

1 Susan Mary Rotkis, AZBAR 032866  
2 Price Law Group, APC  
2290 East Speedway Blvd.  
3 Tucson, Arizona 85719  
4 T: (818) 600-5506  
F: (818) 600-5406  
5 E: susan@pricelawgroup.com

6 DHF Law, APC  
7 Devin H. Fok, Esq. (SBN 256599)\*  
8 devin@devinfoklaw.com  
2304 Huntington Drive, Suite 210  
9 San Marino, CA 91108  
10 Ph: (888) 651-6411  
Fax: (818) 484-2023  
11 \*pending pro hac vice admission

12 *Attorneys for Plaintiff and the Proposed Class*

13  
14 **IN THE UNITED STATES DISTRICT COURT**  
15 **FOR THE DISTRICT OF ARIZONA**  
16 **TUCSON DIVISION**

17 Tracie Ann Grijalva, *individually and*  
18 *on behalf of persons similarly situated,*

19 Plaintiff,

20 v.

21 ADP Screening and Selection  
22 Services, Inc., a Colorado  
23 Corporation; and  
24 Does 1-10,

25 Defendants.

No.

**CLASS ACTION COMPLAINT  
FOR VIOLATIONS OF THE  
FAIR CREDIT REPORTING  
ACT, 15 U.S.C §1681 ET SEQ.**

**JURY TRIAL DEMANDED**

26 Plaintiff Tracie Ann Grijalva files this Original Class Action Complaint on  
27 behalf of herself and persons similarly situated and in support of her claims alleges  
28

1 as follows:

2  
3 **I. INTRODUCTION**

4 1. Recognizing that accurate background-check screening reports are  
5 essential to millions of Americans applying for jobs, credit, and housing, Congress  
6 has chosen to regulate the accuracy of and procedures for preparing these reports  
7 through the Fair Credit Reporting Act (“FCRA”).  
8

9 2. Defendant ADP Screening and Selection Services, Inc. (“ADP”), a  
10 consumer reporting agency, has systematically and willfully violated FCRA by  
11 making consumer reports that contain adverse information which antedates the  
12 report by more than seven years. 15 U.S.C. § 1681c(a)(5). By disclosing adverse  
13 information that predates the report by more than seven years, ADP obstructs  
14 subjects from obtaining employment.  
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17 3. Based on ADP’s systematic and willful FCRA violation, Plaintiff  
18 asserts FCRA claims on her own behalf and on behalf of a Class of similarly situated  
19 people who were the subjects of reports containing adverse information that antedate  
20 the report by more than seven years. Plaintiff seeks actual damages, statutory  
21 damages, injunctive relief to improve the accuracy of ADP’s reporting practices,  
22 punitive damages, attorneys’ fees, costs and expenses of suit, and all other  
23 appropriate relief.  
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**II. PARTIES**

4. Plaintiff Tracie Ann Grijalva is and at all relevant times has been a resident of Maricopa County, Arizona.

5. Defendant ADP Screening and Selection Services, Inc. (ADP) is a Colorado corporation whose headquarters are in the State of New Jersey.

6. ADP is registered and in good standing with the Arizona Corporation Commission.

7. Defendant ADP's parent company, ADP, Inc., has a brick and mortar office in Tucson, Arizona, where it regularly provides ADP background screening services in Arizona as part of ADP, Inc.'s services.

**III. JURISDICTION AND VENUE**

8. This Court has federal question jurisdiction because this action arises out of violations of federal law. 28 U.S.C. § 1331, 15 U.S.C. § 1681p (FCRA) (permitting actions to enforce liability in an appropriate United States District Court).

9. Venue in the District of Arizona is proper pursuant to 28 U.S.C. § 1391 because Defendants regularly transact business within this District, is otherwise subject to personal jurisdiction in this District, and a substantial part of the events giving rise to the claims occurred in this District and Division.

