

**IN THE COURT OF COMMON PLEAS  
FOR LEXINGTON COUNTY  
STATE OF SOUTH CAROLINA**

GEORGE BOSKIE, HADEL TOMA, and  
TERRY KELLER, individually and as  
representatives of the Class,

Plaintiffs,

v.

Backgroundchecks.com LLC,

Defendant.

No. 2019CP3200824

**NOTICE OF CLASS ACTION SETTLEMENT**

**ADULTS 18 YEARS AND OLDER WITH A CRIMINAL RECORD**

*You could be affected by a class action settlement involving  
criminal background checks and reporting*

- There is a proposed settlement in a class action lawsuit against Backgroundchecks.com LLC (“Defendant”) involving the provision of data to third parties from Defendant’s public record database. Defendant maintains that it has not done anything wrong.
- You are included in the proposed Injunctive Relief Settlement if between September 8, 2014 and May 17, 2019 (1) information about a criminal record related to you (even if it did not result in a conviction) was in Defendant’s public record database or (2) Defendant provided a report about you to a third party. Defendant’s database contains hundreds of millions of publicly available criminal records and aliases from county, state and federal agencies, courts and correctional institutions.
- Your legal rights are affected by the proposed Injunctive Relief Settlement even if you do nothing.
- Your rights and options – and the deadlines to exercise them – are explained in this notice. Please read this entire notice carefully.

## SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

OBJECT TO THE SETTLEMENT	Write to the Court and explain why you don't think the settlement is fair, reasonable, or adequate. Your objection must be filed by <b>September 10, 2019</b> . ( <i>see</i> Questions 11 and 12)
GO TO A HEARING	Write to ask to speak to the Court about the fairness, reasonableness or adequacy of the settlement. Your Notice of Intent to Appear must be filed by <b>September 10, 2019</b> . ( <i>see</i> Question 14)
DO NOTHING	You do not have to do anything to benefit from the proposed Injunctive Relief Settlement. If the Injunctive Relief Settlement is finally approved, you will not be able to sue BGC for statutory and punitive damages or on a class action basis in connection with the provision of data from BGC to certain third parties. You retain your right to sue for actual damages. ( <i>see</i> Questions 4 and 6)

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## BASIC INFORMATION

### 1. DOES THIS NOTICE APPLY TO ME?

You are a member of the Injunctive Relief Class if information about you was in Defendant's public record database at any time between September 8, 2014 and May 17, 2019. The information in Defendant's public record database is collected (directly or indirectly) from county, state and federal agencies. These agencies include courts, correctional institutions and other agencies that collect and manage information on criminal records. The information in Defendant's database relates to criminal records even if there is no conviction. Defendant's public record database contains over 600 million separate records.

A Court authorized this notice to inform you about the proposed Injunctive Relief Class Settlement and your rights. Before any final judgment is entered, the Court will have a hearing to decide whether to approve the Injunctive Relief Settlement. This notice is only a summary of the proposed Injunctive Relief Settlement. More details about the proposed Injunctive Relief Settlement, the date when appeals are no longer allowed and the Injunctive Relief Settlement is final, deadlines for certain actions, and your options are available in a longer document called the Settlement Agreement. You can get a copy of the Settlement Agreement by visiting [www.criminalrecorddatasettlement.com](http://www.criminalrecorddatasettlement.com).

### 2. WHAT IS THIS LAWSUIT ABOUT?

The lawsuit is known as *Boskie v. Backgroundchecks.com LLC*, No. 2019CP3200824. Judge J. Walton McLeod of the Court of Common Pleas for the State of South Carolina, Lexington County, is overseeing this case. The people who sued are named George Boskie, Hadel Toma, and Terry Keller. They are called "Plaintiffs", the company sued is the "Defendant." The Defendant is Backgroundchecks.com LLC.

#### *What the Plaintiffs Claim*

Plaintiffs claim Defendant violated the Fair Credit Reporting Act, 15 U.S.C. § 1681 *et seq.* (the "FCRA") when it provided criminal record data to consumer reporting agencies, which used that data in some manner when preparing background check reports for third parties, including employers. Specifically, Plaintiffs allege that this sale of data by the Defendant (1) were consumer reports under the FCRA, and (2) Defendant failed to follow certain FCRA requirements that apply to consumer reports.

