

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION

TBITHA PARKER, individually and on  
behalf of all others similarly situated,

Plaintiff,

CASE NO.: \_\_\_\_\_

v.

IRBSEARCH, LLC,

Defendant.

\_\_\_\_\_/

**DEFENDANT'S UNOPPOSED NOTICE OF AND PETITION FOR  
REMOVAL**

Defendant, IRBSearch, LLC ("Defendant") by and through its undersigned counsel, and pursuant to 28 U.S.C. §§ 1331, 1441, 1446 and applicable Federal Rules of Civil Procedure and Local Rule of the United States District Court for the Middle District of Florida, hereby files this Notice of and Petition for Removal ("Petition for Removal"). Defendant hereby requests that this Court remove this action, which is styled: Tabitha Parker, individually and on behalf of all others similarly situated, vs. IRBSearch, LLC, and designated Case No.: 22-CA-004980 Division: E, from the Circuit Court of the Thirteenth Judicial Circuit in and for Hillsborough County, Florida, Civil Division, in which the action is now pending, to the United

CASE NO.:

States District Court for the District of Florida, Division (“Circuit Court Case”).

The removal of this action is based on the following:

**BACKGROUND**

1. On or about June 14, 2022, the Complaint relative to the Circuit Court Case was filed in the Thirteenth Judicial Circuit in and for Hillsborough County, Florida. A true and correct copy of the Complaint is being filed with this Court along with this Petition for Removal.

2. Plaintiff’s Complaint alleges that Defendant, who performs background checks for employers relative to prospective new hires, violated the Florida Civil Rights Act (“FCRA”) and various subsections of 15 U.S.C. § 1681. Plaintiff raises these violations on behalf of herself and as a prospective class member.

3. Specifically, Plaintiff’s Complaint brings six counts—Counts I through IV raise reporting violations under various sections of 15 U.S.C. § 1681 and Counts V and VI raise defamation claims under Florida law.

4. Plaintiff’s claims under 15 U.S.C. § 1681 are within the original jurisdiction of the United States District Court, pursuant to 28 U.S.C. § 1331.

5. Pursuant to 28 U.S.C. § 1367, “the district court shall have supplemental jurisdiction over all other claims that are so related to claims in the

CASE NO.:

action within such original jurisdiction that they form part of the same case or controversy under Article III of the United States Constitution.”

6. There is no dispute that the Florida claims arise out of the same transaction and occurrence (the furnishing of background information specific to the Plaintiff or each respective putative class member) as the conduct giving rise to the Federal claims.

7. Therefore, the Court has supplemental jurisdiction over Plaintiff’s claims arising under Florida Law. 28 U.S.C. § 1367.

8. Defense Counsel discussed removal with Plaintiff’s Counsel, and Plaintiff’s counsel had no objection to removing this action to Federal Court.

### VENUE

9. The United States District Court for the Middle District of Florida, Tampa Division, includes the judicial circuit in which Plaintiff filed her Complaint. Thus, removal to this Court is proper pursuant to 28 U.S.C. § 1446(a).

### COMPLIANCE WITH PROCEDURAL REQUIREMENTS

10. 28 U.S. Code § 1446 (b)(1) provides:

The notice of removal of a civil action or proceeding shall be filed **within 30 days after the receipt by the defendant, through service or otherwise**, of a copy of the initial pleading setting forth the claim for relief upon which such action or proceeding is based, or within 30 days after the service of summons upon the defendant if such initial pleading has then been filed in court and is not required to be served on the defendant, whichever period is shorter.

(emphasis added).

11. Plaintiff's Complaint was served upon Defendant on August 9, 2022. This Petition has been filed within 30 days of same. Therefore, this Petition is timely. *Id.*

12. Copies of all process, pleadings, orders and other papers or exhibits of every kind currently on file with the state court are being filed with this Court along with this Notice of and Petition for Removal, as required by 28 U.S.C. § 1446(a) and Local Rule 4.02 M.D. Fla.

13. Pursuant to 28 U.S.C. § 1446(d), Defendant will promptly provide written notice of this removal to all parties in this action and will file a copy of this Notice of and Petition for Removal in the Circuit Court of the Thirteenth Judicial Circuit in and for Hillsborough County, Florida.

**WHEREFORE**, Defendant, IRBSearch, LLC , respectfully requests that the United States District Court for the Middle District of Florida, Tampa Division, accept the removal of this action from the state court and direct that the Circuit Court of the Thirteenth Judicial Circuit in and for Hillsborough County, Florida, have no further jurisdiction of this matter unless and until this case is remanded.

**LOCAL RULE 3.01(g) CERTIFICATION**

Defendant's counsel conferred with Plaintiff's counsel regarding this removal, and Plaintiff's counsel does not oppose the removal of this matter to Federal Court.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 29th day of August, 2022, a true and correct copy of the foregoing was filed with the United States District Court for the Middle District of Florida, Tampa Division Clerk of Court and delivered via electronic mail to:

COLE, SCOTT & KISSANE, P.A.  
Counsel for Defendant *IRBSEARCH, LLC*,  
4301 West Boy Scout Boulevard  
Suite 400  
Tampa, Florida 33607  
Telephone (813) 509-2691  
Facsimile (813) 286-2900  
Primary e-mail: daniel.nicholas@csklegal.com  
Secondary e-mail: daniel.nicholas@csklegal.com

By: s/ Daniel A. Nicholas  
DANIEL A. NICHOLAS  
Florida Bar No.: 0847755  
JORDAN I. LEVITATS  
Florida Bar No.: 1025535

0389.0221-00/-1

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

TABITHA PARKER,  
*individually and on behalf  
of all others similarly situated,*

Served Date: 8/9/2022 TS Time: 11:26 am  
Tyree Slade #214  
2nd Judicial Circuit

Plaintiff,

v.

CASE NO.: 22-CA-004980  
Division E

IRBSEARCH, LLC,

Defendant.

SUMMONS




THE STATE OF FLORIDA:  
To Each Sheriff of the State:

YOU ARE HEREBY COMMANDED to serve this Summons, a copy of the Complaint, Request for Production, First Set of Interrogatories, and Notice of Taking Corporate Representative Deposition in this action on defendant:

**IRBSEARCH, LLC**  
c/o James E. Harris, Registered Agent  
1709 Hermitage Boulevard, Suite 101  
Tallahassee, FL 32308

Each defendant is required to serve written defenses to the complaint or petition on Luis A. Cabassa, plaintiff's attorney, whose address is Wenzel Fenton Cabassa 1110 N. Florida Avenue, Suite 300, Tampa, Florida 33602 within 20<sup>1</sup> days after the service of this summons on that defendant, exclusive of the day of service, and to file the original of the defenses with the clerk of this court either before service on plaintiff's attorney or immediately thereafter. If a defendant fails to do so, a default will be entered against that defendant for the relief demanded in the complaint or petition.

DATED on 14 day of June, 2022.

 Printed: Brandon J. Hill Attorney for Plaintiffs Address: Wenzel Fenton Cabassa 1110 N. Florida Avenue, Suite 300 Tampa, Florida 33602 Florida Bar No. : 0037061	<p><b>CINDY STUART</b> As Clerk of the Court</p>  <p>By:  As Deputy Clerk (813) 276-8100</p>
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<sup>1</sup> Except when suit is brought pursuant to section 768.28, Florida Statutes, if the State of Florida, one of its agencies, or one of its officials or employees sued in his or her official capacity is a defendant, the time to be inserted as to it is 40 days. When suit is brought pursuant to section 768.28, Florida Statutes, the time to be inserted is 30 days.

If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact the ADA Coordinator, Hillsborough County Courthouse, 800 E. Twiggs Street, Room 604, Tampa, Florida 33602, (813) 272-7040, at least 7 days before your scheduled court appearance, or immediately upon receiving this notification if the time before the scheduled appearance is less than 7 days; if you are hearing impaired call 711.

#### IMPORTANT

A lawsuit has been filed against you. You have 20 calendar days after this summons is served on you to file a written response to the attached complaint with the clerk of this court. A phone call will not protect you. Your written response, including the case number given above and the names of the parties, must be filed if you want the court to hear your side of the case. If you do not file your response on time, you may lose the case, and your wages, money, and property may thereafter be taken without further warning from the court. There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may call an attorney referral service or a legal aid office (listed in the phone book). If you choose to file a written response yourself, at the same time you file your written response to the court you must also mail or take a copy of your written response to the "Plaintiff/Plaintiff's Attorney" named in the documents.

#### IMPORTANTE

Usted ha sido demandado legalmente. Tiene 20 días, contados a partir del recibo de esta notificación, para contestar la demanda adjunta, por escrito, y presentarla ante este tribunal. Una llamada telefónica no lo protegerá. Si usted desea que el tribunal considere su defensa, debe presentar su respuesta por escrito, incluyendo el número del caso y los nombres de las partes interesadas. Si usted no contesta la demanda a tiempo, podría perder el caso y podría ser despojado de sus ingresos y propiedades, o privado de sus derechos, sin previo aviso del tribunal. Existen otros requisitos legales. Si lo desea, puede usted consultar a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a una de las oficinas de asistencia legal que aparecen en la guía telefónica. Si desea responder a la demanda por su cuenta, al mismo tiempo en que presenta su respuesta ante el tribunal, deberá usted enviar por correo o entregar una copia de su respuesta a la persona denominada abajo como "Plaintiff/Plaintiff's Attorney" (Demandante o Abogado del Demandante).

#### IMPORTANT

Des poursuites judiciaires ont été entreprises contre vous. Vous avez 20 jours consécutifs à partir de la date de l'assignation de cette citation pour déposer une réponse écrite à la plainte ci-jointe auprès de ce tribunal. Un simple coup de téléphone est insuffisant pour vous protéger. Vous êtes obligés de déposer votre réponse écrite, avec mention du numéro de dossier ci-dessus et du nom des parties nommées ici, si vous souhaitez que le tribunal entende votre cause. Si vous ne déposez pas votre réponse écrite dans le délai requis, vous risquez de perdre la cause ainsi que votre salaire, votre argent, et vos biens peuvent être saisis par la suite, sans aucun préavis ultérieur du tribunal. Il y a d'autres obligations juridiques et vous pouvez requérir les services immédiats d'un avocat. Si vous ne connaissez pas d'avocat, vous pourriez téléphoner à un service de référence d'avocats ou à un bureau d'assistance juridique (figurant à l'annuaire de téléphones). Si vous choisissez de déposer vous-même une réponse écrite, il vous faudra également, en même temps que cette formalité, faire parvenir ou expédier une copie de votre réponse écrite au "Plaintiff/Plaintiff's Attorney" (Plaignant ou à son avocat) nommé ci-dessous.

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

TABITHA PARKER,  
*individually and on behalf  
of all others similarly situated,*

Plaintiff,

v,

CASE NO.:

IRBSEARCH, LLC,

JURY TRIAL DEMANDED

Defendant.

