



1 Except as provided in subparagraph (B), a person may not procure a consumer report,  
2 or cause a consumer report to be procured, for employment purposes with respect to  
any consumer, unless—

3 (i) a clear and conspicuous disclosure has been made in writing to the consumer at  
4 any time before the report is procured or caused to be procured, in a document that  
5 consists solely of the disclosure, that a consumer report may be obtained for  
employment purposes; and

6 (ii) the consumer has authorized in writing (which authorization may be made on the  
7 document referred to in clause (i)) the procurement of the report by that person.

8 15 U.S.C. § 1681b(b)(2)(A).

9 3. The disclosure and authorization requirements are important because they enable  
10 consumers to control and correct the information that is being disseminated about them by third  
11 parties. Moreover, the disclosures inform consumers about their rights pursuant to the FCRA, rights  
12 of which consumers are generally completely unaware.

13 4. Consumers have a statutory right to both obtain a copy of their consumer reports and  
14 to have errors in their reports corrected. *See* 15 U.S.C. §§ 1681g, 1681i. In order to enable consumers  
15 to exercise those rights, it is critical that consumers are aware that a report is going to be procured so  
16 that, if they choose, they can request a copy of the report to proactively ensure that it does not contain  
17 any errors.

18 5. Defendant has willfully and systematically violated 15 U.S.C. § 1681b(b)(2)(A) by  
19 procuring consumer reports on Plaintiff and other putative class members for employment purposes,  
20 without first making proper disclosures and/or obtaining authorization in the format required by the  
21 FCRA.

22 6. Defendant has further willfully and systematically violated 15 U.S.C. § 1681b(b)(3)  
23 by taking adverse action on Plaintiff and other putative class members based on the procured  
24 consumer reports without providing proper pre-adverse action notice, a copy of the report, a written  
25 description of rights, and reasonable time to respond to Defendant or dispute the report.  
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1           14.     Venue is proper in this District because a substantial portion of the acts giving rise to  
2 this action occurred in this District.

3                           **ALLEGATIONS RELATING TO PLAINTIFF RAYSHAWN RUFUS**

4           15.     Plaintiff repeats and re-alleges all of the foregoing paragraphs, as if set forth fully  
5 herein.

6           16.     On or about June 24, 2019, Plaintiff received an offer of employment from Defendant  
7 to begin working on or about July 3, 2019.

8           17.     On or around June 25, 2019, Defendant directed an outside consumer reporting  
9 agency, Active Screening to provide a consumer report containing information regarding Plaintiff.

10           18.     Defendant's purpose in directing Active Screening to provide a consumer report  
11 containing information regarding Plaintiff was to evaluate Plaintiff's eligibility to work for  
12 Defendant.  
13

14           19.     Prior to the time at which Defendant directed Active Screening to provide a consumer  
15 report containing information regarding Plaintiff, Plaintiff had not been provided with a proper  
16 standalone disclosure that a consumer report could be obtained for purposes of his employment.  
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18           20.     From approximately July 1, 2019 through July 10, 2019 Plaintiff called Defendant  
19 regularly to confirm his start date.

20           21.     On or about July 3, 2019, Defendant informed Plaintiff that the results from his  
21 background report had not been received and his start date would be moved to approximately July  
22 10, 2019.  
23

24           22.     On or about July 8, 2019, Active Screening furnished a consumer report to Defendant.

25           23.     On or about July 10, 2019, Plaintiff called Defendant and Defendant answered.  
26 Defendant verbally notified him that his background check results did not meet Defendant's  
27 standards and Defendant had decided to rescind the offer of employment.  
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1           24.     The consumer report Active Screening furnished to Defendant allegedly bore on  
2 Plaintiff's character and general reputation.

3           25.     Based on the information contained in the consumer report obtained from Active  
4 Screening, Defendant determined that Plaintiff was ineligible to continue working for Defendant.

5           26.     Plaintiff was not provided a pre-adverse action notice, a copy of the background  
6 report, or a summary of his rights under the FCRA.

7           27.     Defendant did not provide Plaintiff with an opportunity to respond to or dispute the  
8 results of the background report before taking adverse action against him.

9           28.     Defendant did not provide Plaintiff with a written description of his rights under the  
10 FCRA before taking adverse action against him.

11           29.     Defendant did not provide Plaintiff with a copy of the background report they  
12 procured before taking adverse action against him.

13           30.     Defendant failed to provide Plaintiff proper adverse action notice with adequate  
14 disclosures regarding the outside consumer reporting agency that provided the background report  
15 and Plaintiff's rights to free disclosure of the report and to dispute the accuracy of the information  
16 contained in the report.

17           31.     On or about July 25, 2019, Plaintiff requested a copy of the background report from  
18 Active Screening.