**A. Factual Allegations**

1           10. On or about April 30, 2020, The Results Company (“Company”)  
2 ordered a background-check report regarding Ms. Grijalva from ADP.  
3

4           11. Ms. Grijalva had been employed full-time with Company at an hourly  
5 rate of \$14.00 with a 401(k) and full dental, vision and health benefits.  
6

7           12. After assembling and evaluating information regarding Ms. Grijalva,  
8 ADP reported to Company a “hit” from its governmental registries search that Ms.  
9 Grijalva’s nurses/nurse’s aide license was revoked or suspended on July 20, 2011,  
10 pursuant to section 1128(b)(4) of the Social Security Act. As a result, Company  
11 terminated Ms. Grijalva.  
12

13           13. Revocation or suspension of a license clearly constitutes an adverse  
14 item of information and the disposition date antedates the report by more than seven  
15 years in violation of the FCRA. ADP could have had systems in place to prevent this  
16 item from being disclosed to Company.  
17

18           14. In addition, ADP could have trained its employees to review reports for  
19 such time-determinant items of information.  
20

21           15. Company paid ADP a fee for the report.  
22

23           16. ADP used means and facilities of interstate commerce for the purpose  
24 of preparing and furnishing this consumer report, including but not limited to the  
25 internet, interstate telephone services, and interstate mail delivery services.  
26

27           17. As a result of ADP’s furnishing this inaccurate and misleading report  
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1 to Company, Ms. Grijalva suffered injuries, including: (1) injuries to her statutorily  
2 protected reputational rights; (2) loss of her employment at Company; and (3)  
3 emotional distress.  
4

#### 5 IV. CLASS ALLEGATIONS

##### 6 A. FCRA regulates the reporting of adverse information older than 7 seven (7) years to protect consumers.

8 18. Background-check screening accuracy is crucial to the U.S. labor  
9 market. According to a 2018 survey, 95% of employers conduct one or more types  
10 of background screening; and 94% of those include some form of criminal history  
11 check. Consumer Financial Protection Bureau, *Market Snapshot: Background*  
12 *Screening Reports. Criminal Background Checks in Employment* 4 (October 2019).<sup>1</sup>  
13 An inaccurate or misleading criminal history report can derail job offers, leaving  
14 job-seekers unemployed for significant periods of time. *See Williams v. First*  
15 *Advantage LNS Screening Solutions, Inc.*, 238 F. Supp. 3d 1333, 1341–42 (N.D. Fla.  
16 2017), *aff'd in part* 947 F.3d 735 (inaccurate First Advantage background check  
17 reports caused plaintiff to lose two job offers, leaving him unemployed for several  
18 months).  
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22 19. Recognizing that the accuracy of background-check reports can have a  
23 significant impact on people's lives, Congress has chosen to regulate the  
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27 <sup>1</sup> Available at [https://files.consumerfinance.gov/f/documents/201909\\_cfpb\\_market-snapshot-background-screening\\_report.pdf](https://files.consumerfinance.gov/f/documents/201909_cfpb_market-snapshot-background-screening_report.pdf).  
28

1 procurement, use, and content of those reports through the FCRA, 15 U.S.C. §§  
2 1681a, *et seq.* The FCRA is intended “to protect consumers from the transmission  
3  
4 of inaccurate information about them, and to establish credit reporting practices that  
5 utilize accurate, relevant, and current information in a confidential and responsible  
6 manner.” *Cortez v. Trans Union LLC*, 617 F.3d 688, 706 (3d Cir. 2010).

7  
8 20. Defendant ADP is a consumer reporting agency (“CRA”) subject to  
9 FCRA because it is a “person which, for monetary fees ... regularly engages in  
10 whole or in part in the practice of assembling or evaluating consumer credit  
11 information or other information on consumers for the purpose of furnishing  
12 consumer reports to third parties, and which uses any means or facility of interstate  
13 commerce for the purpose of preparing or furnishing consumer reports.” 15 U.S.C.  
14 § 1681a(f).