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**CLASS ACTION COMPLAINT**

Named Plaintiff, Tabitha Parker, individually and on behalf of all other similarly situated individuals, for his Class Action Complaint and alleges the following individual and class claims against IRBsearch, LLC (“Defendant” or “IRB”), and in support thereof states as follows:

**PRELIMINARY STATEMENT**

1. Plaintiff brings this action against Defendant for violations of the Fair Credit Reporting Act (“FCRA”), 15 U.S.C. §§ 1681a–x, which imposes several important requirements on consumer reporting agencies (“CRAs”), such as the Defendant, that sell employment-related consumer reports (even if Defendant denies what it sells actually constitutes a “consumer report”).

2. The Named Plaintiff was denied employment opportunities because of Defendant’s actions described herein, resulting in a lost job, lost pay, and lost benefits.

3. Defendant is a company that used automated processes to webscrape criminal histories from court websites, or purchased such records in bulk, and assign them to specific



consumers – largely based on name alone. It sold these records to its various customers, including one that issued a report to Plaintiff's former employer.

4. Ultimately, Plaintiff lost a job opportunity because of a background check generated by Defendant, and because Defendant has unilaterally (and illegally) decided the reports it sells do not qualify as "consumer reports." Thus, neither Plaintiff nor the putative class members were provided with any of the rights afforded them under the FCRA, not the least of which are the notification requirements mandated by 15 U.S.C. § 1681k(a)(1), where a consumer reporting agency ("CRA") like Defendant must notify consumers when it furnishes derogatory information to be used as part of an employer's hiring process.

5. Regardless of the context, anyone that, like Defendant, issues consumer reports must adhere to the FCRA's foundational mandate of having in place reasonable procedures to ensure the maximum possible accuracy of the information they report.

6. The FCRA also includes multiple provisions aimed at providing consumers with transparency regarding when information is reported about them, and the substance of that information.

7. Here Plaintiff alleges that Defendant violated the FCRA in several ways.

8. First, because it claims not to be governed by the FCRA, when the Plaintiff requested a copy of her full file from Defendant, the Defendant failed to provide all of the information in its file about each requesting consumer (commonly known as a file disclosure), as well as the sources of that information, and to whom Defendant gave any information about Plaintiff.

9. Because it claims not to be governed by the FCRA, when the Plaintiff requested a copy of her full file from Defendant, Defendant failed to provide all of the information reported about each requesting consumer (commonly known as a file disclosure).

10. As a result, Defendant violated 15 U.S.C. § 1681g(a), which requires that a CRA provide not only “all information”, but also “the sources of the information” in the consumer’s file, and comprehensive list of everyone, including end-users, to whom the CRA has provided a report about the consumer. 15 U.S.C. § 1681g(a)(1)–(3). *See* Count I (class claim).

11. Second, Defendant also violated 15 U.S.C. § 1681k by furnishing consumer reports containing public information likely to have an adverse effect on a consumer’s ability to obtain employment but failing to provide at the time notification to the consumer that such information was being reported and to whom it was being reported. *See* Count II (class claim).

12. Third, Defendant violates the prohibition on publishing obsolete information in violation of 15 U.S.C. § 1681c(a)(2), including as to the report generated on Plaintiff. *See* Count III (class claim).

13. Finally, Defendant failed to follow reasonable procedures required under the FCRA to ensure “maximum possible accuracy” of the information it reported about Plaintiff. 15 U.S.C. § 1681e(b). *See* Count IV (individual claim).

14. Alternatively, Defendant defamed Plaintiff to the landlord under Florida common law. Defendant communicated to Plaintiff’s prospective employer that Plaintiff was a thief, and those statements were false.

15. Branding Plaintiff a thief caused the employer to reject Plaintiff’s job application, causing her monetary and emotional harm.

## PARTIES

16. Plaintiff is a “consumer” as defined by 15 U.S.C. § 1681a.

17. Defendant is a limited-liability company with its principal place of business in Tallahassee, Florida, and doing business in this District.

18. Defendant is a “consumer reporting agency,” as defined by 15 U.S.C. § 1681a(f), that compiles, sells, furnishes, and uses consumer reports and services in the Southern District of Florida, and throughout the United States.

19. Defendant obtains consumer information bearing on consumers’ character, general reputation, personal characteristics and mode of living from a myriad of publicly available sources such as criminal and traffic records, social security number information, sex offender registries, etc.

20. After acquiring consumer information from its sources, Defendant regularly assembles that information into a report, which it then sells to third parties. In this case, Defendant sold information to Osa Consulting, which was hired by Plaintiff’s former employer to do a background check on her relating to her employment.

21. The employer in turn used the report that contained the information from Defendant for an employment purpose (to fire Plaintiff).

22. Defendant sells such consumer reports to customers throughout the country, using facilities of interstate commerce to transmit such reports, including but not limited to electronic transmission.

## JURISDICTION AND VENUE

23. This is an action for damages in excess of \$30,000.00, exclusive of interest, fees, and costs.

24. The Court has jurisdiction under the FCRA, 15 U.S.C. §§ 1681n and 1681p.

25. Venue is proper in Hillsborough County because the events giving rise to this lawsuit occurred here. Plaintiff applied to work for an employer in Hillsborough County, Florida, Defendant provided a consumer report on Plaintiff to an employer in Hillsborough County, Florida, and Defendant operates a business within this County.

26. Defendant will suffer no unfair prejudice from the exercise of this Court's personal jurisdiction, which serves the interests of justice in this case.

### FACTS

#### A. Defendant is a Consumer Reporting Agency

27. Despite the fact that Defendant is a consumer reporting agency and sells consumer reports as defined by the FCRA, it attempts to avoid its obligations under the FCRA by disclaiming FCRA governance in its marketing materials and contracts with third parties.

28. Despite its statements to the contrary, Defendant specifically markets itself as a company that provides information and services that are governed by the FCRA.

29. For example, one of the services Defendant provides is known "RetrievALL". According to its website, "[w]ith RetrievALL the courthouse comes to you! RetrievALL provides you with the state, local, and federal court information you need to make decisions efficiently and confidently. RetrievALL delivers local expertise and nationwide reach, reducing travel expenses and adding a layer of knowledge to your research efforts."<sup>1</sup>

30. Also according to its website, Defendant's customers can "[g]et all your information in an easy-to-read report. With our data collection tools, three comprehensive reports

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<sup>1</sup> <https://irbsearch.com/searches.html>

including person, address, and business, make up a 360-degree background profile. Reports include: Address Report, Asset Report, Bankruptcy Report, Business Report, Comprehensive Report, Comprehensive Report with Real-Time MV, Contact Card Report, Criminal Report, Florida Accident Report (NEW), Lien & Judgment Report, Locate Report, Neighbor Report, Motor Vehicle Report, [and a] Relative Report.<sup>2</sup>

31. But, in a transparent effort to avoid liability for failure to comply with the FCRA, Defendant also includes FCRA-related disclaimers on its website.<sup>3</sup>

32. Further, because Defendant provides information to companies like Osa, which then use the consumer reports for an employment purpose, Defendant has consented to the FCRA's governance of its activities.

33. Moreover, Defendant knows or has reason to know that the information it sells to customers like Osa will end up in consumer reports that are used for FCRA purposes and are therefore governed by the Act.

34. Yet, Defendant maintains the charade that the FCRA does not apply to it.

35. The FCRA imposes several obligations upon Defendant which are not only well-established, but they are easy to follow. It is clear from the Defendant's website—it knows about

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<sup>2</sup> *Id.*

<sup>3</sup> For example, currently Defendant includes the following disclaimer on its website:

IRBsearch's services are not provided by a consumer reporting agency and does not constitute a consumer report as these terms are defined by the Fair Credit Reporting Act. 15 U.S.C Section 1651 et seq ("FCRA"). The IRBsearch services may not be used in whole or in part as a factor in establishing an individual's credit worthiness or eligibility for credit or insurance or employment not for any other purpose under the FCRA.

the FCRA and has chosen not to abide by its strictures despite collecting and selling information that falls under the Act's provisions.

36. Despite marketing its solutions as including public records such as criminal history, among many other things, Defendant disclaims that the information in the reports that it markets and sells for FCRA purposes can be used for such purposes.

37. Defendant is aware of the entire text of the FCRA and its legislative history, as well as the regulatory oversight by the Federal Trade Commission.

38. Defendant accesses large databases of public records and related employment histories as a nationwide CRA. It accesses and compiles databases to prepare and furnish consumer reports for employment and other FCRA purposes.

39. Plaintiff's former employer fired Plaintiff and other putative class members based in whole or in part on the contents of the consumer reports Defendant sold about them.

40. Discovery will show that other employers did the same based upon information provided by Defendant in the employment context.

41. Defendant does not supply any notice to consumers about whom it has sold a report containing adverse employment information to a third party, such as the criminal records in the cases of Plaintiff (nor any of the putative class members).

42. Providing notice that it has supplied a consumer report containing negative criminal background information at the time it supplies such a report to the third-party CRA or employer arms the nation's millions of job applicants with the knowledge and information needed to challenge inaccurate, incomplete, and misleading public-records-based consumer reports. The FCRA is designed to permit individuals whose reports are inaccurate with ample time to identify the inaccuracies and correct them before the employer has made an employment decision.

43. Or, even if the report is entirely accurate, consumers still have the right to know that Defendant is supplying information about them that may negatively impact their job prospects. This notice permits consumers the opportunity to discuss potentially negative information preemptively with employers, so they may blunt the impact of such information.

44. Defendant likewise does not maintain any procedure by which it ensures that the information it reports to its customers is complete or up-to-date. *See* 15 U.S.C. § 1681k(a)(2). Defendant therefore cannot rely on this option for complying with 15 U.S.C. § 1681k(a).

**B. Facts Regarding Plaintiff**

45. Plaintiff was a victim of an inaccurate consumer report sold by Defendant and eventually to her former employer, Stellar Partners, who purposed the Plaintiff's consumer report and subsequently used it for an employment purpose when firing Plaintiff.

46. Plaintiff was terminated from her job at Stellar Partners because Stellar Partners relied on the inaccurate and derogatory consumer report about her. Defendant obtained and sold a significant portion of the data that was included in that report.

47. More specifically, Plaintiff applied to work for Stellar Partners in August of 2019. Stellar Partners is one of the largest airport retail operators in the United States, with more than thirty-eight locations across ten U.S. airports in fourteen states.

48. As part of its hiring processes, Stellar and its subsidiaries use background checks to make employment decisions. Because such employment decisions are based in whole or in part on the contents of the background checks, all parties involved with the sale and use of the consumer report on Plaintiff were obligated to adhere to certain requirements of the FCRA.

49. Stellar originally hired Osa Consulting Group, LLC, in August of 2019 to perform a pre-employment background check on Plaintiff, the reporting of which information is subject to

the FCRA's strictures. The FCRA imposes several important accuracy and transparency requirements on consumer reporting agencies ("CRAs") like Osa, which are designed to protect consumers like Plaintiff.

50. Such protections also apply to Defendant in its role as a CRA. Discovery will confirm that Defendant supplied information to Osa, which Osa then repackaged and furnished to Stellar as part of Stellar's background-check process for applicants like Plaintiff.