In addition to the claim described above, Plaintiff George Boskie and Defendant have reached a class settlement related to other allegations in the complaint. Specifically, Plaintiff Boskie contends that the Defendant violated the FCRA by reporting to HomeAdvisor, Inc. records other than convictions of crimes with a disposition date more than seven years before the date of the report. The settlement of these other allegations is referred to as the "**HomeAdvisor Class Settlement.**" If you are a member of the HomeAdvisor Class, you will receive a notice in the mail, which provides information with respect to the HomeAdvisor Class Settlement.

### ***How the Defendant Responded***

The Defendant has denied all claims in the Lawsuit. Defendant contends that it acted lawfully and that the FCRA does not apply to much of its conduct. Where the FCRA does apply, Defendant contends it acted in compliance with the FCRA at all times.

### ***Why the Parties Propose to Settle***

The Court did not decide whether the reports were consumer reports, whether the FCRA applied in whole or in part, or that either side was right or wrong. Instead, both sides agreed, in order to avoid the burden, expense, risk and uncertainty of continuing the litigation, to resolve the case and agree to the Settlement.

## **WHO IS AFFECTED BY THE SETTLEMENT?**

### **3. HOW DO I KNOW IF I AM AFFECTED BY THE SETTLEMENT?**

You are a member of the Injunctive Relief Class if information about you was in Defendant's public record database at any time between September 8, 2014 and May 17, 2019. The information in Defendant's public record database is collected (directly or indirectly) from county, state and federal agencies. These agencies include courts, correctional institutions and other agencies that collect and manage information on criminal records. The information in Defendant's database relates to criminal records even if there is no conviction and aliases. Defendant's public record database contains over 600 million separate records.

Specifically, for the purposes of settlement only, the Court has provisionally certified an "**Injunctive Relief Class**" defined as follows:

All natural persons residing in the United States or the District of Columbia about whom either (a) information existed in Defendant's public records database or (b) Defendant provided a report to a third party, in either case from September 8, 2014 to May 17, 2019. Excluded from the settlement class are any Released Person, any person who has previously released his or her claims against Defendant, and the judge overseeing the Litigation.

## **WHAT BENEFITS ARE PROVIDED?**

### **4. WHAT DOES THE SETTLEMENT PROVIDE?**

The benefits for the Injunctive Relief Class Members fall under the category of injunctive relief. An injunction occurs when a court orders a person to do or not to do something – in this case changes certain of Defendant's business practice. The Settlement requires the Defendant, at their expense, to design, implement, and maintain specific, substantial procedures that address the lawsuit's concerns about the sale of data from Defendant's database to consumer reporting agencies.

In general, the procedures require that before Defendant provides data to a consumer reporting agency, the consumer reporting agency must provide certain certifications to the Defendant of the duties they will perform with respect to the data received from Defendant. The data provided by the Defendant to the consumer reporting agency will depend on the specific certification provided

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by the consumer reporting agency. The goal of these certifications is for the consumer report that is produced by the consumer reporting agency to be in compliance with the FCRA and applicable FCRA-Equivalents.

Because these procedures are being accomplished through a Court injunction, Judge J. Walton McLeod will retain ongoing supervision and enforcement of these changes. The specific terms of these changes are included in the exhibits to the Settlement Agreement, a copy of which is available at [www.criminalrecorddatasettlement.com](http://www.criminalrecorddatasettlement.com).

Injunctive Relief Class Members do not have to pay or buy anything, register, or provide any information to benefit from the changes in business practice provided by the Settlement Agreement. **There will be no payments to the Injunctive Relief Class Members.**

Defendants have agreed to pay all costs associated with: publishing this notice, implementing the procedures described in the Court's injunction, administering the Settlement, and paying Class Counsel for their attorney's fees and expenses.

#### **5. WHEN WILL THE PROPOSED SETTLEMENT GO INTO EFFECT?**

The Court will hold a fairness hearing on **October 25, 2019**, to decide whether to approve the proposed Settlement. Even if the Court approves the proposed Settlement, there could be appeals to the Court's decision. The time for an appeal varies and could take more than a year.

The date when all appeals are completed, the proposed Settlement becomes final is called the Effective Date. You can visit the Settlement Website at [www.criminalrecorddatasettlement.com](http://www.criminalrecorddatasettlement.com) for updates on the status of the case.