15  
16  
17 21. ADP is a subsidiary of ADP, Inc. and one of the largest background-  
18 check screening companies in the United States. As of 2021, ADP, Inc.’s total  
19 revenue totaled \$15.005 billion, *US SEC Annual Report 3*, 47 (June 30, 2021)<sup>2</sup>.  
20 ADP, Inc. operates in 140 locations and has over 920,000 clients worldwide<sup>3</sup>.

21  
22 22. A “consumer” is defined in FCRA as “an individual.” 15 U.S.C. §  
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26 <sup>2</sup> Available at [https://d18rn0p25nwr6d.cloudfront.net/CIK-0000008670/59021d30-  
bd32-4bc9-b592-52f941cf3d1d.pdf](https://d18rn0p25nwr6d.cloudfront.net/CIK-0000008670/59021d30-bd32-4bc9-b592-52f941cf3d1d.pdf)

27 <sup>3</sup> See [https://d18rn0p25nwr6d.cloudfront.net/CIK-0000008670/59021d30-  
bd32-4bc9-b592-52f941cf3d1d.pdf](https://d18rn0p25nwr6d.cloudfront.net/CIK-0000008670/59021d30-bd32-4bc9-b592-52f941cf3d1d.pdf)

1 1681a(c). A “consumer report” is “any written, oral, or other communication of any  
2 information by a consumer reporting agency bearing on a consumer’s credit  
3 worthiness, credit standing, credit capacity, character, general reputation, personal  
4 characteristics, or mode of living which is used or expected to be used or collected  
5 in whole or in part for the purpose of serving as a factor in establishing the  
6 consumer’s eligibility for ... employment.” 15 U.S.C. § 1681a(d).  
7  
8

9       23. ADP prepares background check reports by assembling and evaluating  
10 information regarding individuals’ criminal histories and sells these reports to,  
11 among others, prospective employers. ADP uses means and facilities of interstate  
12 commerce to prepare and furnish these reports, including but not limited to the  
13 internet, interstate telephone services, and interstate mail delivery services. ADP’s  
14 reports are therefore governed by FCRA.  
15  
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17       24. In enacting FCRA, Congress determined that consumers’ rights to have  
18 accurate information reported about their backgrounds and criminal histories—  
19 which has long been protected by the common-law torts of libel, defamation, and  
20 slander—merits additional, stricter statutory protections in the background-check  
21 reporting context. A person’s reputation as reflected in his or her background-check  
22 report is vitally important to securing and maintaining employment and housing, as  
23 well as generally maintaining good reputation in the community. Inaccurate,  
24 adverse, or derogatory information on a background-check report invades  
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1 consumers' statutory reputational rights and puts them at risk of being denied  
2 employment, housing, credit, or insurance.

3  
4 25. To achieve its goals, Congress has required that CRAs not make a  
5 background-check report containing "any [ ] adverse item of information, other than  
6 records of convictions of crimes which antedates the report by more than seven  
7 years." 15 U.S.C. § 1681c(a)(5).

8  
9 26. In Ms. Grijalva's case, however, ADP reported the results of its  
10 database searches without excluding adverse information which antedates the report  
11 by more than seven years.

12  
13 27. Similarly in reports it prepared and furnished regarding Class members,  
14 ADP also failed to exclude adverse information that antedates the report by more  
15 than seven years.

16  
17 28. ADP's unlawful reporting of public records has injured Ms. Grijalva  
18 and the Class members by depriving them of their statutorily protected reputational  
19 rights, exposed them to the risk that they might be denied a job, housing, credit, or  
20 insurance, and caused injuries, including loss of income, loss of time and expenses  
21 incurred to correct inaccurate reporting, and/or emotional distress.

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23  
24 **B. ADP willfully violated FCRA.**

25 29. As the plain language of the statute makes clear, and court decisions as  
26 well as federal government agency statements and enforcement actions have  
27

1 confirmed, including adverse information antedating the report by more than seven  
2 years constitutes an FCRA violation.