51. Additionally, because Defendant misrepresented to Osa that: (1) it was not a consumer reporting agency; and, (2) that the background check on Plaintiff which Osa had purchased from Defendant was not a consumer report, and Osa then repacked and sold that report to Stellar who, in turn, failed to provide Plaintiff with the requisite pre-adverse and adverse action notices required by the FCRA under 15 U.S.C. § 1681b(b)(3).

52. Osa bought a consumer report from Defendant, which contained information Osa included in its own report to Plaintiff's potential employer in approximately August of 2019.

53. At the time it sold information purporting to be about Plaintiff to Osa, Defendant knew or had reason to know that Osa would use the information for an FCRA-governed purpose—employment.

54. That report contained the erroneous criminal record supplied first in a consumer report compiled by Defendant. In fact, many of the entries in the report, including allegations of theft, simply do not belong to Plaintiff.

55. By way of example, the report states that on August 11, 2007, Ms. Parker was charged with a "Misdemeanor for Retail Theft," found guilty, and sentenced to 15 days in the county jail. But Plaintiff has never been arrested for theft, never been convicted of a crime, nor has she ever been to jail.



56. Worse still, the report erroneously alleges Plaintiff was charged with the second-degree felony for aggravated battery on a pregnant female in Hillsborough County, Florida, and even includes a mugshot. But Plaintiff has never been charged with a felony *and the photograph in the mugshot is not Plaintiff*, but another person entirely.

57. The report is full of similar errors wrongly attributing to Plaintiff crimes she simply did not commit, including an additional felony charge for passing altered or forged instruments and larceny, an erroneous charge for misdemeanor larceny, and another misdemeanor charge for allegedly violating a pre-trial release. Simply put, these criminal charges belonged to someone else and they were costing Plaintiff her job with Stellar.

58. As a result of the erroneous consumer report sold to Osa by Defendant, Plaintiff was left jobless and humiliated.

59. Because of Defendant's actions, Plaintiff lost her job and lost her salary. She also lost health benefits.

60. Plaintiff was unaware that the consumer report Osa repackaged and sold to Stellar in August of 2019 was actually an idiCore report generated by Defendant and then sold to Osa. It was not until after she sued Osa and Stellar in another lawsuit that she learned the consumer report was originally purchased from Defendant.

61. More specifically, it was not until February 4, 2021, after she sued Osa and Stellar, that Plaintiff first received a copy of the consumer report generated by Defendant that was then sold to Osa, repackaged, and sold to Stellar who then used it to fire/not hire Plaintiff. Previously, the copy of the report provided to Plaintiff had been repackaged by Osa and sold to Stellar as an Osa "Comprehensive Report."

62. Plaintiff could not have discovered that Defendant sold a report about her to Osa any sooner, owing in large part to Defendant's failure to abide by the FCRA's requirement that it notify her when it was reporting to Osa negative information about her in the employment context.

63. Defendant's deceit therefore worked, as it was able to keep itself secret until Plaintiff sued Osa and Stellar and then, through discovery in litigation, learned Defendant's identity.

64. Hoping to get to the bottom of the inaccuracies in the report, Plaintiff wrote to Defendant and asked for her Section 1681g file disclosure on or about April 25, 2022. On May 18, 2022, Defendant refused to comply with 1681g, instead responding as follows:

We are in receipt of your request to dispute and correct information that was provided on a Comprehensive Report to Osa Consulting Group, LLC on August 19, 2019. IRBsearch obtains its information from third-party sources, which may or may not be thorough or completely accurate. Source data is sometimes reported or entered inaccurately, processed poorly, and is generally not free from defect. IRBsearch Services are not the source of data, nor are they a comprehensive compilation of the data. For this reason, we are unable to comply with your request because IRBsearch's services are not provided by "consumer reporting agencies", as that term is defined in the Fair Credit Reporting Act, (15 U.S.C. § 1681 et seq.), (the "FCRA"), and do not constitute "consumer reports" as that term is defined in the FCRA.

65. Notably, in addition to failing to provide all the information it possesses about consumers like Plaintiff, Defendant also failed to disclose any sources of information it possessed about Plaintiff, and it did not provide a list of recipients of information, including, for example, Osa.

66. Plaintiff asserts a nationwide class claims against Defendant under 15 U.S.C. § 1681g, because Plaintiff requested her full file disclosure from Defendant, and Defendant failed to provide the information required by 15 U.S.C. § 1681g.

67. Plaintiff also asserts a nationwide class claims against Defendant under 15 U.S.C. § 1681k(a), because it provided Osa with a consumer report containing inaccurate criminal information likely to adversely affect Plaintiff's ability to obtain employment without providing Plaintiff with notice at the time it provided the report to Osa.

68. Defendant likewise has in place no strict procedures designed to ensure public-record information it reported was complete and up-to-date, so it cannot rely on the procedures requirement of Section 1681k(a)(2) as the means to comply with Section 1681k.

69. Additionally, Plaintiff asserts a nationwide class claims against Defendant under 15 U.S.C. § 1681c(a)(2). Defendant regularly violates the prohibition on publishing obsolete information in violation of 15 U.S.C. § 1681c(a)(2), including as to the report generated on Plaintiff.

70. Plaintiff also brings an individual claim under 15 U.S.C. § 1681e(b) against Defendant because of inaccuracies contained in her consumer report.

71. Plaintiff alleges Defendant does not have in place reasonable procedures designed to assure the maximum possible accuracy of the information it reports.

72. Among other things, the FCRA regulates the collection, maintenance, and disclosure of consumer credit report information by CRAs, including public record information like criminal history.

73. Additionally, the FCRA mandates conditions, procedures, and limitations on the use of consumer reports for employment purposes by CRAs, prospective employers, and other individuals.

74. The FCRA mandates that a report user, before taking any adverse action based in whole or in part on a consumer report, must provide to the consumer a copy of the applicant's report and a summary of the applicant's rights under the FCRA.

75. Defendant has an independent obligation to comply with the FCRA.

76. Defendant's violations of the FCRA have been willful, wanton, and reckless in that it knew, or should have known, that it was failing to comply with the requirements of the FCRA.

77. Defendant willfully disregards its duties under the FCRA, which exacts serious consequences on job applicants and interstate commerce. The natural result of Defendant's failures to abide by the conditions, procedures and limitations of the FCRA prejudices consumers' ability to challenge information contained in consumer reports it sells to third parties.

78. Defendant does not provide notification to consumers that it furnished an employment-purposed consumer report containing a criminal record likely to adversely affect employment *at the time* it provides the report to third parties.

79. Defendant expressly disclaims that it is providing consumer reports for employment purposes, yet it knowingly supplies such reports to third parties that it knows uses the reports for employment purposes.

80. Given this lack of notice, if consumers are lucky enough to learn that Defendant reported information about them, Defendant freezes them out when these consumers ask for their file disclosures.

81. Instead of revealing the information it possesses, the sources, and to whom it has provided such information, Defendant simply ignores the request for information by denying the consumer report it generated is, in fact, one governed by the FCRA.

82. This is problematic not just because it fails to meet the most-basic disclosure requirement the FCRA demands, but Defendant does not let consumers know where it obtained the information it is reporting, or to whom Defendant gave it.

83. Adding to the difficulty, wading through Defendant's litany of disclaimers that the information may not be accurate and the FCRA does not govern it, nowhere does Defendant even commit that the information it provides consumers is also information it provided to someone else.

84. Such secrecy and misdirection are the antithesis of the transparency Congress anticipated when it enacted Section 1681g.

### CLASS ACTION ALLEGATIONS

#### PLAINTIFF'S PROPOSED CLASSES

85. Plaintiff brings this action on a class basis, with initial class definitions that follow.

86. *The § 1681g Disclosure Class.* Plaintiff brings this action for himself and on behalf of the following "Section 1681g Disclosure Class," of which he is a member, initially defined as:

All natural persons residing in the United States (including all territories and other political subdivisions of the United States) who requested their full file disclosure from Defendant on or after the date two years before the filing of this lawsuit.

87. *The § 1681k(a)(1) Notice Class.* Pursuant to Federal Rule of Civil Procedure 23 and 15 U.S.C. § 1681k, Plaintiff brings this action for himself and on behalf of the following "Section 1681k Notice Class," of which he is a member, initially defined as:

All natural persons residing in the United States (including all territories and other political subdivisions of the United States) (a) who were the subject of the sale by Defendant of one or more criminal public records after two years before the filing of this lawsuit, (b) sold to a consumer reporting agency that resold the data to an end-user for an employment purpose, (c) or sold directly to an end user (other than the consumer) for an employment purpose, (d) to whom Defendant did not place in the United States mail postage pre-paid, on the day it furnished the report, a written notice to the subject consumer that it was furnishing the report and containing the name of the person that was to receive the report.

88. **The § 1681c(a) Obsolete Information Class.** Plaintiff brings this class action on behalf of the following “Obsolete Information Class,” of which she is a member, initially defined as:

All natural persons residing in the United States (including all territories and other political subdivisions of the United States), (a) who were the subject of the sale by Defendant of any records to a third party (b) on or after two years before the filing of this lawsuit, (c) containing any adverse item of information other than a conviction of a crime, antedating the report by more than seven years.

89. **Numerosity.** Upon information and belief, the putative Classes exceed 40 members each. Information concerning the exact size of the putative Class is within the exclusive possession of Defendant or its agents. The Class members are so numerous and geographically dispersed that joinder of all members is impracticable.

90. **Typicality.** Plaintiff’s claims are typical of the claims of the other Class members as all Class members were similarly affected by Defendant’s unlawful conduct in violation of the FCRA.

91. **Adequacy.** Plaintiff will fairly and adequately protect the interest of the Class Members and have retained counsel competent and experienced in complex litigation. Plaintiff is a member of the Classes and does not have any interests antagonistic to or in conflict with the members of the Classes. Plaintiff’s claims are the same as those of the Classes, which all arise from the same operative facts and are based upon the same legal theories.

92. **Commonality.** Common questions of law and fact exist as to all Class members and predominate over any questions solely affecting individual Class members, including by example only and without limitation:

a. Whether Defendant's uniform failure to provide timely notice that it was providing consumer reports for employment purposes containing a negative public record violated the FCRA;

b. Whether Defendant maintains strict procedures designed to insure complete and up-to-date reports when it never obtains a complete and up-to-date court record, therefore § 1681k(a)(2) is inapplicable;

d. Whether Defendant supplied consumer reports that contain non-conviction criminal history that antedated the report by more than seven years;

e. Whether Defendant supplied employment-purposed consumer reports to users without a permissible purpose to do so in violation of 15 U.S.C. § 1681e(a);

f. Whether Defendant's full file disclosures meet the requirements of 15 U.S.C. § 1681g;

g. Whether Defendant's violations of the FCRA were "willful."

93. **Superiority.** A class action is superior to other available methods for the fair and efficient adjudication of this controversy because the membership of the Classes is so numerous and involves claims that, taken individually, may not justify the costs and effort of bringing suit.

94. Further, the prosecution of several actions by individual members of the Classes would create a risk of varying adjudications with respect to members of the Classes, as well as create inconsistent standards of conduct for those opposing the Classes. Additionally, individual actions by members of the Classes may be dispositive of the interests of other members not parties to the adjudication of the claim, which would impair or impede the ability of those individuals to protect their interests.

