

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

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4	GERALD F. MEUSE, individually	)	
5		)	
6	Plaintiff,	)	
7		)	CASE NO. 1:21-CV-11533-ADB
8	vs.	)	
9		)	
10	NATIONAL P.I. SERVICES, LLC and	)	
11	DOES 1-10, inclusive,	)	
12		)	
13	Defendants.	)	
14		)	
15		)	
16		)	
17		)	
18		)	
19		)	
20		)	
21		)	
22		)	
23		)	
24		)	
25		)	
26		)	
27		)	

PLAINTIFF’S MOTION FOR LEAVE TO FILE SECOND AMENDED COMPLAINT  
PURSUANT TO FED. R. CIV. P. 15(a)(2)

NOW COMES Plaintiff Gerald F. Meuse (“Plaintiff”) and respectfully requests leave from this Honorable Court to file the Second Amended Complaint (“SAC”) in the form attached herewith as “Exhibit A” pursuant to Federal Rule of Civil Procedure 15(a)(2). A redline comparing the operable complaint with the SAC is attached hereto as “Exhibit B”.

WHEREFORE, for the reasons set forth in Plaintiff’s accompanying memorandum of law, the motion must be granted.

Respectfully submitted under the pains and penalties of perjury.

1 DATED: June 27, 2023

DHF LAW, P.C.

2  
3 /s/ Devin Fok

Devin H. Fok (admitted *pro hac vice*)  
Attorneys for Plaintiff

4  
5  
6 /s/ Jeremy R. Bombard

Jeremy R. Bombard, #669802  
Attorneys for Plaintiff  
jbombard@bombardlaw.com  
BOMBARD LAW OFFICE, PC  
2 Summer Street, Suite 307  
Natick, MA 01760  
P: 781-214-0746

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10  
11 **LOCAL RULE 7.1(A)(2) CERTIFICATE:** I certify that, in compliance with Local Rule 7.1(a)(2), I  
12 conferred with counsel for the defendant and have attempted in good faith to resolve or narrow the  
issues that are the subject of this motion and memorandum.

13 Dated: June 27, 2023

/s/ Ainat Kiewe

Ainat Kiewe, Esq.

14  
15  
16 **CERTIFICATE OF SERVICE:** I hereby certify that this document and the memorandum filed  
17 through the CM/ECF system will be sent electronically to the registered participants as identified on the  
18 Notice of Electronic Filing and paper copies will be sent to those indicated as non-registered  
participants.

19 Dated: June 27, 2023

/s/ Jeremy R. Bombard

Jeremy R. Bombard, Esq.

# EXHIBIT A

UNITED STATES DISTRICT COURT  
COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, ss

DOCKET NO. 1:21-CV-11533

GERALD F. MEUSE,  
*Plaintiff,*

v.

NATIONAL P.I. SERVICES, LLC and  
DOES 1 – 10,  
*Defendants.*

**SECOND AMENDED COMPLAINT**

Plaintiff GERALD F. MEUSE (hereafter, “Plaintiff”) complains against Defendant National P.I. Services, LLC (hereafter, “Defendant”); and JOHN DOES 1-10 inclusive (hereinafter collectively as “Defendants”), and alleges as follows:

**NATURE OF THE ACTION**

1. It is estimated that one in four adults in the United States have a criminal record of some kind and that more than ninety percent of all employers in the United States perform criminal background checks on job candidates.<sup>1</sup>

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<sup>1</sup>. NAT'L CONSUMER LAW CTR., BROKEN RECORDS: HOW ERRORS BY CRIMINAL BACKGROUND CHECKING COMPANIES HARM WORKERS AND BUSINESSES (Apr. 2012), at 3. See also SOC'Y FOR HUMAN RES. MGMT., BACKGROUND CHECKING: CONDUCTING CRIMINAL BACKGROUND CHECKS, slide 3 (Jan. 22, 2010), located at <http://www.slideshare.net/shrm/background-check-criminal> (last visited on May 2, 2012); Ben Geiger, *Comment: The Case for Treating Ex-Offenders as a Suspect Class*, 94 CAL. L. REV. 1191, 1193 (2006).

2. Most employers are reluctant to hire people with a criminal history.<sup>2</sup>

3. Existing law requires employers to consider certain relevant factors, including the age, nature, and severity of a job applicant's criminal record and the duties to be performed, before making an adverse employment decision based on a person's criminal record.<sup>3</sup>

4. It is therefore imperative that criminal background check companies provide accurate, complete, and up-to-date information about a job applicant's criminal record.

