

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF VIRGINIA  
Richmond Division**

**TYRONE HENDERSON, *et al.*,**

**Plaintiffs,**

v.

**Civil Action No. 3:12cv97 (REP)**

**CORELOGIC NATIONAL  
BACKGROUND DATA, LLC,**

**Defendant.**

**DEFENDANT'S ANSWER TO SECOND AMENDED COMPLAINT**

Defendant, CoreLogic National Background Data, LLC f/k/a National Background Data, LLC (“NBD”), by counsel, submits the following Answer to Plaintiffs’ Second Amended Complaint (the “Amended Complaint”).

**INTRODUCTION**

1. Paragraph 1 of the Amended Complaint contains a general description of the lawsuit to which no response is required.
2. NBD admits that it provides public records information to its customers and that NBD utilizes a criminal record database associated with CoreLogic SafeRent, LLC (“SafeRent”) during that process. NBD denies the remaining allegations in paragraph 2 of the Amended Complaint.
3. Paragraph 3 of the Amended Complaint contains a general description of one cause of action alleged, to which no response is required.
4. NBD denies the allegations contained in paragraph 4 of the Amended Complaint.
5. NBD denies the allegations contained in paragraph 5 of the Amended Complaint.

6. Paragraph 6 of the Amended Complaint purports to describe statutory requirements and import of 15 U.S.C. § 1681k, to which no response is required. NBD denies the remaining allegations contained in paragraph 6 of the Amended Complaint.

**JURISDICTION AND VENUE**

7. The allegations in paragraph 7 of the Amended Complaint state a legal conclusion to which no response is required. To the extent that the allegations in paragraph 7 are contrary to law they are denied.

8. NBD lacks information sufficient to form a belief as to the truth of the allegations contained in paragraph 8 of the Amended Complaint and, therefore, denies the same.

**PARTIES**

9. The allegations in paragraph 9 of the Complaint state a legal conclusion to which no response is required. To the extent that the allegations in paragraph 9 are contrary to law they are denied.

10. The allegations in paragraph 10 of the Amended Complaint appear to reference an unidentified document. To the extent that the allegations in paragraph 10 vary from the contents of the document, they are denied. To the extent that the allegations in paragraph 10 state a legal conclusion, no response is required.

11. The allegations in paragraph 11 of the Amended Complaint appear to reference an unidentified document. To the extent that the allegations in paragraph 11 vary from the contents of the document, they are denied. To the extent that the allegations in paragraph 11 state a legal conclusion, no response is required.

12. NBD admits that it returns to its customers criminal record data that is responsive to the search criteria provided by its customers, including for NBD's customers to use in their preparation of consumer reports for employment purposes. The allegations in paragraph 12 of

the Amended Complaint also appear to reference an unidentified document. To the extent that the allegations in paragraph 12 vary from the contents of the document, they are denied. NBD lacks knowledge or information sufficient to form a belief as to the remaining allegations of paragraph 12 of the Amended Complaint.

13. The allegations in paragraph 13 of the Amended Complaint appear to reference an unidentified document. To the extent that the allegations in paragraph 13 vary from the contents of the document, they are denied.

14. NBD denies the allegations of paragraph 14 of the Amended Complaint.

15. NBD denies the allegations of paragraph 15 of the Amended Complaint.

16. NBD denies the allegations of paragraph 16 of the Amended Complaint.

17. The allegations in paragraph 17 of the Amended Complaint state a legal conclusion to which no response is required. To the extent that the allegations in paragraph 17 are contrary to law they are denied.

18. NBD denies the allegations of paragraph 18 of the Amended Complaint.

### **FACTUAL ALLEGATIONS**

#### **A. Plaintiff Tyrone Henderson**

19. NBD lacks information sufficient to form a belief as to the truth of the allegations contained in paragraph 19 of the Amended Complaint and, therefore, denies the same.

20. NBD lacks information sufficient to form a belief as to the truth of the allegations contained in paragraph 20 of the Amended Complaint and, therefore, denies the same.

21. NBD admits that Verifications, Inc. formulated and entered search terms in order to retrieve public records data from NBD's database during the alleged class period. NBD denies the remaining allegations of paragraph 21 of the Amended Complaint.

22. NBD admits that HR Plus, Inc. formulated and entered search terms in order to retrieve public records data from NBD's database during the alleged class period. NBD denies the remaining allegations of paragraph 21 of the Amended Complaint.

23. NBD lacks information sufficient to form a belief as to the truth of the allegations contained in paragraph 23 of the Amended Complaint and, therefore, denies the same.

24. NBD denies the allegations contained in paragraph 24 of the Amended Complaint.

25. The allegations of paragraph 25 of the Amended Complaint refer to a document. To the extent that the allegations of paragraph 25 vary from the text of the document itself, they are denied.