95. **Predominance.** The claims of the class members, including the common questions of law and fact, predominate over any individual facts or legal issues present in the class claims. There are no factual or legal issues that differ among the putative class members. The principal issues are: (a) whether Defendant sold a consumer report to third parties about Plaintiff and each putative class member for a permissible purpose; (b) whether Defendant had reasonable procedures in place to comply with the FCRA; (c) whether Defendant required that 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; (d) whether Defendant made a reasonable effort to verify the uses certified by Pinkerton prior to furnishing such user a consumer report; (e) whether and how Defendant maintained strict procedures to ensure that the criminal public records were complete and up-to-date; (f) whether Defendant sold consumer reports that contained obsolete information to third parties; (g) whether Defendant received advice, guidance, counsel, or legal advice that it was not a consumer reporting agency and/or that the reports it compiled and sold to third parties were consumer reports; (h) whether Defendant delivers compliant full-file disclosures; and (i) whether Defendant acted willfully. Defendants' violations were negligent, reckless, knowing or intentionally committed in conscious disregard for the rights of the Plaintiff and putative Class Members.

96. The members of the classes can be identified and ascertained by using the Defendant's records, records maintained by its customers and the end-users of consumer reports furnished by Defendant to its clients.



**COUNT ONE – CLASS CLAIM**  
*Incomplete Disclosures – Violation of 15 U.S.C. § 1681g(a)*

97. Plaintiff reiterates each of the allegations in the preceding paragraphs as if set forth herein at length.

98. Plaintiff requested from Defendant her full file disclosure as permitted by the FCRA.

99. Section 1681g required Defendant to respond with all of the information it possessed about Plaintiff, including the sources of such information, as well as a list of those third parties to whom Defendant furnished information.

100. Defendant instead provided a litany of excuses as to why it supposedly did not have to comply with Plaintiff's requests, as well as a non-compliant, inaccurate criminal history search about Plaintiff.

101. Defendant violated 15 U.S.C. § 1681g(a) by refusing to provide all of the information it possessed about Plaintiff, as required by Section 1681g(a).

102. Defendant knew that the FCRA required it to provide a fulsome disclosure, including all the information it possessed about Plaintiff at the time of her request, the sources of that information, and a list of the entities—like Osa—to whom it had provided information about Plaintiff.

103. Despite this knowledge and the easy-to interpret and follow statutory mandates, Defendant failed to meet its statutory duties to provide valid disclosures.

104. As a result, Plaintiff was deprived of information to which is statutorily entitled, and was also prevented from being able to learn the sources of information so that she could

potentially correct inaccuracies Defendant was perpetuating about her, as well as being kept in the dark as to whom Defendant had provided information about her.

105. As to Plaintiff and the “Disclosure Class,” Defendant regularly fails to provide fulsome file disclosures in violation of 15 U.S.C. § 1681g(a).

106. As a result of the failure to provide compliant disclosures, Plaintiff and the “1681g Disclosure Class” were subjected to the deprivation of information to which Congress has deemed them entitled to upon a simple request.

107. The value of a full file disclosure is significant and easily greater than \$12.50.

108. The denial of the full information required in such disclosure caused actual monetary harm in some amount at or over \$12.50.

109. The conduct, action, and inaction of Defendant was willful, rendering it liable for statutory and punitive damages in an amount to be determined by the Court pursuant to 15 U.S.C. § 1681n.

110. Plaintiff and other members of the putative “1681g Disclosure Class” are entitled to recover costs and attorneys’ fees as well as appropriate equitable relief from Defendant in an amount to be determined by the Court pursuant to 15 U.S.C. § 1681n.

#### **COUNT TWO – CLASS CLAIM**

##### ***Failure To Provide “At The Time” Notice – Violation of 15 U.S.C. § 1681k(a)(1)***

111. Plaintiff incorporates by reference those paragraphs set out above as though fully set forth herein.

112. The consumer report of Plaintiff and of each member of the “1681k Notice Class” was furnished for an employment purpose and contained one or more public records of the type that may adversely affect an employer’s hiring decision.

113. As to Plaintiff and the “1681k Notice Class,” Defendant uniformly fails to comply with the rigors of FCRA § 1681k(a)(2) and therefore must necessarily rely on its compliance with § 1681k(a)(1).

114. On information and belief, Plaintiff alleges that Defendant obtains public records, including criminal records from a third-party consumer reporting agency or vendor, and does not attempt to obtain this information through its own courthouse searches.

115. On information and belief, Plaintiff alleges that as to the “1681k Notice Class,” Defendant did not send such class members a notice pursuant to 15 U.S.C. § 1681k(a)(1).

116. On information and belief, Plaintiff alleges that as to the “1681k Notice Class,” Defendant did not itself or by its own court researchers or vendors attempt to verify the completeness or current status of the public records pursuant to 15 U.S.C. § 1681k(a)(2), within 30 days before it furnishes and sells these records in one of its reports.

117. Defendant’s failure to timely provide the required FCRA notices to the Plaintiff and other members of the “1681k Notice Class” violated 15 U.S.C. § 1681k(a)(1).

118. The conduct, action, and inaction of Defendant was willful, rendering it liable for statutory and punitive damages in an amount to be determined by the Court pursuant to 15 U.S.C. § 1681n.

119. Plaintiff and other members of the putative “1681k Notice Class” are entitled to recover costs and attorneys’ fees as well as appropriate equitable relief from Defendant in an amount to be determined by the Court pursuant to 15 U.S.C. § 1681n.

**COUNT THREE – CLASS CLAIM**  
***Obsolete Information – Violation of 15 U.S.C. § 1681c(a)***

120. Plaintiff reiterates each of the allegations in the preceding paragraphs as if set forth herein at length.

121. The consumer report about Plaintiff reported numerous obsolete criminal arrest records that not only did not belong to her at all, but which antedated the report by more than seven years.

122. Defendant also included obsolete information – for instance, records of arrests antedating the report by more than seven years – in the consumer reports it sold to third parties about the putative class members.

123. Defendant violated 15 U.S.C. § 1681c(a)(2) by reporting arrest information that antedated the report by more than seven years.

124. Defendant knew that it was forbidden by the FCRA to publish criminal arrest information in a consumer report that is older than seven years, but despite this knowledge published the obsolete information anyway.

125. As to the Named Plaintiff and the “Obsolete Information Class,” Defendant regularly violates the prohibition on publishing obsolete information in violation of 15 U.S.C. § 1681c(a)(2).

126. As a result of the publication of obsolete information, the Named Plaintiff and the “Obsolete Information Class” were subjected to the publication of information that was deemed obsolete by Congress and specially excluded from information permitted in consumer reports.

127. The conduct, action, and inaction of Defendant was willful, rendering it liable for statutory and punitive damages in an amount to be determined by the Court pursuant to 15 U.S.C. § 1681n.

128. Plaintiff and other members of the putative “Obsolete Information Class” are entitled to recover costs and attorneys’ fees as well as appropriate equitable relief from Defendant in an amount to be determined by the Court pursuant to 15 U.S.C. § 1681n.

**COUNT FOUR – INDIVIDUAL CLAIM AGAINST DEFENDANT**  
***Failure To Ensure Maximum Possible Accuracy – Violation of 15 U.S.C. § 1681e(b)***

129. Plaintiff reiterates each of the allegations in the preceding paragraphs as if set forth at length herein.

130. The consumer report about Plaintiff inaccurately reported numerous erroneous, obsolete and expunged criminal records in a way that made it appear that the consumer had an active criminal record upon which an employment decision might be made, and indeed was made.

131. The report is rife with inaccuracies and errors. In fact, many of the entries in the report, including allegations of theft, simply do not belong to Plaintiff.

132. By way of example, the report states that on August 11, 2007 Ms. Parker was charged with a “Misdemeanor for Retail Theft,” found guilty, and sentenced to 15 days in the county jail. But Plaintiff has never been arrested for theft, never been convicted of a crime, nor has she ever been to jail.

133. Worse still, the report erroneously alleges Plaintiff was charged with the second-degree felony for aggravated battery on a pregnant female in Hillsborough County, Florida, and even includes a mugshot. But Plaintiff has never been charged with a felony *and the photograph in the mugshot is not Plaintiff*, but another person entirely.

134. The report is full of similar errors wrongly attributing to Plaintiff crimes she simply did not commit, including an additional felony charge for passing altered or forged instruments and larceny, an erroneous charge for misdemeanor larceny, and another misdemeanor charge for allegedly violating a pre-trial release. Simply put, these criminal charges belonged to someone else and they were costing Plaintiff her job with Stellar.

135. Defendant violated 15 U.S.C. § 1681e(b) by failing to establish or to follow reasonable procedures to assure maximum possible accuracy in the preparation of the consumer reports it furnished regarding Plaintiff.

136. As a result of this conduct by Defendant, Plaintiff suffered actual damages, including without limitation, by example only and as described herein on her behalf by Counsel: loss of employment, damage to reputation, embarrassment, humiliation, and other emotional and mental distress.

137. Defendant's violations of 15 U.S.C. § 1681e(b) were reckless or willful, rendering Defendant liable pursuant to 15 U.S.C. § 1681n. In the alternative, Defendant was negligent, entitling Plaintiff to recover under 15 U.S.C. § 1681o.

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

**WHEREFORE**, as to the FCRA class claims in Counts I – IV, Plaintiff and the putative Classes respectfully pray for the following relief:

- A. An order certifying the proposed classes herein pursuant to FED. R. CIV. P. 23 and appointing the undersigned counsel to represent them;
- B. The creation of a common fund available to provide notice of and remedy Defendant's unlawful conduct;

- C. That judgment be entered for Plaintiff individually for actual and/or statutory damages and punitive damages against Defendant for violation of 15 U.S.C. § 1681e(b) and pursuant to 15 U.S.C. §§ 1681n and 1681o;
- D. Statutory and punitive damages for all class claims;
- E. Attorneys' fees, expenses and costs; and
- F. Pre-judgment and post-judgment interest as provided by law.

**COUNT FIVE – INDIVIDUAL CLAIM AGAINST DEFENDANT**  
***Defamation Per Se (Alternative Claim)***

139. Plaintiff reiterates each of the allegations in the preceding paragraphs as if set forth at length herein.

140. Plaintiff expects that Defendant will defend this case in part by arguing that the FCRA does not apply to it. Plaintiff therefore asserts alternative claims of defamation and defamation *per se*.

141. Defendant published to Plaintiff's prospective employer a report about Plaintiff that stated Plaintiff had a conviction for theft. That was a statement of fact.

142. When Defendant made the statements to the employer it either knew it was false or recklessly failed to determine the statement's truth.

143. Stating to a third party that someone is a convicted thief constitutes defamation *per se* under Florida law.

144. Such a statement also subjected Plaintiff to hatred, distrust, ridicule, contempt, or disgrace as to the employer. This result is likewise defamation *per se* under Florida law.

145. The statements in the report about Plaintiff were false, and the employer (Stellar) was capable of understanding the meaning of the statements.