5. Obsolete or irrelevant criminal history information is prohibited from disclosure. This is to alleviate stigmatization and the negative collateral consequences of old and dated criminal records and to promote successful reentry and rehabilitation of people with criminal records.

6. To further this compelling interest, Congress (through the Fair Credit Reporting Act ("FCRA") under 15 USC §1681 *et seq.*) enacted comprehensive legislation regulating the procurement and issuance of background check reports, stating that "consumer reporting agencies have assumed a vital role" and that "there is need to insure that consumer reporting agencies exercise their grave responsibilities with fairness, impartiality, and a respect for the consumer's right to privacy." 15 USC §1681(a).

7. The FCRA requires a background check company to follow extremely stringent procedures to ensure that whenever criminal history information is reported, it is accurate, complete, and up to date.

8. Under 15 USC §1681e(b), a background check company "shall follow reasonable procedures to assure *maximum possible accuracy* of the information

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<sup>2</sup> Harry Holzer, Steven Raphael & Michael A. Stoll, *Employer Demand for Ex-Offenders: Recent Evidence from Los Angeles*, Nat'l Crim. J. Ref. Svs. (March 2003), available at <https://www.ncjrs.gov/App/Publications/abstract.aspx?ID=244705>.

<sup>3</sup> See generally Equal Employment Opportunity Commission, Enforcement Guidance on the Consideration of Arrest and Conviction Records in Employment Decisions Under Title VII of the Civil Rights Act of 1964, *as amended*, 42 U.S.C. § 2000e *et seq.* (Apr. 25, 2012), available at [http://www.eeoc.gov/laws/guidance/arrest\\_conviction.cfm](http://www.eeoc.gov/laws/guidance/arrest_conviction.cfm).

concerning the individual about whom the report relates.” (Emphasis added).

9. In addition, when public records information such as criminal history information is reported in the employment context, the background check company is required to “maintain *strict procedures* designed to insure that ... [the information reported] is complete and up to date.” 15 USC §1681k(a)(2) (emphasis added).

10. Under the FCRA, a background check company is prohibited from reporting arrests or charges that did not result in conviction that antedate the report by more than 7 years. Moreover, with limited exceptions, any other adverse information that antedate the report by more than 7 years cannot be reported. 15 USC §1681c(a) (emphasis added).

11. In connection with issuance of Plaintiff’s consumer report, none of these mandates were followed. Defendant disclosed obsolete criminal history information regarding Plaintiff that resulted in a loss of a valuable employment opportunity for Plaintiff.

12. Defendant failed to abide by the restrictions and requirements set forth herein and upon information and believe routinely provides screening reports and engages in practices that violate various provisions of these governing statutes, including reporting obsolete criminal history information and failing to provide written notices.

13. As a result of Defendant’s wrongful acts and omissions, Plaintiff has been injured, including without limitation, by virtue of having lost employment opportunities and then having been forced to spend time, money, and energy to clean up after Defendant’s errors.

14. Plaintiff seeks actual and/or compensatory damages, punitive damages, and equitable relief, including costs and expenses of litigation, including attorneys’ fees, and appropriate injunctive relief requiring Defendant to comply with its legal obligations, as well as additional and further relief as may be

appropriate. Plaintiff reserves the right to amend this Complaint to add additional relief as permitted under applicable law.

## THE PARTIES

15. Plaintiff is and at all times relevant herein was a resident of the State of Massachusetts.

16. Defendant is a consumer reporting agency, and is and at all times herein mentioned was, a New Hampshire Limited Liability Company with its principle place of business at 660 Central Avenue, Dover, New Hampshire 03820. It may be served by Service of Process upon its registered agent, Frank R. Santin, at the address of 660 Central Avenue S201, Dover, New Hampshire 03820.

17. For purposes of the FCRA, Defendant is a “consumer reporting agency” as defined under 15 USC §1681a(f) because it is a “person which, for monetary fees, dues...regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties, and which uses any means or facility of interstate commerce for the purpose of preparing or furnishing *consumer reports*.” (Emphasis added).

18. A “consumer report” is “any written, oral, or other communication of any information by a consumer reporting agency bearing on a consumer’s credit worthiness, credit standing, credit capacity, *character, general reputation, personal characteristics, or mode of living* which is used or expected to be used or collected in whole or in part for the purpose of serving as a factor in establishing the consumer’s eligibility for....employment.” 15 USC §1681a(d) (emphasis added).