3  
4 30. In *Haley v. TalentWise, Inc.*, 9 F. Supp. 3d 1188 (W.D. Wash. 2014),  
5 the Western District of Washington held that “consumer reports included dismissed  
6 charges antedating the report by more than seven years” stated a claim for willful  
7 violation of FCRA, 15 U.S.C. § 1681c(a)(5).  
8

9 31. Similarly, the Northern District of Illinois has held that allegations that  
10 the defendant disclosed dismissed charges that antedated the report by more than  
11 seven years, “are sufficient to allege a knowing or reckless violation of the FCRA,  
12 which are required for a finding of willfulness.” See *Avila v. NOW Health Grp., Inc.*,  
13 No. 14 C 1551, 2014 WL 3537825, at \*3 (N.D. Ill. July 17, 2014).  
14  
15

16 32. Accordingly, ADP had notice of what is already clear from an objective  
17 reading of the statutory text: adverse information antedating the report by more than  
18 seven years is prohibited from being disclosed. ADP’s FCRA violations were  
19 therefore willful, subjecting ADP to liability for statutory and punitive damages  
20 under 15 U.S.C. § 1681n.  
21

22 **C. The Class**

23  
24 33. Plaintiff brings this action on her own behalf and as a class action  
25 pursuant to Federal Rule of Civil Procedure 23(b)(3) for the following Class:

26 All natural persons residing in the United States (including all  
27 territories and other political subdivisions of the United States) who  
28

1 were the subjects of background check reports which (1) ADP  
2 furnished to third parties from five years before the filing of this  
3 Complaint to the final resolution of this action and which (2) included  
4 adverse item of information, other than records of convictions of  
crimes, which antedates the report by more than seven years.

5 Excluded from the Class are any employees, officers, or directors of  
6 First Advantage, any attorneys appearing in this case, and any judges  
7 assigned to hear this case as well as their immediate family and staff.

8 34. **Ascertainability.** The Class is ascertainable in that it comprises  
9 individuals who can be identified by reference to purely objective criteria, including  
10 information from consumer report files in ADP's business records. Notice may be  
11 mailed to Class members using the information in ADP's files, as updated through  
12 the National Change of Address Registry and other commercially available means.  
13

14 35. **Numerosity.** The Class is so numerous that joinder of all members is  
15 impracticable. Although the precise number of Class members is not currently  
16 known, ADP's large size and the systematic operations shows that the Class likely  
17 consists of at least thousands of persons and, therefore, it would be impracticable to  
18 bring all these persons before the Court as individual plaintiffs.  
19

20 36. **Typicality.** Plaintiff Tracie Grijalva's claims are typical of the claims  
21 of each Class member she seeks to represent because these claims all arise from the  
22 same operative facts and are based on the same legal theories.  
23

24 37. **Adequacy.** Plaintiff will fairly and adequately protect the Class's  
25 interests. Plaintiff is committed to vigorously litigating this matter, and her interests  
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1 are aligned with those of the Class. Plaintiff has retained counsel experienced in  
2 handling FCRA and consumer class actions.  
3

4       **38. Commonality and Predominance.** Common issues of law and fact  
5 exist regarding Plaintiff's and the Class members' claims and predominate over any  
6 non-common issues. The common issues include:  
7

- 8       (a) whether ADP furnished consumer reports regarding Plaintiff and the  
9       Class members to third parties containing adverse item of information,  
10       other than records of convictions of crimes, which antedates the report  
11       by more than seven years;
- 12       (b) whether ADP violated 15 U.S.C. section 1681c(a)(5) by issuing reports  
13       containing adverse item of information, other than records of  
14       convictions of crimes, which antedates the report by more than seven  
15       years;
- 16       (c) whether ADP's failure to comply with FCRA was willful;
- 17       (d) whether Plaintiff and the Class members are entitled to statutory  
18       damages and/or punitive damages.