146. At the time Defendant made the statements to the employer (Stellar), it knew the statements were false or was at least negligent in attributing to Plaintiff the criminal history of a stranger.

147. The statements were defamatory, as they tended to injure at least Plaintiff's reputation in the eyes of the community, or at least in the eyes of Plaintiff's potential employer.

148. As a result of Defendant's stating to Plaintiff's potential employer that Plaintiff was a convicted thief, Plaintiff lost a job opportunity and the pay that came with the job.

149. Defendant's statements to the employer (Stellar) injured Plaintiff's reputation in the community, as well as causing her to suffer economic damages such as the loss of a salary and benefits.

150. Plaintiff also suffered emotional harm such as loss of sleep, damage to reputation, embarrassment, humiliation, and other mental and emotional distress.

151. Because Defendant made the false, defamatory statements knowing they were false or recklessly failing to check their accuracy, Plaintiff is entitled to punitive damages under Florida law.

**COUNT SIX – INDIVIDUAL CLAIM AGAINST DEFENDANT**  
*Defamation (Alternative Claim)*

152. Plaintiff reiterates each of the allegations in the preceding paragraphs as if set forth at length herein.

153. Defendant published to Plaintiff's prospective employer (Stellar) a report about Plaintiff that stated Plaintiff had a conviction for theft.

154. The statements in the report about Plaintiff were false, and the employer (Stellar) was capable of understanding the meaning of the statements.



155. The statements that Plaintiff was a convicted thief were statements of fact.

156. At the time Defendant made the statements to the landlord, it knew the statements were false, or recklessly failed to verify them. Alternatively, Defendant was at least negligent in attributing to Plaintiff the criminal history of a stranger.

157. The statements were defamatory, as they tended to injure at least Plaintiff's reputation in the eyes of the community, or at least in the eyes of Plaintiff's potential employer (Stellar).

158. As a result of Defendant's stating to Plaintiff's potential employer (Stellar) that Plaintiff was a convicted thief, Plaintiff lost a job and the salary and benefits that came with it.

159. Defendant's statements to the employer (Stellar) injured Plaintiff's reputation in the community, as well as causing her to suffer economic damages such as lost pay and benefits.

160. Plaintiff also suffered emotional harm such as loss of sleep, damage to reputation, embarrassment, humiliation, and other mental and emotional distress.

161. Because Defendant made the false, defamatory statements knowing they were false or recklessly failing to check their accuracy, Plaintiff is entitled to punitive damages under Florida law.

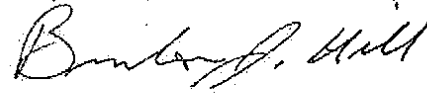
#### **PRAYER FOR RELIEF**

**WHEREFORE**, as to the individual claims in Counts V – VI, the Plaintiff demands judgment for actual, statutory, and punitive damages against the Defendant; for his attorneys' fees and costs; for prejudgment and post-judgment interest at the judgment rate; equitable relief allowed by law; and any such other relief the Court deems just and proper.

**TRIAL BY JURY IS DEMANDED**

Dated this 14<sup>th</sup> day of June, 2022.

Respectfully submitted,



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**BRANDON HILL**

Florida Bar No. 37061

**LUIS A. CABASSA**

Florida Bar No. 0053643

**WENZEL FENTON CABASSA, P.A.**

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*Attorneys for Plaintiff*

**FORM 1.997. CIVIL COVER SHEET**

The civil cover sheet and the information contained in it neither replace nor supplement the filing and service of pleadings or other documents as required by law. This form must be filed by the plaintiff or petitioner with the Clerk of Court for the purpose of reporting uniform data pursuant to section 25.075, Florida Statutes. (See instructions for completion.)

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**I. CASE STYLE**

IN THE CIRCUIT/COUNTY COURT OF THE THIRTEENTH JUDICIAL CIRCUIT,  
IN AND FOR HILLSBOROUGH COUNTY, FLORIDA

Tabitha Parker  
Plaintiff

Case # \_\_\_\_\_  
Judge \_\_\_\_\_

vs.

IRBsearch LLC  
Defendant

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**II. AMOUNT OF CLAIM**

Please indicate the estimated amount of the claim, rounded to the nearest dollar. The estimated amount of the claim is requested for data collection and clerical processing purposes only. The amount of the claim shall not be used for any other purpose.

- \$8,000 or less
- \$8,001 - \$30,000
- \$30,001 - \$50,000
- \$50,001 - \$75,000
- \$75,001 - \$100,000
- over \$100,000.00

**III. TYPE OF CASE** (If the case fits more than one type of case, select the most definitive category.) If the most descriptive label is a subcategory (is indented under a broader category), place an x on both the main category and subcategory lines.

## CIRCUIT CIVIL

- Condominium
- Contracts and indebtedness
- Eminent domain
- Auto negligence
- Negligence—other
  - Business governance
  - Business torts
  - Environmental/Toxic tort
  - Third party indemnification
  - Construction defect
  - Mass tort
  - Negligent security
  - Nursing home negligence
  - Premises liability—commercial
  - Premises liability—residential
- Products liability
- Real Property/Mortgage foreclosure
  - Commercial foreclosure
  - Homestead residential foreclosure
  - Non-homestead residential foreclosure
  - Other real property actions
- Professional malpractice
  - Malpractice—business
  - Malpractice—medical
  - Malpractice—other professional
- Other
  - Antitrust/Trade regulation
  - Business transactions
  - Constitutional challenge—statute or ordinance
  - Constitutional challenge—proposed amendment
  - Corporate trusts
  - Discrimination—employment or other
  - Insurance claims
  - Intellectual property
  - Libel/Slander
  - Shareholder derivative action
  - Securities litigation
  - Trade secrets
  - Trust litigation

## COUNTY CIVIL

- Small Claims up to \$8,000
- Civil
- Real property/Mortgage foreclosure

- Replevins
- Evictions
  - Residential Evictions
  - Non-residential Evictions
- Other civil (non-monetary)

**COMPLEX BUSINESS COURT**

This action is appropriate for assignment to Complex Business Court as delineated and mandated by the Administrative Order. Yes  No

**IV. REMEDIES SOUGHT (check all that apply):**

- Monetary;
- Nonmonetary declaratory or injunctive relief;
- Punitive

**V. NUMBER OF CAUSES OF ACTION: [ ]**

(Specify)

6

**VI. IS THIS CASE A CLASS ACTION LAWSUIT?**

- yes
- no

**VII. HAS NOTICE OF ANY KNOWN RELATED CASE BEEN FILED?**

- no
- yes If "yes," list all related cases by name, case number, and court.

**VIII. IS JURY TRIAL DEMANDED IN COMPLAINT?**

- yes
- no

**IX. DOES THIS CASE INVOLVE ALLEGATIONS OF SEXUAL ABUSE?**

- yes
- no

I CERTIFY that the information I have provided in this cover sheet is accurate to the best of my knowledge and belief, and that I have read and will comply with the requirements of Florida Rule of Judicial Administration 2.425.

Signature: s/ Brandon J Hill  
Attorney or party

Fla. Bar # 37061  
(Bar # if attorney)

Brandon J Hill  
(type or print name)

06/14/2022  
Date

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

TABITHA PARKER,  
*individually and on behalf  
of all others similarly situated,*

Plaintiff,

v.

CASE NO.:

IRBSEARCH, LLC,

Defendant.

**NOTICE OF DESIGNATION OF E-MAIL  
ADDRESSES FOR SERVICE OF COURT DOCUMENTS**

Plaintiff, TABITHA PARKER, by and through undersigned counsel, files this Notice of Designation of E-Mail Addresses for Service of Court Documents under Florida Rule of Judicial Administration 2.516(b)(1)(A), and hereby designates the following e-mail addresses to be used for service of all court filings in this action: bhill@wfclaw.com; lcabassa@wfclaw.com; gnichols@wfclaw.com; and craig@clalegal.com.

Dated this 14<sup>th</sup> day of June, 2022.

Respectfully submitted,

/s/ Brandon J. Hill

**BRANDON HILL**

Florida Bar No. 37061

**LUIS A. CABASSA**

Florida Bar No. 0053643

**WENZEL FENTON CABASSA, P.A.**

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Email: gnichols@wfclaw.com

**Attorneys for Plaintiff**

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

TABITHA PARKER,  
*individually and on behalf  
of all others similarly situated,*

Plaintiff,

v.

CASE NO.:

IRBSEARCH, LLC,

Defendant.

**REQUEST FOR DIVISION ASSIGNMENT**

This is a request based on local Administrative Order(s) for the Clerk of the Court to assign the above styled case in the

Tampa Division

East Division

Prior Division (Please indicate Case Number and Division of Previously filed action:  
\_\_\_\_\_)

I understand that the actual division assignment will be in accordance with the Hillsborough County Administrative Orders. If there is no supported request for specific division assignment, this action will be assigned a division based on random and equitable distribution system.

Brandon J. Hill, Esq.

Luis A. Cabassa, Esq.

Wenzel Fenton Cabassa, PA

1110 N. Florida Avenue, Suite 300

Tampa, FL 33602

(813) 224-0431

Email Address(es): bhill@wfcflaw.com; lcabassa@wfcflaw.com and gnichols@wfcflaw.com

IN THE CIRCUIT/COUNTY COURT OF THE THIRTEENTH JUDICIAL  
CIRCUIT, IN AND FOR HILLSBOROUGH COUNTY, FLORIDA

TABITHA PARKER

Plaintiffs,

v.

Case Number: 22-CA-004980

Division E

IRBSEARCH LLC

Defendants.

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**DIFFERENTIATED CASE MANAGEMENT ORDER &**

**NOTICE OF CASE MANAGEMENT HEARING**

**ON 2/2/2023 AT 4:00 PM**

**(GENERAL CIRCUIT CIVIL CASES FILED AFTER APRIL 30, 2021)**

THIS CAUSE comes before the Court on review of Amendment 12 to Florida Supreme Court Administrative Order AOSC20-23 (the “**Supreme Court Order**”). The Supreme Court Order directs the chief judge of each circuit to issue an administrative order requiring the presiding judge for each civil case to actively manage civil cases in accordance with a differentiated case management process. Consistent with this requirement, the Chief Judge of the Thirteenth Judicial Circuit issued Administrative Order S-2021-060 (the “**Case Management Plan**”) on April 26, 2021.

Accordingly, it is now

**FOUND, ORDERED, and ADJUDGED** that:

1. **Designation of Case.** This case is preliminarily designated as a *General* civil case, as defined by the Supreme Court Order and the Case Management Plan.
2. **Plaintiff’s Obligation to Serve DCM Order on All Defendants.** Consistent with the Case Management Plan, this Differentiated Case Management Order & Notice of Hearing (the “**DCM Order**”) has been generated automatically upon the filing of the complaint and will be provided to Plaintiff along with the summons. Plaintiff is **DIRECTED** to serve the DCM Order on each and every named defendant in the same manner and at the same time as the complaint itself is served.