19. Defendant’s reports, including the background check report at issue in

the present case, contain background information on consumers regarding their general reputation, character, mode of living or other personal characteristics. Among other things, Defendant's reports typically include information regarding criminal histories.

20. Defendant sells background check reports to, among others, prospective employers.

21. Plaintiff is ignorant of the Defendants sued herein as JOHN DOES 1-10, inclusive, and therefore sues those Defendants by such capacities when such information is ascertained.

22. Plaintiff is informed and believes and thereon alleges that each of the John Doe Defendants is responsible in some manner for the occurrences herein alleged and that Plaintiff's damages as herein alleged were proximately caused by such occurrences.

23. Plaintiff is informed and believes and thereon alleges that, at all times herein mentioned, Defendants JOHN DOES 1-10, were principals or agents of each other and of the named Defendants and in doing the things alleged in this complaint, were acting in the scope of such agency and with the permission and consent of Defendants.

### **JURISDICTION AND VENUE**

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

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



## FACTS

26. On or about 2019, Plaintiff applied for a firefighter position with the City of Everett Fire Department (hereinafter the “Fire Department”) in Everett, Massachusetts.

27. On or about September 2019, the Fire Department procured a background screening report or consumer report (the “Report”) regarding Plaintiff from Defendant. A true and correct copy of the Report is attached hereto as Exhibit 1.

28. In the Report Defendant disclosed that in 2011 Plaintiff was arrested and charged by the Norfolk Virginia Police with: (1) assault against his girlfriend, Beatrice Mays, and (2) violation of restraining order.

29. Based on the obsolete criminal history contained in the Report, the Fire Department determined that Plaintiff was not a suitable candidate and bypassed him for the firefighter position for which he applied. A true and correct copy of the March 11, 2021 correspondence from the Fire Department to Plaintiff is attached hereto as Exhibit 2.

30. Based on the misleading statements provided in the Report, the Fire Department also determined that Plaintiff’s “job history before and after he left the military [was] hard to verify.” Exhibit 2.

31. This conclusion was rendered based on the misleading statements provided in the Report that stated:

“Mr. Meuse’s job history before and after his military service is hard to verify. He makes his money as a Lyft driver and he occasionally works for Encore Casino as a Security Officer. He informed us that his work references will be hard to contact.”

32. This was only half true. What the Report failed to articulate was that rather than Plaintiff’s employment history being hard to verify, Defendant never

bothered to contact Plaintiff's employer or contacted Plaintiff's employer no more than once. Most damagingly, Defendant confirmed Plaintiff's primary employer but failed to disclose that on Plaintiff's Report.

33. First, there is no dispute that Plaintiff was a member of the United States Navy from 2008 to 2014. However, there is no evidence that Defendant made any efforts whatsoever to verify Plaintiff's employer. Plaintiff was taking various college classes between 2015 to 2019 as well as completed infantry training with the United States Army Infantry School in 2018. All of these were easily verifiable but was not mentioned anywhere in the report. Instead, Defendant created the impression that Plaintiff was a vagrant by claiming that Plaintiff's employment was "hard to verify."

34. Second, on Plaintiff's employment application, Plaintiff listed the following employers: 1) US Army National Guard 2018 to present; 2) Encore Casino 2019 to present; and 3) Lyft driver.

35. Plaintiff was employed with the US National Guard from 2018 to Present. There is no evidence that Defendant had ever contacted the US National Guard before claiming that Plaintiff's employment was "hard to verify". However, Plaintiff's employment cannot be disputed as his DD Form 214, Certificate of Release or Discharge from Active Duty conclusively establishes his employment.

36. Second, Plaintiff provided the name of his supervisor at Encore Casino along with his phone number. Defendant failed to disclose that Defendant contacted Encore Casino no more than once before claiming that it was "hard to verify." There is no evidence that Defendant ever attempted to contact the human resources department for the Casino.

37. Lastly and most importantly, Defendant's own investigative tool used to determine employment revealed that one of Plaintiff's "Possible Employers" was Lyft and provided Defendant with a phone number to call to verify employment but Defendant never bothered to contact Lyft before stating that "[Mr.

Meuse's job history before and after his military service is hard to verify."

38. Defendant's statement created an impression that Plaintiff was either dishonest in his employment application or was a vagrant lacking employment or both. Rather, Plaintiff had a consistent education and work history following his honorable discharge and in fact worked multiple jobs in order to make ends meet.