19       **39. Superiority.** A class action is a superior method for the fair and  
20 efficient adjudication of this controversy. The interests of Class members in  
21 individually controlling the prosecution of separate claims against ADP is small, as  
22 actual damages would be difficult and expensive to prove and the maximum  
23 statutory damages recoverable by any one Class member is limited to \$1,000 under  
24 FCRA. Management of the Class's claims in a single proceeding will avoid  
25 inconsistent judgments and result in a more efficient use of judicial resources than  
26 resolving these same issues in many individual cases.  
27  
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1 suspended would be viewed negatively by users of ADP's reports.

2 46. ADP willfully violated FCRA because its reporting of an outdated  
3 record was prohibited in light of FCRA's plain statutory language, court decisions,  
4 and actions and statements by government enforcement agencies putting ADP on  
5 notice that reporting of outdated adverse information violates FCRA.  
6

7 47. As a result of ADP's misleading reporting, Plaintiff and the Class  
8 members suffered injuries to their statutorily protected reputational rights, economic  
9 injuries, and/or emotional distress, as well as being exposed to the increased risk that  
10 they might be denied a job, housing, credit, or insurance, based on the obsolete  
11 information contained in the ADP employment purposed consumer reports.  
12

13 48. In redress for ADP's FCRA violations, Plaintiff and the Class members  
14 are entitled to actual damages, statutory damages, punitive damages, declaratory and  
15 injunctive relief, as well as attorneys' fees and costs.  
16

## 17 **VI. PRAYER FOR RELIEF**

18  
19 Wherefore, Plaintiff, individually and on behalf of others similarly situated,  
20 prays for relief as follows:  
21

- 22 1. An order certifying the Class pursuant to Federal Rule of Civil  
23 Procedure 23(b)(3) and/or 23(b)(2), appointing Plaintiff as Class  
24 Representative, and appointing her Counsel as Class Counsel;  
25
- 26 2. A declaration that ADP's practices violate the FCRA, 15 U.S.C. § 1681  
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UNITED STATES DISTRICT COURT  
DISTRICT OF ARIZONA

**Civil Cover Sheet**

This automated JS-44 conforms generally to the manual JS-44 approved by the Judicial Conference of the United States in September 1974. The data is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. The information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is authorized for use only in the District of Arizona.

**The completed cover sheet must be printed directly to PDF and filed as an attachment to the Complaint or Notice of Removal.**

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Plaintiff(s): **Tracie Ann Grijalva** Defendant(s): **ADP Screening and Selection Services, Inc., a Colorado Corporation ; Does 1-10**

County of Residence: Maricopa

County of Residence: Pima

County Where Claim For Relief Arose: Pima

Plaintiff's Atty(s):

Defendant's Atty(s):

**Susan Rotkis (Tracie Ann Grijalva )  
Price Law Group, APC  
2290 East Speedway Blvd  
Tucson, Arizona 85719  
818-600-5506**

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II. Basis of Jurisdiction: **3. Federal Question (U.S. not a party)**

III. Citizenship of Principal Parties (Diversity Cases Only)

Plaintiff:- N/A  
Defendant:- N/A

IV. Origin : **1. Original Proceeding**

V. Nature of Suit: **480 Consumer Credit**

VI. Cause of Action: **15 U.S.C §1681 ET SEQ., Plaintiff alleges violations by Defendants under the Fair Credit Reporting Act**

VII. Requested in Complaint

Class Action: **Yes**  
Dollar Demand:  
Jury Demand: **Yes**

VIII. This case is not related to another case.

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**Signature:** /s/ Susan Rotkis

**Date:** 04/28/2022

**If any of this information is incorrect, please go back to the Civil Cover Sheet Input form using the *Back* button in your browser and change it. Once correct, save this form as a PDF and include it as an attachment to your case opening documents.**

Revised: 01/2014

# ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [ADP Includes Outdated Adverse Information in Consumer Background Checks, Class Action Claims](#)

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