#### **6. HOW DOES THE PROPOSED SETTLEMENT AFFECT MY RIGHTS?**

If the proposed Settlement is finally approved by the Court, then you will be giving up the right to file a lawsuit against the Defendant for statutory or punitive money damages relating to any violation of the FCRA or any similar state law based upon the communication of data from the Defendant to a consumer reporting agency or an entity that represented itself to be a consumer reporting agency. This means you cannot seek, or continue to seek, statutory or punitive damages based on any of the Defendant's alleged violations of the FCRA related to the sale of data from the Defendant's database to consumer reporting agencies. You will be giving up all such claims, whether or not you know about them. You are also giving up your right to file a class or mass action against Defendant related to Defendant's communication of data to consumer reporting agencies.

All Injunctive Relief Class members will receive the benefit from these changes in business practices and agree for seven years from the Effective Date (so long as Defendant is bound by the Injunction), they (1) will not contend that any action taken by Defendant in accordance with the injunction is a willful violation of FCRA (or any FCRA-Equivalents) and (2) will not file or participate in a class or mass action against Defendant related to Defendant's communication of data to consumer reporting agencies.

However, you will still have the right to file an individual lawsuit against the Defendant for actual damages that you claim resulted from the Defendant selling data about you from the Defendant's database to consumer reporting agencies. The Defendant will have the right to deny it is liable for any such damages.

The precise terms of the release and agreements are explained in the Settlement Agreement, which you can view on the Settlement Website, [www.criminalrecorddatasettlement.com](http://www.criminalrecorddatasettlement.com).

The Court's decision in this case will apply to you even if you object to the Settlement or have any other claim, lawsuit, or proceeding pending against the Defendant or any of the Released Parties relating to the same claims. If you have any questions about the release, then you should visit the Settlement Website [www.criminalrecorddatasettlement.com](http://www.criminalrecorddatasettlement.com) for more information or consult with a lawyer. See Questions 8-10 below for more information about seeking legal advice about the Settlement.

**7. CAN I EXCLUDE MYSELF FROM THE SETTLEMENT?**

No. The proposed Settlement requires the Defendant to make substantial revisions to its business practices and processes and to implement procedures to ensure it changes its business practices to benefit all Class Members, equally. As explained in Question 4, this type of benefit is injunctive. Under this type of class action, you cannot exclude yourself from the Class or this proposed Settlement.

**THOSE REPRESENTING YOU**

**8. DO I HAVE A LAWYER IN THE CASE?**

The Plaintiffs retained **E. Michelle Drake and John G. Albanese** of Berger Montague, PC, 43 SE Main Street, Suite 505, Minneapolis, MN 55414 and **Ryan Hancock** of Willig Williams & Davidson, 1845 Walnut Street, 24<sup>th</sup> Floor, Philadelphia, PA 19103 to represent them. In connection with the preliminary approval of the settlement, the Court appointed these attorneys to represent you and other members of the Injunctive Relief Class. Together, the attorneys are called "**Class Counsel.**" These lawyers will not separately charge you for their work on the case. If you want to be represented by your own lawyer, you may hire one at your own expense.

**9. HOW WILL THE LAWYERS BE PAID?**

Class Counsel will ask the Court for an award of attorneys' fees and expenses of up to \$2,100,000, for the time and effort they have spent on this case. However, the Court may ultimately award less than this amount. The attorneys representing the class have handled this case on a contingency basis. To date, they have not been paid anything for their work, and they have paid all of the litigation costs out-of-pocket, without any reimbursement. Class Counsel will be required to submit a fee request to the court demonstrating why the fee they are seeking is reasonable. This petition will be available on the Settlement Website no later than August 27, 2019.

The Defendant will pay the approved amount of attorneys' fees and expenses, and no Class Member will owe or pay anything for the attorneys' fees and expenses of Class Counsel.

**10. ARE THE PLAINTIFFS ENTITLED TO A SEPARATE PAYMENT?**

The Plaintiffs have found lawyers to represent them and the Class, litigated this case, participated in discovery, and participated in settlement negotiations. As compensation for their work on behalf of class members, the Plaintiffs will ask the Court to approve payments to each of them in an amount not to exceed \$3,500. The Court may ultimately award less than the requested amounts.