39. The Fire Department also stated, as a factor for denial of his employment that "Mr. Meuse claims to have lived in Everett from 2015-2018 at 225 Main Street. He also claims that the home was owned at the time by a friend 'Kyle North' who was since sold the property. *The Investigator found no proof that Mr. Meuse lived there.*" (Emphasis added.)

40. This again is simply not true. Defendant in fact found proof that Mr. Meuse lived there but failed to disclose the evidence on Plaintiff's report. Defendant's own investigative tool revealed that Plaintiff resided at the 225 Main Street address between July 13, 2015 to September 18, 2019. This was not disclosed in the body of the written report. Plaintiff had various documentation linking him to the address but again, this was never requested from Plaintiff.

41. Also, Defendant failed to revealed that it never bothered to contact Plaintiff's friend Kyle North to verify Plaintiff's residence. Defendant had contacted Kyle North but failed to confirm Plaintiff's residence with Mr. North.

42. Defendant stated in its report that "I ran an inquiry through voter's registration in order to tie Meuse physically to that address and learned that he was not a registered voter." However, Defendant knew full well that it is common that applicants for the Fire Department are commonly not registered to vote at all. This critical knowledge was not disclosed on the Report. Plaintiff was never registered to vote and has never voted. Thus, the fact that Plaintiff's voter registration was not tied to the 225 Main Street address had no bearing on Plaintiff's residence.

43. In the Report, Defendant also claimed that Plaintiff "...never bothered to take any classes in fire science or get certified as an EMT which would indicate

that he is not entirely vested in a career with Everette Fire.”

44. This cannot be further from the truth. In fact, Plaintiff disclosed in his employment application (which was in Defendant’s possession prior to the creation of the Report) that Plaintiff took classes in “EMT School” and “Naval Aviation Shipboard Fire Fighting.” Indeed, Plaintiff obtained his Emergency Medical Technician (“EMT”) Certification six months prior to Defendant’s investigations that formed the basis of the Report. In addition, he completed his CPR certification in February 18, 2019 indicating a strong desire to be a fireman.

45. Defendant’s report also claimed that Plaintiff was dishonest when Plaintiff claimed that Plaintiff was never arrested. However, Defendant never provided Plaintiff’s version of the events in the report to allow the Fire Department to make its assessment of whether Plaintiff was in fact honest.

46. Specifically, Plaintiff informed Defendant during the investigation process that Plaintiff was never placed in handcuffs and was never escorted to the police station by any police officer. Rather, Plaintiff voluntarily drove to the police station after finding out that his ex-girlfriend caused assault charges to be filed against him. In Plaintiff’s eyes, he was never arrested. Defendant wholly failed to disclose Plaintiff’s version of the events in the Report and created an impression of dishonesty.

47. As a result, Plaintiff incurred economic losses as well as emotional distress and damage to his reputation.

**FIRST CAUSE OF ACTION**  
**(Violation of 15 United States Code §1681c(a))**

48. Plaintiff hereby incorporated by reference the allegations of each and every paragraph above.

49. Plaintiff is informed and believes, and thereon alleges Defendant failed to use strict procedures to ensure the reported information is complete and up to date. Specifically, Defendant reported that in 2011 Plaintiff was arrested and charged with assault and violation of a restraining order. Said criminal history information antedates the Report by more than seven years.

50. Defendant's violations entitle Plaintiff to damages pursuant to 15 USC § 1681n, including statutory damages in the amount of not less than \$100 and no more than \$1,000, punitive damages, reasonable attorney's fees, and any other relief granted by this Court.

51. In addition Defendant's violations entitle Plaintiff to damages pursuant to 15 USC § 1681o, including actual damages such economic damages, emotional distress, and damage to reputation in an amount to be determined at trial.

**SECOND CAUSE OF ACTION**  
**(Violation of M.G.L. c. 151B §4(9))**

52. Plaintiff hereby incorporates by reference the allegations of each every paragraph above.

53. Plaintiff is informed and believes, and thereon alleges that Defendant, in its respective capacity as an agent of the Fire Department and in connection with Plaintiff's application for employment with the Fire Department, requested information orally from Plaintiff regarding a charge and arrest for which no conviction resulted.

54. The Fire Department purportedly based their denial of Plaintiff's employment application upon the fact that Plaintiff gave false information by withholding information that he has a right to withhold.