26. NBD lacks information sufficient to form a belief as to the truth of the allegations contained in paragraph 26 of the Amended Complaint and, therefore, denies the same.

27. NBD denies the allegations contained in paragraph 27 of the Amended Complaint.

28. NBD lacks information sufficient to form a belief as to the truth of the allegations contained in paragraph 28 of the Amended Complaint and, therefore, denies the same.

29. The allegations of paragraph 29 of the Amended Complaint refer to a document. To the extent that the allegations of paragraph 29 vary from the text of the document itself, they are denied.

30. The allegations of paragraph 30 of the Amended Complaint refer to a document. To the extent that the allegations of paragraph 30 vary from the text of the document itself, they are denied.

31. NBD denies the allegations contained in paragraph 31 of the Amended Complaint.

32. NBD denies the allegations contained in paragraph 32 of the Amended Complaint.

33. NBD admits that it did not send any communication to Plaintiff Henderson at the time that Verifications, Inc. and HR Plus, Inc. retrieved search results from NBD. NBD denies that it had sufficient information to do so, and denies that it had any duty to do so. NBD denies any remaining allegations contained in paragraph 33 of the Amended Complaint.

34. NBD lacks information sufficient to form a belief as to the truth of the allegations contained in paragraph 34 of the Amended Complaint and, therefore, denies the same.

35. The allegations of paragraph 35 of the Amended Complaint refer to a document. To the extent that the allegations of paragraph 35 vary from the text of the document itself, they are denied. Any remaining allegations in paragraph 35 are denied.

36. NBD admits that it did not send any communication to Plaintiff Henderson at the time that Verifications, Inc. and HR Plus, Inc. retrieved search results from NBD. NBD denies that it had sufficient information to do so, and denies that it had any duty to do so. NBD denies any remaining allegations contained in paragraph 36 of the Amended Complaint.

**B. Plaintiff James O. Hines, Jr.**

37. NBD lacks information sufficient to form a belief as to the truth of the allegations contained in paragraph 37 of the Amended Complaint and, therefore, denies the same.

38. NBD lacks information sufficient to form a belief as to the truth of the allegations contained in paragraph 38 of the Amended Complaint and, therefore, denies the same.

39. NBD lacks information sufficient to form a belief as to the truth of the allegations contained in paragraph 39 of the Amended Complaint and, therefore, denies the same.

40. NBD lacks information sufficient to form a belief as to the truth of the allegations contained in paragraph 40 of the Amended Complaint and, therefore, denies the same.

41. NBD lacks information sufficient to form a belief as to the truth of the allegations contained in paragraph 41 of the Amended Complaint and, therefore, denies the same.

42. The allegations of paragraph 42 of the Amended Complaint refer to a document, which speaks for itself. To the extent that the allegations of paragraph 42 vary from the text of the document itself, they are denied. NBD lacks information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 42 of the Amended Complaint and, therefore, denies the same.

43. NBD lacks information sufficient to form a belief as to the truth of the allegations contained in paragraph 43 of the Amended Complaint and, therefore, denies the same.

44. NBD lacks information sufficient to form a belief as to the truth of the allegations contained in paragraph 44 of the Amended Complaint and, therefore, denies the same.

45. NBD lacks information sufficient to form a belief as to the truth of the allegations contained in paragraph 45 of the Amended Complaint and, therefore, denies the same.

46. NBD admits that it did not send any communication directly to Plaintiff Hines at the time that ADP Screening and Selection Services, Inc. obtained records from NBD.

47. NBD lacks information sufficient to form a belief as to the truth of the allegations contained in paragraph 47 of the Amended Complaint and, therefore, denies the same.

48. NBD lacks information sufficient to form a belief as to the truth of the allegations contained in paragraph 48 of the Amended Complaint and, therefore, denies the same.

49. NBD lacks information sufficient to form a belief as to the truth of the allegations contained in paragraph 49 of the Amended Complaint and, therefore, denies the same.

50. The allegations of paragraph 50 of the Amended Complaint refer to a document. To the extent that the allegations of paragraph 50 vary from the text of the document itself, they are denied. NBD lacks information sufficient to form a belief as to the truth of the remaining

allegations contained in paragraph 50 of the Amended Complaint and, therefore, denies the same.

51. NBD denies the allegations contained in paragraph 51 of the Amended Complaint.

52. NBD denies the allegations contained in paragraph 52 of the Amended Complaint.

**C. All Plaintiffs**

53. NBD denies the allegations contained in paragraph 53 of the Amended Complaint.

54. NBD denies the allegations contained in paragraph 54 of the Amended Complaint, as pled.

55. NBD denies the allegations contained in paragraph 55 of the Amended Complaint, as pled.

56. NBD denies the allegations contained in paragraph 56 of the Amended Complaint.

57. NBD denies the allegations contained in paragraph 57 of the Amended Complaint.

**COUNT I – VIOLATION OF THE FCRA**  
**15 U.S.C. §1681k(a)(1)**  
**(Class Action)**<sup>1</sup>

58. In response to the allegations contained in paragraph 58 of the Amended Complaint, NBD incorporates and re-asserts the responses contained in the foregoing paragraphs as if fully stated herein.