Filed 6/14/2022 10:54:08 AM Hillsborough County Clerk of the Circuit Court



3. **Conformity with Supreme Court Order's Directive.** The deadlines established in this DCM Order are set in conformity with the Supreme Court Order's directive that General civil cases be managed according to the time standards specified in Florida Rule of General Practice and Judicial Administration 2.250(a)(1)(B).
4. **Procedure for Modification of Deadlines.** Counsel or any self-represented parties, or both, may seek to modify the deadlines set forth in this order by either:
  - a. Filing a motion and setting it for hearing; or
  - b. Stipulating to new deadlines and submitting an Amended Differentiated Case Management Order. The Amended Differentiated Case Management Order ("**Amended DCM Order**") form is available under the "Forms" tab of the undersigned's page at <http://www.fljud13.org>. The Amended DCM Order must include a date for a court-ordered case management conference (the "**Court-Ordered Case Management Conference**"). Hearing time for the Court-Ordered Case Management Conference should be secured on either a Uniform Motion Calendar ("**UMC**") docket or a 15-minute hearing docket.
5. **Procedure for Setting Firm Trial Date When Case is at Issue.** Consistent with the Supreme Court Order's mandate, the deadlines set forth in this DCM Order contemplate a projected trial date within the time standards specified in Florida Rule of General Practice and Judicial Administration 2.250(a)(1)(B). A firm trial date will be set through entry of a Uniform Order Setting Trial & Pretrial at the Court-Ordered Case Management Conference or as otherwise provided in this order.
6. **Court-Ordered Case Management Conference.** It is appropriate to set a Court-Ordered Case Management Conference prior to the close of fact discovery to both assess the progress of the case and set a firm trial date.
  - a. **Date and Time for Court-Ordered Case Management Set Below.** A date and time for the Court-Ordered Case Management Conference is set below.
  - b. **Method of Conducting Court-Ordered Case Management Conference:** The Court-Ordered Case Management Conference will be conducted remotely through the use of the following technology and connection instructions:

Webex: 1-904-900-2303 or 1-415-655-0001  
Access Code: 132 571 5688
  - c. **Attendance Mandated.** Counsel and any self-represented parties **MUST ATTEND** unless otherwise excused by the Court and must be prepared to discuss selection of a firm trial date and corresponding pretrial conference date and time.

**d. Process for Securing Excusal from Attending the Court-Ordered Case Management Conference:**

**i. Automatic Excusal.**

1. Unless otherwise ordered by the presiding judge, counsel or any self-represented parties, or both, are automatically excused from attending the Court-Ordered Case Management Conference if a Uniform Order Setting Trial & Pretrial (Revised April 30, 2021) has been submitted to and signed by the Court at least 30 days before the date of the Court-Ordered Case Management Conference; and
2. Any party seeking to invoke this automatic excusal provision should notify the judicial assistant by email sent to the division email address within 3 business days of the date the Uniform Order Setting Trial & Pretrial (Revised April 30, 2021) is signed.

**ii. Discretionary Excusal.**

1. Counsel or self-represented parties, or both, may seek a discretionary excusal from the Court-Ordered Case Management Conference by filing a motion and submitting an agreed proposed order excusing attendance by the Court on one of the following grounds:
    - a. The Court has signed an Amended DCM Order, either by stipulation or by filing a motion and setting a hearing, AND the Amended DCM Order sets a new Court-Ordered Case Management Conference; or
    - b. Counsel has otherwise demonstrated good cause to believe that the case is otherwise in full compliance with the Supreme Court Order's mandate and the Case Management Plan.
  - e. **Failure to Attend Court-Ordered Case Management Conference.** The failure to attend the Court-Ordered Case Management Conference may result in the case being set for a trial date without input of the absent counsel or self-represented party, or both; dismissal of the complaint without prejudice; entry of a judicial default; monetary sanctions against counsel or any self-represented parties, or both; or any other sanctions deemed appropriate by the presiding judge.
7. **Firm Trial Date to be Set by Uniform Order Setting Trial & Pretrial (Revised April 30, 2021).** Once a firm trial date is selected, counsel will be directed to prepare and

submit through the Florida E-Portal (the “**Portal**”) a Uniform Order Setting Trial & Pretrial (Revised April 30, 2021), which is available under the “Forms” tab of the undersigned’s page at <http://www.fljud13.org>. The Uniform Order Setting Trial & Pretrial (Revised April 30, 2021) will require calculation of additional deadlines in a specified manner.

8. **Requirement to Review and Comply with Administrative Order for Circuit Civil Division.** Counsel and any self-represented parties are **DIRECTED** to review and comply with all provisions of the Thirteenth Circuit’s Administrative Order S-2021-014 (*Circuit Civil Division*), and any successive administrative order.

9. **Certificate of Conferral for Non-Dispositive Motions.**

- a. **When Required.** Except for a motion (i) for injunctive relief; (ii) for judgment on the pleadings; (iii) for summary judgment; (iv) to dismiss or to permit maintenance of a class action; (v) to dismiss for failure to state a claim upon which relief can be granted; or (vi) to involuntarily dismiss an action, before the moving party or moving party’s counsel files any other motion, the party or counsel should confer with the opposing party or opposing counsel in a good faith effort to resolve the issues raised by the motion. The moving party or moving party’s counsel should include in the body of the motion a statement certifying that the moving party or moving party’s counsel has conferred with the opposing party or opposing party’s counsel—either in person, by telephone, or by video conferencing device—and stating whether the party or counsel agree on the resolution of the motion. A certification to the effect that opposing party or opposing party’s counsel was unavailable for a conference before filing a motion should describe, with particularity, all of the efforts undertaken to accomplish dialogue with the opposing party or opposing party’s counsel prior to filing the subject motion.
- b. **Cancellation of Hearing/Denial of Motion Filed Without Certificate of Conferral.** Counsel and any self-represented parties should anticipate that a hearing set on a motion that lacks such a certification will be canceled and the motion may be denied without a hearing for failure to comply with this requirement.
- c. **Form of Certificate of Conferral.** The certificate of conferral should be substantially in the following form:

**Certificate of Conferral Prior to Filing**

*“I certify that prior to filing this motion, I attempted to resolve the matter by discussing the relief requested in this motion by [date and method of communication (select one of the following: in person, telephone, or video conference)] with the opposing party or counsel and [the opposing party or*

counsel did not agree to that the motion could be resolved without the necessity of a hearing] OR [the opposing party or counsel did not respond and (describe with particularity all of the efforts undertaken to accomplish dialogue with the opposing party or opposing party's counsel prior to filing the motion)].”

#### 10. Discovery Provisions.

##### a. Fact Discovery.

- i. All discovery must be served in time for a timely response to be received prior to the deadline for completion of fact discovery.
- ii. All non-expert witness depositions must occur prior to the deadline for completion of fact discovery.
- iii. Failure to timely complete discovery by the deadline for completion of fact discovery may result in, among other things, exclusion of evidence or other sanctions, or both.

##### b. Expert Discovery.

- i. Expert disclosure must occur by the deadline indicated below.
- ii. Contemporaneous with disclosure of each expert, the disclosing party must provide to all other parties:
  1. No less than five proposed deposition dates, all of which must be prior to the deadline to complete expert discovery; and
  2. For each expert:
    - a. Identify the expert's area of expertise;
    - b. Identify the subject matter on which the expert is expected to testify;
    - c. Summarize the substance of the facts and opinions to which the expert is expected to testify; and
    - d. Summarize the grounds for each opinion.
- iii. The court may preclude an expert from testifying outside of the disclosed opinions.

- iv. All expert witness depositions must be conducted prior to the deadline for completion of expert discovery.
- v. It is the responsibility of counsel to select experts who:
  1. Are prepared to make themselves available for deposition within the expert discovery period; and
  2. Are prepared to respond promptly to requests for deposition dates.
- vi. If an expert cannot be deposed prior to the deadline for completion of expert discovery despite timely and reasonable efforts of opposing counsel to secure deposition dates, that expert's testimony may be excluded at trial.

11. **Deadlines.** The deadlines set forth below are **ESTABLISHED** and will **GOVERN** this case and will be strictly enforced by the Court. Counsel and any self-represented parties are **DIRECTED** to review, calendar, and abide by them:

Action or Event	Date
<b>Complaint filing date.</b>	06/14/2022
<b>Deadline for service of complaint.</b> [120 days after filing of complaint; <i>see</i> Rule 1.070(j), Fla. R. Civ. P.]	10/12/2022
<b>Deadline for adding parties.</b> [150 days after filing of complaint; subject to Rule 1.210, Fla. R. Civ. P.]	11/14/2022
<b>Deadline for service under extensions.</b> [180 days after filing of complaint; <i>see</i> Rule 1.070(j), Fla. R. Civ. P.]	12/12/2022
<b>Court-Ordered Case Management Conference.</b> NOTE: This hearing will be conducted remotely. Please see paragraph 6(b) for connection instructions. [210 days after filing of complaint.]	02/02/2023 At 4:00 PM
<b>Deadline for completion of fact discovery.</b>	3/13/2023

[270 days after filing of complaint.]	
<b>Deadline for filing motion to compel discovery.</b> [284 days after filing of complaint.]	3/27/2023
<b>Plaintiff's expert disclosure deadline.</b> [300 days after filing of complaint.]	4/10/2023
<b>Defendant's expert disclosure deadline.</b> [330 days after filing of complaint.]	5/10/2023
<b>Rebuttal expert disclosure deadline.</b> [344 days after filing of complaint.]	5/24/2023
<b>Deadline for completion of compulsory medical exam, if applicable and requested ("CME").</b> [390 days after filing of complaint; subject to Rule 1.360(1)(A), Fla. R. Civ. P.]	7/10/2023
<b>Deadline for completion of mediation or non-binding arbitration.</b> [420 days after filing of complaint.]	8/8/2023
<b>Deadline for completion of expert discovery.</b> [420 days after filing of complaint.]	8/8/2023
<b>Month and year of the projected trial term.</b> [540 days after filing of complaint; <i>see</i> Florida Rule of General Practice and Judicial Administration 2.250(a)(1)(B); firm trial date will be set by entry of a Uniform Order Setting Trial & Pretrial (Revised April 30, 2021).]	December, 2023

ENTERED by the undersigned judge on the date imprinted below.