55. Plaintiff's omission was not willful but based on his good-faith belief that Massachusetts law authorized him that treat that arrest as if it had never

occurred.

**THIRD CAUSE OF ACTION (Violation of 15 United States Code  
§1681e(b))**

56. Plaintiff hereby incorporates by reference the allegations of each and every paragraph above

57. Plaintiff is informed and believes, and thereon alleges Defendant failed to use reasonable procedures to ensure the maximum possible accuracy of the information reported. Specifically, Defendant consistently failed to maintain sufficient procedures to verify the results of the information it reported

58. Such practice has been held many years ago to be in violation of the FCRA as it is not calculated to ensure accuracy. Despite this industry-wide knowledge, Defendant willfully and recklessly persists in its out-lawed practice resulting in erroneous reports

59. Defendant's violations entitle Plaintiff to damages pursuant to 15 USC § 1681n, including statutory damages in the amount of not less than \$100 and no more than \$1,000, punitive damages, reasonable attorney's fees, and any other relief granted by this Court.

60. In addition Defendant's violations entitle Plaintiff to damages pursuant to 15 USC § 1681o, including actual damages such economic damages, emotional distress, and damage to reputation, in amount to be determined at trial.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff prays for judgment against Defendants, and each of

them, as follows:

- a. For a declaration that Defendant's practices violate the FCRA, 15 USC §1681 *et seq.*;
- b. For statutory, compensatory, special, general and punitive damages according to proof and as applicable against all Defendants;
- c. For interest upon such damages as permitted by law;
- d. For an award of reasonable attorneys' fees provided by law under all applicable statutes;
- e. For the costs of suit;
- f. For injunctive relief as applicable; and
- g. For such other orders of the Court and further relief as the Court deems just and proper.

### **DEMAND FOR JURY TRIAL**

Plaintiff hereby requests and demands a jury trial on all issues triable by jury.

**REST OF THE PAGE IS INTENTIONALLY LEFT BLANK**

Plaintiff,  
GERALD F. MEUSE,  
By his attorney,

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Jeremy R. Bombard, #669802  
[jbombard@bombardlaw.com](mailto:jbombard@bombardlaw.com)  
BOMBARD LAW OFFICE, PC  
945 Concord Street  
Framingham, MA 01701  
508-620-5309  
Dated:



# EXHIBIT B

UNITED STATES DISTRICT COURT  
COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, ss

DOCKET NO. 1:21-CV-11533

GERALD F. MEUSE,  
*Plaintiff,*

v.

NATIONAL P.I. SERVICES, LLC and  
DOES 1 – 10,  
*Defendants.*

**FIRSTSECOND AMENDED COMPLAINT**

Plaintiff GERALD F. MEUSE (hereafter, “Plaintiff”) complains against Defendant National P.I. Services, LLC (hereafter, “Defendant”); and JOHN DOES 1-10 inclusive (hereinafter collectively as “Defendants”), and alleges as follows:

**NATURE OF THE ACTION**

1. It is estimated that one in four adults in the United States have a criminal record of some kind and that more than ninety percent of all employers in the United States perform criminal background checks on job candidates.<sup>1</sup>

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<sup>1</sup>. NAT'L CONSUMER LAW CTR., BROKEN RECORDS: HOW ERRORS BY CRIMINAL BACKGROUND CHECKING COMPANIES HARM WORKERS AND BUSINESSES (Apr. 2012), at 3. See also SOC'Y FOR HUMAN RES. MGMT., BACKGROUND CHECKING: CONDUCTING CRIMINAL BACKGROUND CHECKS, slide 3 (Jan. 22, 2010), located at <http://www.slideshare.net/shrm/background-check-criminal> (last visited on May 2, 2012); Ben Geiger, *Comment: The Case for Treating Ex-Offenders as a Suspect Class*, 94 CAL. L. REV. 1191, 1193 (2006).

2. Most employers are reluctant to hire people with a criminal history.<sup>2</sup>

3. Existing law requires employers to consider certain relevant factors, including the age, nature, and severity of a job applicant's criminal record and the duties to be performed, before making an adverse employment decision based on a person's criminal record.<sup>3</sup>

4. It is therefore imperative that criminal background check companies provide accurate, complete, and up-to-date information about a job applicant's criminal record.

5. Obsolete or irrelevant criminal history information is prohibited from disclosure. This is to alleviate stigmatization and the negative collateral consequences of old and dated criminal records and to promote successful reentry and rehabilitation of people with criminal records.