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<sup>1</sup> NBD sets forth the headings listed by Plaintiff for reference only and denies their content.

59. In response to paragraph 59 of the Amended Complaint, NBD admits that Plaintiffs purport to bring this claim on behalf of a class. NBD further admits that Plaintiffs purport to define the class as stated in paragraph 59. NBD denies that this matter may be properly maintained against it as a class action. Except as expressly admitted, NBD denies the allegations in paragraph 59.

60. NBD admits that Plaintiffs claim that the numerosity requirement of 23(a) is present and satisfied. This is a legal conclusion, which is not subject to admission or denial. NBD denies that that this matter may properly be maintained against NBD as a class action. Except as specifically admitted, NBD denies the allegations contained in paragraph 60 of the Amended Complaint.

61. NBD admits that Plaintiffs claim that the commonality requirement of 23(a) is present and satisfied. This is a legal conclusion, which is not subject to admission or denial. NBD denies that that this matter may properly be maintained against NBD as a class action. Except as specifically admitted, NBD denies the allegations contained in paragraph 61 of the Amended Complaint.

62. NBD admits that Plaintiffs claim that the typicality requirement of 23(a)(1) is present and satisfied. This is a legal conclusion, which is not subject to admission or denial. NBD denies that that this matter may properly be maintained against NBD as a class action. Except as specifically admitted, NBD denies the allegations contained in paragraph 62 of the Amended Complaint.

63. NBD admits that Plaintiffs claim that the adequacy requirement of 23(a) is present and satisfied. This is a legal conclusion, which is not subject to admission or denial. NBD denies that that this matter may properly be maintained against NBD as a class action. Except as



specifically admitted, NBD denies the allegations contained in paragraph 63 of the Amended Complaint.

64. NBD admits that Plaintiffs claim that the superiority requirement of 23(b) is present and satisfied. This is a legal conclusion, which is not subject to admission or denial. NBD denies that that this matter may properly be maintained against NBD as a class action. Except as specifically admitted, NBD denies the allegations contained in paragraph 64 of the Amended Complaint.

65. NBD denies the allegations contained in paragraph 65 of the Amended Complaint.

66. NBD denies the allegations contained in paragraph 66 of the Amended Complaint.

67. NBD denies the allegations contained in paragraph 67 of the Amended Complaint.

68. NBD denies the allegations contained in paragraph 68 of the Amended Complaint.

69. NBD denies the allegations contained in paragraph 69 of the Amended Complaint.

**COUNT II – FAIR CREDIT REPORTING ACT**  
**15 U.S.C. § 1681e(b)**  
**(Individual Claims of Plaintiff Henderson and Hines)**

70. In response to the allegations contained in paragraph 70 of the Amended Complaint, NBD incorporates and re-asserts the responses contained in the foregoing paragraphs as if fully stated herein.

71. NBD denies the allegations contained in paragraph 71 of the Amended Complaint.

72. NBD denies the allegations contained in paragraph 72 of the Amended Complaint.

73. NBD denies the allegations contained in paragraph 73 of the Amended Complaint.

74. NBD denies the allegations contained in paragraph 74 of the Amended Complaint.

**COUNT III – FAIR CREDIT REPORTING ACT**  
**15 U.S.C. § 1681i**  
**(Individual Claim of Plaintiff Hines)**

75. In response to the allegations contained in paragraph 75 of the Amended Complaint, NBD incorporates and re-asserts the responses contained in the foregoing paragraphs as if fully stated herein.

76. NBD denies the allegations contained in paragraph 76 of the Amended Complaint.

77. NBD denies the allegations contained in paragraph 77 of the Amended Complaint.

78. NBD denies the allegations contained in paragraph 78 of the Amended Complaint.

79. NBD denies the allegations contained in paragraph 79 of the Amended Complaint.

80. NBD denies that Plaintiffs may recover any of the requested relief.

81. NBD denies each and every allegation not expressly admitted herein.

**AFFIRMATIVE AND OTHER DEFENSES**

**FIRST DEFENSE**  
**(Failure to State a Claim)**

Plaintiffs' claims fail to the extent that the Amended Complaint fails to set forth facts sufficient to state a claim upon which relief may be granted against NBD and fails to state facts sufficient to entitle Plaintiffs to the relief sought, including because Plaintiffs have not sufficiently alleged (nor can prove) that NBD willfully violated the Fair Credit Reporting Act..