22-CA-004980 6/14/2022 10:53:45 AM

Circuit Judge

22-CA-004980 6/14/2022 10:53:45 AM

Filed 6/14/2022 10:54:08 AM Hillsborough County Clerk of the Circuit Court



# Case Information

Case Number: 22-CA-004980

Uniform Case Number: 292022CA004980A001HC

Parker, Tabitha vsIRBsearch LLC

- Icon Keys
- Summary
- Parties
- Events\Documents
- Hearings
- Financial
- File Location
- Related Cases

Filter Events Dates:

From

To

Filter

Show  entries  Column visibility  CSV

Search:

Select	Document Index	Clock-In Event Date	Event Description	Comment	Image	Certify
	11	08/29/2022	NOTICE OF REMOVAL TO FEDERAL COURT			
	10	08/16/2022	AFFIDAVIT OF SERVICE RETURNED SERVED	08/09/2022 DEFT IRBSEARCH, LLC		
	1	06/14/2022	File Home Location - Electronic			
	2	06/14/2022	General Differentiated Case Management Applies			

Select	Document Index	Clock-In Event Date	Event Description	Comment	Image	Certify
	3	06/14/2022	CIVIL COVER SHEET			
	4	06/14/2022	COMPLAINT			
	5	06/14/2022	E-FILED REQUEST FOR SUMMONS TO BE ISSUED			
	6	06/14/2022	REQUEST FOR DIVISION ASSIGNMENT (E-FILING)			
	7	06/14/2022	DESIGNATION OF CURRENT MAILING AND E-MAIL ADDRESS			
	8	06/14/2022	General Differentiated Case Management Order			
	9	06/14/2022	E-FILED SUMMONS ISSUED	X1		

Showing 1 to 11 of 11 entries (filtered from 0 total entries)

Previous

1

Next

Exit Case Details



IN THE CIRCUIT COURT FOR THE  
THIRTEENTH JUDICIAL CIRCUIT IN  
AND FOR HILLSBOROUGH  
COUNTY, FLORIDA

TBITHA PARKER, individually and on  
behalf of all others similarly situated,

CASE NO.: 22-CA-004980  
Division E

Plaintiff,

v.

IRBSEARCH, LLC,

Defendant.

\_\_\_\_\_ /

**NOTICE OF REMOVAL TO FEDERAL COURT**

COMES NOW, Defendant IRBSEARCH, LLC, and hereby gives notice that it has filed the attached Notice of Removal with the United States District Court, Middle District of Florida, to remove this action to federal court.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 29th day of August, 2022, a true and correct copy of the foregoing was filed with the Clerk of Hillsborough County by using the Florida Courts e-Filing Portal, which will send an automatic e-mail message to the parties registered with the e-Filing Portal system.

COLE, SCOTT & KISSANE, P.A.  
Counsel for Defendant *IRBSEARCH, LLC*,  
4301 West Boy Scout Boulevard  
Suite 400  
Tampa, Florida 33607  
Telephone (813) 509-2691  
Facsimile (813) 286-2900  
Primary e-mail: daniel.nicholas@csklegal.com

**COLE, SCOTT & KISSANE, P.A.**

4301 WEST BOY SCOUT BOULEVARD - SUITE 400 - TAMPA, FLORIDA 33607 - (813) 289-9300 - (813) 286-2900 FAX

CASE NO.:

Secondary e-mail: jordan.levitats@csklegal.com

By: s/ Daniel A. Nicholas  
DANIEL A. NICHOLAS  
Florida Bar No.: 0847755  
JORDAN I. LEVITATS  
Florida Bar No.: 1025535

0389.0221-00/-1

IN THE CIRCUIT COURT FOR THE  
THIRTEENTH JUDICIAL CIRCUIT IN  
AND FOR HILLSBOROUGH  
COUNTY, FLORIDA

TBITHA PARKER, individually and on  
behalf of all others similarly situated,

Plaintiff,

v.

IRBSEARCH, LLC,

Defendant.

CASE NO.: 22-CA-004980  
Division E

\_\_\_\_\_ /

**ATTACHMENT**  
**NOTICE OF REMOVAL TO FEDERAL COURT**

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION**

TBITHA PARKER, individually and on  
behalf of all others similarly situated,

Plaintiff,

CASE NO.: \_\_\_\_\_

v.

IRBSEARCH, LLC,

Defendant.

\_\_\_\_\_/

**DEFENDANT'S NOTICE OF AND PETITION FOR REMOVAL**

Defendant, IRBSearch, LLC ("Defendant") by and through its undersigned counsel, and pursuant to 28 U.S.C. §§ 1331, 1441, 1446 and applicable Federal Rules of Civil Procedure and Local Rule of the United States District Court for the Middle District of Florida, hereby files this Notice of and Petition for Removal ("Petition for Removal"). Defendant hereby requests that this Court remove this action, which is styled: Tabitha Parker, individually and on behalf of all others similarly situated, vs. IRBSearch, LLC, and designated Case No.: 22-CA-004980 Division: E, from the Circuit Court of the Thirteenth Judicial Circuit in and for Hillsborough County, Florida, Civil Division, in which the action is now pending, to the United States District Court for the District of Florida, Division ("Circuit Court Case").

The removal of this action is based on the following:

**COLE, SCOTT & KISSANE, P.A.**

4301 WEST BOY SCOUT BOULEVARD - SUITE 400 - TAMPA, FLORIDA 33607 - (813) 289-9300 - (813) 286-2900 FAX

**BACKGROUND**

1. On or about June 14, 2022, the Complaint relative to the Circuit Court Case was filed in the Thirteenth Judicial Circuit in and for Hillsborough County, Florida. A true and correct copy of the Complaint is being filed with this Court along with this Petition for Removal.

2. Plaintiff's Complaint alleges that Defendant, who performs background checks for employers relative to prospective new hires, violated the Florida Civil Rights Act ("FCRA") and various subsections of 15 U.S.C. § 1681. Plaintiff raises these violations on behalf of herself and as a prospective class member.

3. Specifically, Plaintiff's Complaint brings six counts—Counts I through IV raise reporting violations under various sections of 15 U.S.C. § 1681 and Counts V and VI raise defamation claims under Florida law.

4. Plaintiff's claims under 15 U.S.C. § 1681 are within the original jurisdiction of the United States District Court, pursuant to 28 U.S.C. § 1331.

5. Pursuant to 28 U.S.C. § 1367, "the district court shall have supplemental jurisdiction over all other claims that are so related to claims in the action within such original jurisdiction that they form part of the same case or controversy under Article III of the United States Constitution."

CASE NO.:

6. There is no dispute that the Florida claims arise out of the same transaction and occurrence (the furnishing of background information specific to the Plaintiff or each respective putative class member) as the conduct giving rise to the Federal claims.

7. Therefore, the Court has supplemental jurisdiction over Plaintiff's claims arising under Florida Law. 28 U.S.C. § 1367.

8. Defense Counsel discussed removal with Plaintiff's Counsel, and Plaintiff's counsel had no objection to removing this action to Federal Court.

### VENUE

9. The United States District Court for the Middle District of Florida, Tampa Division, includes the judicial circuit in which Plaintiff filed her Complaint. Thus, removal to this Court is proper pursuant to 28 U.S.C. § 1446(a).

### COMPLIANCE WITH PROCEDURAL REQUIREMENTS

10. 28 U.S. Code § 1446 (b)(1) provides:

The notice of removal of a civil action or proceeding shall be filed **within 30 days after the receipt by the defendant, through service or otherwise**, of a copy of the initial pleading setting forth the claim for relief upon which such action or proceeding is based, or within 30 days after the service of summons upon the defendant if such initial pleading has then been filed in court and is not required to be served on the defendant, whichever period is shorter.

(emphasis added).

CASE NO.:

11. Plaintiff's Complaint was served upon Defendant on August 9, 2022. This Petition has been filed within 30 days of same. Therefore, this Petition is timely. *Id.*

12. Copies of all process, pleadings, orders and other papers or exhibits of every kind currently on file with the state court are being filed with this Court along with this Notice of and Petition for Removal, as required by 28 U.S.C. § 1446(a) and Local Rule 4.02 M.D. Fla.

13. Pursuant to 28 U.S.C. § 1446(d), Defendant will promptly provide written notice of this removal to all parties in this action and will file a copy of this Notice of and Petition for Removal in the Circuit Court of the Thirteenth Judicial Circuit in and for Hillsborough County, Florida.

**WHEREFORE**, Defendant, IRBSearch, LLC , respectfully requests that the United States District Court for the Middle District of Florida, Tampa Division, accept the removal of this action from the state court and direct that the Circuit Court of the Thirteenth Judicial Circuit in and for Hillsborough County, Florida, have no further jurisdiction of this matter unless and until this case is remanded.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 29th day of August 2022, a true and correct copy of the foregoing was filed with the United States District Court for the Middle

CASE NO.:

District of Florida, Tampa Division Clerk of Court and delivered via electronic mail.

COLE, SCOTT & KISSANE, P.A.  
Counsel for Defendant *IRBSEARCH, LLC*,  
4301 West Boy Scout Boulevard  
Suite 400  
Tampa, Florida 33607  
Telephone (813) 509-2691  
Facsimile (813) 286-2900  
Primary e-mail: daniel.nicholas@csklegal.com  
Secondary e-mail: jordan.levitats@csklegal.com

By: s/ Daniel A. Nicholas

DANIEL A. NICHOLAS  
Florida Bar No.: 0847755  
JORDAN I. LEVITATS  
Florida Bar No.: 1025535

0389.0221-00/-1



**IN THE CIRCUIT/COUNTY COURT OF THE THIRTEENTH JUDICIAL  
CIRCUIT, IN AND FOR HILLSBOROUGH COUNTY, FLORIDA**

TABITHA PARKER

Plaintiffs,

v.

Case Number: 22-CA-004980

Division E

IRBSEARCH LLC

Defendants.

---

**DIFFERENTIATED CASE MANAGEMENT ORDER &**

**NOTICE OF CASE MANAGEMENT HEARING**

**ON 2/2/2023 AT 4:00 PM**

**(GENERAL CIRCUIT CIVIL CASES FILED AFTER APRIL 30, 2021)**

THIS CAUSE comes before the Court on review of Amendment 12 to Florida Supreme Court Administrative Order AOSC20-23 (the “**Supreme Court Order**”). The Supreme Court Order directs the chief judge of each circuit to issue an administrative order requiring the presiding judge for each civil case to actively manage civil cases in accordance with a differentiated case management process. Consistent with this requirement, the Chief Judge of the Thirteenth Judicial Circuit issued Administrative Order S-2021-060 (the “**Case Management Plan**”) on April 26, 2021.

Accordingly, it is now

**FOUND, ORDERED, and ADJUDGED** that:

1. **Designation of Case.** This case is preliminarily designated as a *General* civil case, as defined by the Supreme Court Order and the Case Management Plan.
2. **Plaintiff’s Obligation to Serve DCM Order on All Defendants.** Consistent with the Case Management Plan, this Differentiated Case Management Order & Notice of Hearing (the “**DCM Order**”) has been generated automatically upon the filing of the complaint and will be provided to Plaintiff along with the summons. Plaintiff is **DIRECTED** to serve the DCM Order on each and every named defendant in the same manner and at the same time as the complaint itself is served.