6. To further this compelling interest, Congress (through the Fair Credit Reporting Act ("FCRA") under 15 USC §1681 *et seq.*) enacted comprehensive legislation regulating the procurement and issuance of background check reports, stating that "consumer reporting agencies have assumed a vital role" and that "there is need to insure that consumer reporting agencies exercise their grave responsibilities with fairness, impartiality, and a respect for the consumer's right to privacy." 15 USC §1681(a).

7. The FCRA requires a background check company to follow extremely stringent procedures to ensure that whenever criminal history information is reported, it is accurate, complete, and up to date.

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concerning the individual about whom the report relates.” (Emphasis added).

9. In addition, when public records information such as criminal history information is reported in the employment context, the background check company is required to “maintain *strict procedures* designed to insure that ... [the information reported] is complete and up to date.” 15 USC §1681k(a)(2) (emphasis added).

10. Under the FCRA, a background check company is prohibited from reporting arrests or charges that did not result in conviction that antedate the report by more than 7 years. Moreover, with limited exceptions, any other adverse information that antedate the report by more than 7 years cannot be reported. 15 USC §1681c(a) (emphasis added).

11. In connection with issuance of Plaintiff’s consumer report, none of these mandates were followed. Defendant disclosed obsolete criminal history information regarding Plaintiff that resulted in a loss of a valuable employment opportunity for Plaintiff.

12. Defendant failed to abide by the restrictions and requirements set forth herein and upon information and believe routinely provides screening reports and engages in practices that violate various provisions of these governing statutes, including reporting obsolete criminal history information and failing to provide written notices.

13. As a result of Defendant’s wrongful acts and omissions, Plaintiff has been injured, including without limitation, by virtue of having lost employment opportunities and then having been forced to spend time, money, and energy to clean up after Defendant’s errors.

14. Plaintiff seeks actual and/or compensatory damages, punitive damages, and equitable relief, including costs and expenses of litigation, including attorneys’ fees, and appropriate injunctive relief requiring Defendant to comply with its legal obligations, as well as additional and further relief as may be

appropriate. Plaintiff reserves the right to amend this Complaint to add additional relief as permitted under applicable law.

## THE PARTIES

15. Plaintiff is and at all times relevant herein was a resident of the State of Massachusetts.

16. Defendant is a consumer reporting agency, and is and at all times herein mentioned was, a New Hampshire Limited Liability Company with its principle place of business at 660 Central Avenue, Dover, New Hampshire 03820. It may be served by Service of Process upon its registered agent, Frank R. Santin, at the address of 660 Central Avenue S201, Dover, New Hampshire 03820.

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19. Defendant’s reports, including the background check report at issue in

the present case, contain background information on consumers regarding their general reputation, character, mode of living or other personal characteristics. Among other things, Defendant's reports typically include information regarding criminal histories.

20. Defendant sells background check reports to, among others, prospective employers.

21. Plaintiff is ignorant of the Defendants sued herein as JOHN DOES 1-10, inclusive, and therefore sues those Defendants by such capacities when such information is ascertained.

22. Plaintiff is informed and believes and thereon alleges that each of the John Doe Defendants is responsible in some manner for the occurrences herein alleged and that Plaintiff's damages as herein alleged were proximately caused by such occurrences.

23. Plaintiff is informed and believes and thereon alleges that, at all times herein mentioned, Defendants JOHN DOES 1-10, were principals or agents of each other and of the named Defendants and in doing the things alleged in this complaint, were acting in the scope of such agency and with the permission and consent of Defendants.

### **JURISDICTION AND VENUE**

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

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

## FACTS

26. On or about 2019, Plaintiff applied for a firefighter position with the City of Everett Fire Department (hereinafter the “Fire Department”) in Everett, Massachusetts.

27. On or about September 2019, the Fire Department procured a background screening report or consumer report (the “Report”) regarding Plaintiff from Defendant. A true and correct copy of the Report is attached hereto as Exhibit 1.

28. In the Report Defendant disclosed that in 2011 Plaintiff was arrested and charged by the Norfolk Virginia Police with: (1) assault against his girlfriend, Beatrice Mays, and (2) violation of restraining order.

29. Based on the obsolete criminal history contained in the Report, the Fire Department determined that Plaintiff was not a suitable candidate and bypassed him for the firefighter position for which he applied. A true and correct copy of the March 11, 2021 correspondence from the Fire Department to Plaintiff is attached hereto as Exhibit 2.