19           32.     Defendant willfully violated 15 U.S.C. § 1681b(b)(2)(A)(i) by procuring a consumer  
20 report on Plaintiff for employment purposes despite the fact that Plaintiff was not provided with a  
21 clear and conspicuous written disclosure, in a document consisting solely of the disclosure, that a  
22 consumer report may be obtained for employment purposes. ("Disclosure Claim").  
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1 33. Defendant willfully violated 15 U.S.C. § 1681b(b)(2)(A)(i) by procuring a consumer  
2 report on Plaintiff for employment purposes despite the fact that Plaintiff did not provide  
3 authorization to Defendant to procure the report. (“Authorization Claim”).

4 34. Defendant further willfully violated 15 U.S.C. § 1681b(b)(3)(A)(ii) by taking adverse  
5 action—i.e. determining that Plaintiff was ineligible to continue working for Defendants—based on  
6 the consumer report without providing Plaintiff with a written description of his rights under the  
7 FCRA, a copy of the background report, or reasonable time to dispute the results of the report.  
8 (“Adverse Action Claim”).

9  
10 **ALLEGATIONS RELATING TO DEFENDANT’S BUSINESS PRACTICES**

11 35. Plaintiff repeats and re-alleges all of the foregoing paragraphs, as if set forth fully  
12 herein.

13 36. Defendant conducts background checks on their job applicants.

14 37. Defendant does not perform these background checks in-house. Rather, Defendant  
15 relies on outside consumer reporting agencies to obtain this information and report it to Defendant.  
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17 38. These reports constitute “consumer reports” for purposes of the FCRA.

18 39. Defendant uses Active Screening as a consumer reporting agency.

19 40. The FCRA requires that, prior to procuring consumer reports, persons must certify to  
20 the consumer reporting agency that they will comply with the FCRA’s stand-alone disclosure  
21 requirements. *See* 15 U.S.C. § 1681b(b).  
22

23 41. Despite the representations Defendant presumably made to, and the instructions they  
24 received from, Active Screening, Defendant systematically failed to provide proper disclosures  
25 and/or obtain authorization before procuring consumer reports for employment purposes, and failed  
26 to provide written description of rights under the FCRA, copies of background report, and/or  
27 reasonable time to respond or dispute consumer reports before taking adverse action.  
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1           42. Defendant’s practices violate a fundamental protection afforded to employees under  
2 the FCRA, are contrary to the unambiguous language of the statute and are counter to longstanding  
3 judicial and regulatory guidance. In a 1998 advisory opinion letter, the Federal Trade Commission  
4 stated: “Section 604(b) of the FCRA requires any employer who intends to obtain a consumer report  
5 for employment purposes to disclose this to the applicant or employee (in a document that consists  
6 solely of the disclosure) and to obtain the applicant or employee's written permission.”<sup>3</sup>

8           43. By systematically failing to provide disclosures, Defendant willfully violated 15  
9 U.S.C. § 1681b(b)(2) and (3).

10           44. Defendant’s willful conduct is reflected by, *inter alia*, the following:

- 11           (a) The FCRA was enacted in 1970; AllStaff Services, Inc., which was founded in  
12                           1962, has had over 49 years to become compliant;
- 13           (b) Defendant’s conduct is inconsistent with the FTC’s longstanding regulatory  
14                           guidance, judicial interpretation, and the plain language of the statute;
- 15           (c) Defendant knew or had reason to know from their communications with Active  
16                           Screening that their conduct violated the FCRA;
- 17           (d) Upon information and belief, Defendant certified to Active Screening that they  
18                           would comply with the disclosure requirements of the FCRA;
- 19           (e) Defendant repeatedly and routinely failed to provide any disclosure to procure  
20                           consumer reports;
- 21           (f) Despite the explicit statutory text and depth of guidance directing a standalone  
22                           document, Defendant systematically failed to provide proper disclosures and/or  
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27           <sup>3</sup> Federal Trade Commission, Advisory Opinion to Hauxwell (06-12-98) (June 12, 1998), available at  
28 <http://www.ftc.gov/policy/advisory-opinions/advisory-opinion-hauxwell-06-12-98>.

1 obtain authorization before procuring consumer reports for employment purposes,  
2 and failed to provide written description of rights under the FCRA, copies of  
3 background report, and/or reasonable time to respond or dispute consumer reports  
4 before taking adverse action; and

5 (g) By adopting such a policy, Defendant voluntarily ran a risk of violating the law  
6 substantially greater than the risk associated with a reading that was merely  
7 careless.  
8

9 **CLASS ACTION ALLEGATIONS**

10 45. Plaintiff repeats and re-alleges all of the foregoing paragraphs, as if set forth fully  
11 herein.