**OBJECTING TO THE SETTLEMENT**

**11. HOW DO I TELL THE COURT THAT I DO NOT LIKE THE SETTLEMENT?**

If you are a member of the Injunctive Relief Class, you can object to the settlement if you do not think any part of the settlement is fair, reasonable, or adequate. You can and should explain the detailed reasons why you think that the Court should not approve the settlement, if this is the case. The Court and Class Counsel will consider your views carefully. To be effective, an objection must contain: (a) the objecting Injunctive Relief Class Member's full name, address, date of birth, and telephone number; (b) the name of this Litigation and the case number; (c) a statement of each objection; (d) a statement of whether the objecting Injunctive Relief Class Member intends to appear at the Final Fairness Hearing; and (e) a written specification of the basis for each objection, including any legal and factual support that the objecting Injunctive Relief Class Member wishes to bring to the Court's attention and any evidence the objecting Injunctive Relief Class Member wishes to introduce in support of the objection.

You must file your objection with the Clerk of the Court, 205 East Main Street, Lexington SC 29072 no later than **September 10, 2019**. In addition, you must mail a copy of your objection to the Settlement Administrator at *Boskie v. Backgroundchecks.com*, c/o JND Legal Administration, PO Box 91131, Seattle, WA 98111-9231 no later than **September 10, 2019**.

There are additional requirements necessary for your attorney if you retain one. To be effective, an objection submitted through an attorney must contain, in addition to the information set forth above: the identity, mailing address, email address, fax number, phone number for the counsel by whom the Injunctive Relief Class Member is represented.

Below is contact information for the Parties' Counsel:

**CLASS COUNSEL**

BERGER MONTAGUE, PC  
Attn: E. Michelle Drake  
43 SE Main St., Suite 505  
Minneapolis, MN 55414

**DEFENSE COUNSEL**

TROUTMAN SANDERS LLP  
Attn: Cindy D. Hanson  
600 Peachtree St. NE, Suite 5200  
Atlanta, GA 30308



## THE COURT'S FAIRNESS HEARING

### 12. WHEN AND WHERE WILL THE COURT DECIDE TO APPROVE THE SETTLEMENT?

The Court will hold a hearing to decide whether to approve the settlement. You may attend and you may ask to speak at the hearing, but you do not have to.

The Court will hold a Fairness Hearing on **October 25, 2019 at 9:00 AM ET** in the Courtroom at the Lexington County Court of Common Pleas, 205 East Main Street, Lexington, SC 29072. At this hearing, the Court will consider whether the settlement is fair, reasonable, and adequate. If there are objections, the Court will consider them. The Court will listen to people who have submitted timely requests to speak at the hearing. The Court may also decide the amount that Class Counsel and the Plaintiff will be paid. After the hearing, the Court will decide whether to finally approve the settlement.

### 13. DO I HAVE TO COME TO THE HEARING?

No. Class Counsel will answer any questions the Court may have. You are welcome to come at your own expense if you so desire. If you send an objection, you do not have to come to Court to talk about it. As long as you mailed your written objection on time, the Court will consider it. You may also pay your own lawyer to attend, but it is not necessary.

### 14. MAY I SPEAK AT THE HEARING?

You may ask the Court for permission to speak at the Fairness Hearing. To do so, you must send a letter saying that it is your "Notice of Intent to Appear in *Boskie v. Backgroundchecks.com LLC*." Be sure to include your name, address, telephone number, and your signature. Your Notice of Intent to Appear must be filed with Clerk of Court no later than **September 10, 2019** and must be mailed to the Settlement Administrator no later than **September 10, 2019**. The addresses are in Section 11 above.

### 15. ARE THERE MORE DETAILS ABOUT THE SETTLEMENT?

This notice summarizes the proposed settlement. More details can be found on the Settlement Website [www.criminalrecorddatasettlement.com](http://www.criminalrecorddatasettlement.com), which includes the Complaint, Settlement Agreement, and other governing settlement documents.

### 16. HOW DO I GET MORE INFORMATION?

You can visit the website at [www.criminalrecorddatasettlement.com](http://www.criminalrecorddatasettlement.com). If you have questions about the case, you can call toll-free 1-833-222-1168 or write to: *Boskie v. Backgroundchecks.com*, c/o JND Legal Administration, PO Box 91131, Seattle, WA 98111-9231.

**PLEASE DO NOT CALL THE COURT, THE CLERK, OR THE DEFENDANT REGARDING THIS SETTLEMENT.**

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