Edelman**

**MARC R. EDELMAN**

Fla. Bar No. 0096342

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# ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Consumer Reporting Agency CIC Falsely Reported Man as Sex Offender With Criminal History, Class Action Says](#)

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