30. Based on the misleading statements provided in the Report, the Fire Department also determined that Plaintiff’s “job history before and after he left the military [was] hard to verify.” Exhibit 2.

31. This conclusion was rendered based on the misleading statements provided in the Report that stated:

“Mr. Meuse’s job history before and after his military service is hard to verify. He makes his money as a Lyft driver and he occasionally works for Encore Casino as a Security Officer. He informed us that his work references will be hard to contact.”

32. This was only half true. What the Report failed to articulate was that rather than Plaintiff’s employment history being hard to verify, Defendant never bothered to contact Plaintiff’s employer or contacted Plaintiff’s employer no more

than once. Most damagingly, Defendant confirmed Plaintiff's primary employer but failed to disclose that on Plaintiff's Report.

33. First, there is no dispute that Plaintiff was a member of the United States Navy from 2008 to 2014. However, there is no evidence that Defendant made any efforts whatsoever to verify Plaintiff's employer. Plaintiff was taking various college classes between 2015 to 2019 as well as completed infantry training with the United States Army Infantry School in 2018. All of these were easily variable but was not mentioned anywhere in the report. Instead, Defendant created the impression that Plaintiff was a vagrant by claiming that Plaintiff's employment was "hard to verify."

34. Second, on Plaintiff's employment application, Plaintiff listed the following employers: 1) US Army National Guard 2018 to present; 2) Encore Casino 2019 to present; and 3) Lyft driver.

35. Plaintiff was employed with the US National Guard from 2018 to Present. There is no evidence that Defendant had ever contacted the US National Guard before claiming that Plaintiff's employment was "hard to verify". However, Plaintiff's employment cannot be disputed as his DD Form 214, Certificate of Release or Discharge from Active Duty conclusively establishes his employment.

36. Second, Plaintiff provided the name of his supervisor at Encore Casino along with his phone number. Defendant failed to disclose that Defendant contacted Encore Casino no more than once before claiming that it was "hard to verify." There is no evidence that Defendant ever attempted to contact the human resources department for the Casino.

37. Lastly and most importantly, Defendant's own investigative tool used to determine employment revealed that one of Plaintiff's "Possible Employers" was Lyft and provided Defendant with a phone number to call to verify employment but Defendant never bothered to contact Lyft before stating that "[Mr. Meuse's job history before and after his military service is hard to verify."

38. Defendant's statement created an impression that Plaintiff was either



dishonest in his employment application or was a vagrant lacking employment or both. Rather, Plaintiff had a consistent education and work history following his honorable discharge and in fact worked multiple jobs in order to make ends meet.

39. The Fire Department also stated, as a factor for denial of his employment that “Mr. Meuse claims to have lived in Everett from 2015-2018 at 225 Main Street. He also claims that the home was owned at the time by a friend ‘Kyle North’ who was since sold the property. The Investigator found no proof that Mr. Meuse lived there.” (Emphasis added.)

40. This again is simply not true. Defendant in fact found proof that Mr. Meuse lived there but failed to disclose the evidence on Plaintiff’s report. Defendant’s own investigative tool revealed that Plaintiff resided at the 225 Main Street address between July 13, 2015 to September 18, 2019. This was not disclosed in the body of the written report. Plaintiff had various documentation linking him to the address but again, this was never requested from Plaintiff.

41. Also, Defendant failed to revealed that it never bothered to contact Plaintiff’s friend Kyle North to verify Plaintiff’s residence. Defendant had contacted Kyle North but failed to confirm Plaintiff’s residence with Mr. North.

42. Defendant stated in its report that “I ran an inquiry through voter’s registration in order to tie Meuse physically to that address and learned that he was not a registered voter.” However, Defendant knew full well that it is common that applicants for the Fire Department are commonly not registered to vote at all. This critical knowledge was not disclosed on the Report. Plaintiff was never registered to vote and has never voted. Thus, the fact that Plaintiff’s voter registration was not tied to the 225 Main Street address had no bearing on Plaintiff’s residence.

43. In the Report, Defendant also claimed that Plaintiff “...never bothered to take any classes in fire science or get certified as an EMT which would indicate that he is not entirely vested in a career with Everette Fire.”

44. This cannot be further from the truth. In fact, Plaintiff disclosed in his employment application (which was in Defendant’s possession prior to the creation

of the Report) that Plaintiff took classes in “EMT School” and “Naval Aviation Shipboard Fire Fighting.” Indeed, Plaintiff obtained his Emergency Medical Technician (“EMT”) Certification six months prior to Defendant’s investigations that formed the basis of the Report. In addition, he completed his CPR certification in February 18, 2019 indicating a strong desire to be a fireman.