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13 46. Plaintiff asserts the Disclosure and Authorization Claims on behalf of the class  
14 defined as follows:

15 *Any person whose consumer report was procured by Defendant for*  
16 *employment purposes in the period beginning 5 years prior to the filing*  
17 *of the Complaint up to and including the date of judgment.*

18 47. Plaintiff asserts the Adverse Action Claim on behalf of the subclass defined as  
19 follows:

20 *Any person on whom Defendant has taken adverse action based in*  
21 *whole or in part on any information contained in a consumer report in*  
22 *the period beginning 5 years prior to the filing of the Complaint up to*  
*and including the date of judgment.*

23 48. Numerosity: The class is so numerous that joinder of all class members is  
24 impracticable. Defendant regularly fails to provide any disclosure to procure consumer reports on  
25 job applicants. Thousands of employees of Defendant and/or companies for which Defendant  
26 provides support services satisfy the class definition.  
27





1 will not present any likely difficulties. In the interests of justice and judicial efficiency, it would be  
2 desirable to concentrate the litigation of all class members' claims in a single forum.

3 53. Plaintiff intends to send notice to all members of the class to the extent required by  
4 Fed. R. Civ. P. 23. The names and addresses of the class members are available from Defendant's  
5 records.  
6

7 **FIRST CLAIM FOR RELIEF**  
8 **Procuring Consumer Reports without First Making Proper Disclosures**  
9 **15 U.S.C. § 1681b(b)(2)(A)(i)**

10 54. Plaintiff repeats and re-alleges all of the foregoing paragraphs, as if set forth fully  
11 herein.

12 55. Defendant procured consumer reports, as defined by the FCRA, on Plaintiff and other  
13 class members. These reports were procured for employment purposes without Plaintiff or any class  
14 members being provided a proper clear and conspicuous disclosure made in writing, in a document  
15 consisting solely of the disclosure, that a consumer report may be obtained for employment purposes  
16 in violation of 15 U.S.C. § 1681b(b)(2)(A)(i).

17 56. The foregoing violations were willful. Defendant acted in deliberate or reckless  
18 disregard of its obligations and the rights of Plaintiff and other class members under 15 U.S.C. §  
19 1681b(b)(2)(A)(i).

20 57. Defendant's procurement of Plaintiff's consumer report without proper disclosure or  
21 authorization caused him to sustain actual damages, i.e. lack of knowledge as to the type and scope  
22 of consumer report that was going to be procured from a consumer reporting agency, the  
23 unauthorized invasion of his privacy, the loss of opportunity to respond to and/or dispute the  
24 information in his consumer report, and loss of employment and income.  
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1           70. Congress has clarified that the “employer must [] provide the consumer with a  
2 *reasonable period* to respond to any information in the report that the consumer disputes[,] and with  
3 written notice and the opportunity and time period to respond.”<sup>4</sup>

4           71. Further, a “reasonable period for the employee to respond to disputed information is  
5 not required to exceed 5 business days following the consumer's receipt of the consumer report from  
6 the employer.” H.R. REP. 103-486 at 40. While four days may not be “reasonable,” eight days has  
7 been deemed a “reasonable period.”<sup>5</sup>

8           72. Defendant took adverse action against Plaintiff and other class members based on  
9 information in their consumer reports without first sending them pre-adverse action notices, which  
10 deprived Plaintiff and other class members of an opportunity to review and address any issues in their  
11 reports.  
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13           73. Defendant failed to provide Plaintiff and other class members a copy of the procured  
14 background report before they took the adverse action against Plaintiff and other class members.  
15

16           74. Defendant took adverse action against Plaintiff and other class members based on  
17 information in their consumer reports without first providing Plaintiff and other class members with  
18 a written description of their rights under the FCRA.

19           75. Defendant took adverse action against Plaintiff and other class members based on  
20 information in their consumer reports without giving them sufficient time after providing notice, a  
21 copy of the report, and a written summary of their rights to allow them to discuss the report with  
22 Defendant or otherwise respond before the adverse action was taken.  
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26           <sup>4</sup> See *Reardon v. ClosetMaid Corp.*, No. 2:08-CV-01730, 2013 WL 6231606, at \*13 (W.D. Pa. Dec. 2, 2013);  
27 H.R. REP. 103-486 at 40 (1994).

28           <sup>5</sup> *Id.*



1 (e) Declaring that Defendant acted willfully, in deliberate or reckless disregard of  
2 Plaintiff's and class members' rights and Defendant's obligations under the  
3 FCRA;

4 (f) Awarding actual, statutory and/or punitive damages as provided by the FCRA;

5 (g) Awarding reasonable attorneys' fees and costs as provided by the FCRA; and  
6 awarding an incentive award for the lead plaintiff; and  
7

8 (h) Granting other and further relief, in law or equity, as this Court may deem  
9 appropriate and just.

10 **DEMAND FOR JURY TRIAL**

11 Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiff and the class  
12 demand a trial by jury.  
13

14 RESPECTFULLY SUBMITTED,

15 Dated: December 24, 2019

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*Local Counsel for Plaintiff*



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