Filed 6/14/2022 10:54:08 AM Hillsborough County Clerk of the Circuit Court

3. **Conformity with Supreme Court Order’s Directive.** The deadlines established in this DCM Order are set in conformity with the Supreme Court Order’s directive that General civil cases be managed according to the time standards specified in Florida Rule of General Practice and Judicial Administration 2.250(a)(1)(B).
4. **Procedure for Modification of Deadlines.** Counsel or any self-represented parties, or both, may seek to modify the deadlines set forth in this order by either:
  - a. Filing a motion and setting it for hearing; or
  - b. Stipulating to new deadlines and submitting an Amended Differentiated Case Management Order. The Amended Differentiated Case Management Order (“**Amended DCM Order**”) form is available under the “Forms” tab of the undersigned’s page at <http://www.fljud13.org>. The Amended DCM Order must include a date for a court-ordered case management conference (the “**Court-Ordered Case Management Conference**”). Hearing time for the Court-Ordered Case Management Conference should be secured on either a Uniform Motion Calendar (“**UMC**”) docket or a 15-minute hearing docket.
5. **Procedure for Setting Firm Trial Date When Case is at Issue.** Consistent with the Supreme Court Order’s mandate, the deadlines set forth in this DCM Order contemplate a projected trial date within the time standards specified in Florida Rule of General Practice and Judicial Administration 2.250(a)(1)(B). A firm trial date will be set through entry of a Uniform Order Setting Trial & Pretrial at the Court-Ordered Case Management Conference or as otherwise provided in this order.
6. **Court-Ordered Case Management Conference.** It is appropriate to set a Court-Ordered Case Management Conference prior to the close of fact discovery to both assess the progress of the case and set a firm trial date.
  - a. **Date and Time for Court-Ordered Case Management Set Below.** A date and time for the Court-Ordered Case Management Conference is set below.
  - b. **Method of Conducting Court-Ordered Case Management Conference:** The Court-Ordered Case Management Conference will be conducted remotely through the use of the following technology and connection instructions:

Webex: 1-904-900-2303 or 1-415-655-0001  
Access Code: 132 571 5688
  - c. **Attendance Mandated.** Counsel and any self-represented parties **MUST ATTEND** unless otherwise excused by the Court and must be prepared to discuss selection of a firm trial date and corresponding pretrial conference date and time.

d. **Process for Securing Excusal from Attending the Court-Ordered Case Management Conference:**

i. **Automatic Excusal.**

1. Unless otherwise ordered by the presiding judge, counsel or any self-represented parties, or both, are automatically excused from attending the Court-Ordered Case Management Conference if a Uniform Order Setting Trial & Pretrial (Revised April 30, 2021) has been submitted to and signed by the Court at least 30 days before the date of the Court-Ordered Case Management Conference; and
2. Any party seeking to invoke this automatic excusal provision should notify the judicial assistant by email sent to the division email address within 3 business days of the date the Uniform Order Setting Trial & Pretrial (Revised April 30, 2021) is signed.

ii. **Discretionary Excusal.**

1. Counsel or self-represented parties, or both, may seek a discretionary excusal from the Court-Ordered Case Management Conference by filing a motion and submitting an agreed proposed order excusing attendance by the Court on one of the following grounds:
  - a. The Court has signed an Amended DCM Order, either by stipulation or by filing a motion and setting a hearing, AND the Amended DCM Order sets a new Court-Ordered Case Management Conference; or
  - b. Counsel has otherwise demonstrated good cause to believe that the case is otherwise in full compliance with the Supreme Court Order's mandate and the Case Management Plan.

- e. **Failure to Attend Court-Ordered Case Management Conference.** The failure to attend the Court-Ordered Case Management Conference may result in the case being set for a trial date without input of the absent counsel or self-represented party, or both; dismissal of the complaint without prejudice; entry of a judicial default; monetary sanctions against counsel or any self-represented parties, or both; or any other sanctions deemed appropriate by the presiding judge.

7. **Firm Trial Date to be Set by Uniform Order Setting Trial & Pretrial (Revised April 30, 2021).** Once a firm trial date is selected, counsel will be directed to prepare and

submit through the Florida E-Portal (the “**Portal**”) a Uniform Order Setting Trial & Pretrial (Revised April 30, 2021), which is available under the “Forms” tab of the undersigned’s page at <http://www.fljud13.org>. The Uniform Order Setting Trial & Pretrial (Revised April 30, 2021) will require calculation of additional deadlines in a specified manner.

8. **Requirement to Review and Comply with Administrative Order for Circuit Civil Division.** Counsel and any self-represented parties are **DIRECTED** to review and comply with all provisions of the Thirteenth Circuit’s Administrative Order S-2021-014 (*Circuit Civil Division*), and any successive administrative order.

9. **Certificate of Conferral for Non-Dispositive Motions.**

- a. **When Required.** Except for a motion (i) for injunctive relief; (ii) for judgment on the pleadings; (iii) for summary judgment; (iv) to dismiss or to permit maintenance of a class action; (v) to dismiss for failure to state a claim upon which relief can be granted; or (vi) to involuntarily dismiss an action, before the moving party or moving party’s counsel files any other motion, the party or counsel should confer with the opposing party or opposing counsel in a good faith effort to resolve the issues raised by the motion. The moving party or moving party’s counsel should include in the body of the motion a statement certifying that the moving party or moving party’s counsel has conferred with the opposing party or opposing party’s counsel—either in person, by telephone, or by video conferencing device—and stating whether the party or counsel agree on the resolution of the motion. A certification to the effect that opposing party or opposing party’s counsel was unavailable for a conference before filing a motion should describe, with particularity, all of the efforts undertaken to accomplish dialogue with the opposing party or opposing party’s counsel prior to filing the subject motion.
- b. **Cancellation of Hearing/Denial of Motion Filed Without Certificate of Conferral.** Counsel and any self-represented parties should anticipate that a hearing set on a motion that lacks such a certification will be canceled and the motion may be denied without a hearing for failure to comply with this requirement.
- c. **Form of Certificate of Conferral.** The certificate of conferral should be substantially in the following form:

**Certificate of Conferral Prior to Filing**

***“I certify that prior to filing this motion, I attempted to resolve the matter by discussing the relief requested in this motion by [date and method of communication (select one of the following: in person, telephone, or video conference)] with the opposing party or counsel and [the opposing party or***

*counsel did not agree to that the motion could be resolved without the necessity of a hearing] OR [the opposing party or counsel did not respond and (describe with particularity all of the efforts undertaken to accomplish dialogue with the opposing party or opposing party's counsel prior to filing the motion)].”*

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### a. Fact Discovery.

- i. All discovery must be served in time for a timely response to be received prior to the deadline for completion of fact discovery.
- ii. All non-expert witness depositions must occur prior to the deadline for completion of fact discovery.
- iii. Failure to timely complete discovery by the deadline for completion of fact discovery may result in, among other things, exclusion of evidence or other sanctions, or both.

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- i. Expert disclosure must occur by the deadline indicated below.
- ii. Contemporaneous with disclosure of each expert, the disclosing party must provide to all other parties:
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    - b. Identify the subject matter on which the expert is expected to testify;
    - c. Summarize the substance of the facts and opinions to which the expert is expected to testify; and
    - d. Summarize the grounds for each opinion.
- iii. The court may preclude an expert from testifying outside of the disclosed opinions.

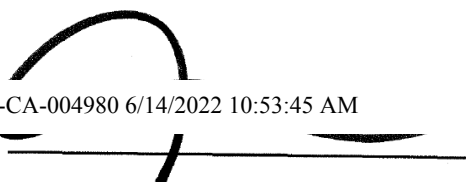
- iv. All expert witness depositions must be conducted prior to the deadline for completion of expert discovery.
- v. It is the responsibility of counsel to select experts who:
  1. Are prepared to make themselves available for deposition within the expert discovery period; and
  2. Are prepared to respond promptly to requests for deposition dates.
- vi. If an expert cannot be deposed prior to the deadline for completion of expert discovery despite timely and reasonable efforts of opposing counsel to secure deposition dates, that expert's testimony may be excluded at trial.

11. **Deadlines.** The deadlines set forth below are **ESTABLISHED** and will **GOVERN** this case and will be strictly enforced by the Court. Counsel and any self-represented parties are **DIRECTED** to review, calendar, and abide by them:

<b>Action or Event</b>	<b>Date</b>
<b>Complaint filing date.</b>	06/14/2022
<b>Deadline for service of complaint.</b> [120 days after filing of complaint; <i>see</i> Rule 1.070(j), Fla. R. Civ. P.]	10/12/2022
<b>Deadline for adding parties.</b> [150 days after filing of complaint; subject to Rule 1.210, Fla. R. Civ. P.]	11/14/2022
<b>Deadline for service under extensions.</b> [180 days after filing of complaint; <i>see</i> Rule 1.070(j), Fla. R. Civ. P.]	12/12/2022
<b>Court-Ordered Case Management Conference.</b> NOTE: This hearing will be conducted remotely. Please see paragraph 6(b) for connection instructions. [210 days after filing of complaint.]	02/02/2023 At 4:00 PM
<b>Deadline for completion of fact discovery.</b>	3/13/2023

[270 days after filing of complaint.]	
<b>Deadline for filing motion to compel discovery.</b> [284 days after filing of complaint.]	3/27/2023
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<b>Deadline for completion of compulsory medical exam, if applicable and requested (“CME”).</b> [390 days after filing of complaint; subject to Rule 1.360(1)(A), Fla. R. Civ. P.]	7/10/2023
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<b>Month and year of the projected trial term.</b> [540 days after filing of complaint; <i>see</i> Florida Rule of General Practice and Judicial Administration 2.250(a)(1)(B); firm trial date will be set by entry of a Uniform Order Setting Trial & Pretrial (Revised April 30, 2021).]	December, 2023

ENTERED by the undersigned judge on the date imprinted below.

  
 22-CA-004980 6/14/2022 10:53:45 AM  
 \_\_\_\_\_  
 Circuit Judge

22-CA-004980 6/14/2022 10:53:45 AM

Filed 6/14/2022 10:54:08 AM Hillsborough County Clerk of the Circuit Court

CIVIL COVER SHEET

The JS 44 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, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

TBITHA PARKER

(b) County of Residence of First Listed Plaintiff Hillsborough (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number) Wenzel, Fenton, Cabassa, P.A., 1110 North Florida Ave., Suite 300, Tampa, FL 33602

DEFENDANTS

IRBSearch, LLC

County of Residence of First Listed Defendant Leon County (IN U.S. PLAINTIFF CASES ONLY)

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

Attorneys (If Known) Cole, Scott, & Kissane, P.A. 4301 West Boy Scout Boulevard, Suite 400, Tampa, Florida 33607

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)

Table with columns for Plaintiff (PTF) and Defendant (DEF) citizenship: Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation.

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

Large table with categories: CONTRACT, REAL PROPERTY, CIVIL RIGHTS, PRISONER PETITIONS, TORTS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, INTELLECTUAL PROPERTY RIGHTS, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES.

V. 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 Transferred from Another District (specify), 6 Multidistrict Litigation - Transfer, 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 15 USC 1681. Brief description of cause: Plaintiff is suing Defendant for allegedly violating requirements of consumer reporting agencies.

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND: [X] Yes [ ] No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE Gaylord Moe, Anne-Leigh DOCKET NUMBER 22-CA-004980

DATE 8/29/2022 SIGNATURE OF ATTORNEY OF RECORD Jordan I. Levitats

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE



**INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44**

## Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.  
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here. United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.  
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.  
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.  
 Original Proceedings. (1) Cases which originate in the United States district courts.  
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441.  
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.  
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.  
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.  
 Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.  
 Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.  
**PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7.** Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service.
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.  
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.  
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

**Date and Attorney Signature.** Date and sign the civil cover sheet.

# ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [IRBsearch Sold Inaccurate Consumer Reports Used in Background Checks, Class Action Alleges](#)

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