45. Defendant’s report also claimed that Plaintiff was dishonest when Plaintiff claimed that Plaintiff was never arrested. However, Defendant never provided Plaintiff’s version of the events in the report to allow the Fire Department to make its assessment of whether Plaintiff was in fact honest.

46. Specifically, Plaintiff informed Defendant during the investigation process that Plaintiff was never placed in handcuffs and was never escorted to the police station by any police officer. Rather, Plaintiff voluntarily drove to the police station after finding out that his ex-girlfriend caused assault charges to be filed against him. In Plaintiff’s eyes, he was never arrested. Defendant wholly failed to disclose Plaintiff’s version of the events in the Report and created an impression of dishonesty.

47. As a result, Plaintiff incurred economic losses as well as emotional distress and damage to his reputation.

**FIRST CAUSE OF ACTION**  
**(Violation of 15 United States Code §1681c(a))**

48. Plaintiff hereby incorporated by reference the allegations of each and every paragraph above.

49. Plaintiff is informed and believes, and thereon alleges Defendant failed to use strict procedures to ensure the reported information is complete and

up to date. Specifically, Defendant reported that in 2011 Plaintiff was arrested and charged with assault and violation of a restraining order. Said criminal history information antedates the Report by more than seven years.

50. Defendant's violations entitle Plaintiff to damages pursuant to 15 USC § 1681n, including statutory damages in the amount of not less than \$100 and no more than \$1,000, punitive damages, reasonable attorney's fees, and any other relief granted by this Court.

51. In addition Defendant's violations entitle Plaintiff to damages pursuant to 15 USC § 1681o, including actual damages such economic damages, emotional distress, and damage to reputation in an amount to be determined at trial.

**SECOND CAUSE OF ACTION**  
**(Violation of M.G.L. c. 151B §4(9))**

52. Plaintiff hereby incorporates by reference the allegations of each every paragraph above.

53. Plaintiff is informed and believes, and thereon alleges that Defendant, in its respective capacity as an agent of the Fire Department and in connection with Plaintiff's application for employment with the Fire Department, requested information orally from Plaintiff regarding a charge and arrest for which no conviction resulted.

54. The Fire Department purportedly based their denial of Plaintiff's employment application upon the fact that Plaintiff gave false information by withholding information that he has a right to withhold.

55. Plaintiff's omission was not willful but based on his good-faith belief that Massachusetts law authorized him that treat that arrest as if it had never occurred.

**THIRD CAUSE OF ACTION**  
**(Violation of 15 United States Code §1681e(b))**

56. Plaintiff hereby incorporates by reference the allegations of each and every paragraph above

57. Plaintiff is informed and believes, and thereon alleges Defendant failed to use reasonable procedures to ensure the maximum possible accuracy of the information reported. Specifically, Defendant consistently failed to maintain sufficient procedures to verify the results of the information it reported

58. Such practice has been held many years ago to be in violation of the FCRA as it is not calculated to ensure accuracy. Despite this industry-wide knowledge, Defendant willfully and recklessly persists in its out-lawed practice resulting in erroneous reports

59. Defendant's violations entitle Plaintiff to damages pursuant to 15 USC § 1681n, including statutory damages in the amount of not less than \$100 and no more than \$1,000, punitive damages, reasonable attorney's fees, and any other relief granted by this Court.

60. In addition Defendant's violations entitle Plaintiff to damages pursuant to 15 USC § 1681o, including actual damages such economic damages, emotional distress, and damage to reputation, in amount to be determined at trial.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff prays for judgment against Defendants, and each of them, as follows:

- a. For a declaration that Defendant's practices violate the FCRA, 15 USC §1681 *et seq.*;
- b. For statutory, compensatory, special, general and punitive damages according to proof and as applicable against all Defendants;
- c. For interest upon such damages as permitted by law;
- d. For an award of reasonable attorneys' fees provided by law under all applicable statutes;
- e. For the costs of suit;
- f. For injunctive relief as applicable; and
- g. For such other orders of the Court and further relief as the Court deems just and proper.

**DEMAND FOR JURY TRIAL**

Plaintiff hereby requests and demands a jury trial on all issues triable by jury.

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Plaintiff,  
GERALD F. MEUSE,  
By his attorney,

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