**SECOND AFFIRMATIVE DEFENSE**  
**(Truth/Accuracy Of Information)**

Plaintiffs' claims fail to the extent that they are barred because all information that NBD communicated to any third person regarding Plaintiffs was true and/or complete and up to date.

**THIRD AFFIRMATIVE DEFENSE**  
**(Compliance/Good Faith)**

NBD denies that the FCRA applies to the business activities challenged in the Amended Complaint. Nevertheless, Plaintiffs' claims fail because, at all relevant times with respect to Plaintiffs, NBD acted in good faith and complied with the FCRA.

**FOURTH AFFIRMATIVE DEFENSE**  
**(Intervening Superseding Cause)**

Plaintiffs' claims fail to the extent that Plaintiffs' purported damages, which NBD continues to deny, were the result of acts or omissions of third persons over whom NBD had neither control nor responsibility.

**FIFTH AFFIRMATIVE DEFENSE**  
**(Proximate Cause)**

Plaintiffs' claims fail to the extent that Plaintiffs' purported damages were the direct and proximate result of the conduct of Plaintiffs or others.

**SIXTH AFFIRMATIVE DEFENSE**  
**(Punitive Damages)**

Plaintiffs' claims for punitive damages fail to the extent that the Amended Complaint fails to state a claim for relief for punitive damages.

**SEVENTH DEFENSE**  
**(Failure to Mitigate Damages)**

Plaintiffs' claims are barred, in whole or in part, to the extent that Plaintiffs failed to mitigate their alleged damages.

**EIGHTH DEFENSE**  
**(Impropriety as a Class Action)**

This action may not properly proceed as a class action under Federal Rule of Civil Procedure 23 to the extent that, among other reasons, Plaintiffs' claims are not typical of the claims of each putative class member; questions of law and fact allegedly common to the putative class do not predominate over the numerous questions affecting only putative class members; a class action is not superior to other available methods for the fair and efficient adjudication of Plaintiffs' claims and any claims of putative class members; Plaintiffs and their counsel are unable to fairly and adequately protect the interests of the putative class members; and there are insurmountable difficulties in any attempt to proceed as a class action.

**NINTH DEFENSE**  
**(Standing)**

The Amended Complaint is barred, in whole or in part, to the extent that Plaintiffs and the putative class members lack Constitutional and/or statutory standing.

**TENTH DEFENSE**  
**(Subject Matter Jurisdiction and Preclusion)**

Plaintiffs' claims are barred, in whole or in part, to the extent the claims made in the Amended Complaint on behalf of putative class members are barred by the Rooker-Feldman

doctrine, the doctrine of judicial estoppel, collateral estoppel, and *res judicata*, including with respect to the related actions filed by Plaintiffs against Interstate Brands Corporation and Verifications, Inc.

**ELEVENTH DEFENSE**  
**(Statute Of Limitations)**

Plaintiffs' Amended Complaint fails to the extent that it is barred by the applicable statute of limitations.

**TWELFTH DEFENSE**  
**(Due Process - Defenses)**

Plaintiffs cannot recover from NBD as a class action to the extent to which such class recovery would deprive NBD of its due process rights to assert individualized defenses to claims of class members.

**THIRTEENTH DEFENSE**  
**(Excessive Award)**

Plaintiffs cannot recover from NBD individually or as a class action for punitive or statutory damages on the grounds that any award of punitive or statutory damages would be impermissible under the Due Process Clause of the Fifth Amendment to the United States Constitution, and the Excessive Fines Clause of the Eighth Amendment to the United States Constitution, due to the lack of any actual damages suffered by Plaintiffs and the gross disparity between the allegations of harm and the size of the claim. Stating further, any award of punitive or statutory damages would violate the constitutional standards enunciated in cases such as *BMW of N. Am., Inc. v. Gore*, 517 U.S. 559 (1996), and *State Farm Mut. Auto. Ins. Co. v. Campbell*, 538 U.S. 408 (2003).

**FOURTEENTH DEFENSE**  
**(Right To Assert Additional Defenses)**

CoreLogic reserves the right to assert additional affirmative defenses at such time and to such extent as warranted by discovery and the factual developments in this case.

WHEREFORE, CoreLogic National Background Data, LLC f/k/a National Background Data, LLC, request that the Court enter an order: (1) dismissing with prejudice the Amended Complaint; (2) awarding NBD its costs and expenses incurred herein; and (3) awarding NBD such other and further relief as the Court may deem just and proper.

**CORELOGIC NATIONAL BACKGROUND  
DATA, LLC f/k/a NATIONAL BACKGROUND  
DATA, LLC**

By: /s/ Timothy J. St. George  
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**CERTIFICATE OF SERVICE**

I hereby certify that on the 31st day of July 2014, I filed a true and correct copy of the foregoing on the Court's Electronic Case Filing System, which will send a notice of electronic filing to:

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