

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF PENNSYLVANIA**

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WILLIAM NORMAN BROOKS, III,  
Plaintiff,

CASE NO. 2:22-cv-00048-GEKP

vs.

TRANS UNION LLC,  
Defendant.

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**TRANS UNION, LLC’S ANSWER TO PLAINTIFF’S FIRST AMENDED  
CLASS ACTION COMPLAINT AND AFFIRMATIVE DEFENSES**

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Trans Union, LLC (“Trans Union”), by counsel, responds to Plaintiff’s First Amended Class Action Complaint (the “Complaint”) as follows. For the Court’s convenience, Plaintiff’s allegations are set forth verbatim with Trans Union’s responses immediately following.

**PRELIMINARY STATEMENT**

1. This is a consumer class action based upon Defendant Trans Union, LLC’s violations of the Fair Credit Reporting Act, 15 U.S.C. §§ 1681 - 1681x (“FCRA”) and the California Consumer Credit Reporting Agencies Act, Cal. Civ. Code § 1785 *et seq.* (“CCRAA”).

**ANSWER:** Trans Union denies that it violated the FCRA (or any other law). Trans Union denies that this matter may be properly maintained as a class action under Rule 23. Trans Union denies that Plaintiff is entitled to any damages, costs, fees, or other relief from or against Trans Union. Trans Union states that the remaining allegations of this paragraph are legal conclusions and, so stating, denies them.

2. Trans Union has a decades-long and deeply entrenched practice of misreporting bankruptcy information on the credit reports of consumers who have never filed for bankruptcy. *See Clark v. Trans Union Corporation and Trans Union, LLC*, C.A. No.8:00-1219-22(D.S.C.

2000) Doc. No. 332 at 2 (approving nationwide settlement); *Clark v. Experian Info. Sols, Inc. et al.*, No. 8:00-1210-22, 2002 WL 2005709, at \*4 (D.S.C. June 26, 2002) (following consolidation, certifying FCRA claims of class of consumers about whom Trans Union and other Big Three CRAs reporting bankruptcy information despite the fact that they had not filed for bankruptcy). That practice has led to two (2) of the largest FCRA class action settlements in history, *Clark*, and *Hernandez, et al. v. Experian Information Sols., Inc., et al.*, No. 05-CV-1070 DOC (MLGx) (C.D. Cal.) (class action settlement *aff'd sub nom Radcliffe v. Hernandez*, 794 F. App'x 605 (9th Cir. 2019)). Through that litigation, Trans Union learned of the widespread and systemic nature of its bankruptcy misreporting practices, the impact of these practices on consumers and an effective methodology for preventing it from happening again, namely cross-referencing any tradeline bankruptcy information with the Public Records section of the credit report (defined below). Notwithstanding that institutional knowledge, it allows the practice to continue to this day.

**ANSWER:** As Plaintiff's allegations are stated and absent a proper definition of the terms employed, Trans Union states that it lacks knowledge or information at this time sufficient to form a belief about the truth of these allegations, which has the effect of a denial under Rule 8(b)(5). Trans Union states that the remaining allegations of this paragraph are legal conclusions and, so stating, denies them.

3. Defendant's practice harms consumers by defaming them as financially insolvent and/irresponsible to the lending world.

**ANSWER:** As Plaintiff's allegations are stated and absent a proper definition of the terms employed, Trans Union states that it lacks knowledge or information at this time sufficient to form a belief about the truth of these allegations, which has the effect of a denial under Rule 8(b)(5).

4. Defendant further harms consumers and deprives them of their rights under the FCRA and CCRAA when those consumers dispute the defamatory information by failing to use all of the information at its disposal when conducting reinvestigations, failing to correct the objectively inaccurate bankruptcy record information, and then reinserting it back on their reports even when it initially determines the information to be inaccurate and deletes it.

**ANSWER:** Trans Union denies the allegations contained in this paragraph.

## **II. JURISDICTION & VENUE**

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

**ANSWER:** Trans Union states that the allegations of this paragraph are legal conclusions and, so stating, denies them.

5. Venue lies properly in this district pursuant to 28 U.S.C. § 1391(b) because a substantial part of the events or omissions giving rise to Plaintiff's claims occurred in this District.

**ANSWER:** Trans Union states that the allegations of this paragraph are legal conclusions and, so stating, denies them.

## **III. PARTIES**

6. Plaintiff William Norman Brooks III is an adult individual who resides in San Diego County, California.

**ANSWER:** Trans Union states that it lacks knowledge or information sufficient to form a belief about the truth of these allegations, which has the effect of a denial under Rule 8(b)(5).

7. Defendant Trans Union, LLC ("Trans Union" or "Defendant") is a consumer reporting agency that regularly conducts business in the Commonwealth of Pennsylvania, and which has a principal place of business in Crum Lynne, Pennsylvania.

**ANSWER:** Trans Union admits that it is a “consumer reporting agency” as that term is defined by the Fair Credit Reporting Act, 15 U.S.C. § 1681, *et seq.* Trans Union admits that it is a Delaware limited liability company with its principal place of business in Chicago, Illinois. Trans Union states that the remaining allegations of this paragraph are legal conclusions and, so stating, denies them.

#### **IV. FACTUAL ALLEGATIONS**

##### *Defendant’s Use of Bankruptcy Record Information and Metro 2 Format*

8. Defendant is one of the “Big Three” consumer reporting agencies in the United States, and is regulated by the FCRA.

**ANSWER:** As Plaintiff’s allegations are stated and absent a proper definition of the terms employed, Trans Union states that it lacks knowledge or information at this time sufficient to form a belief about the truth of these allegations, which has the effect of a denial under Rule 8(b)(5).

9. Trans Union regularly conducts business in the State of California, and is regulated by the CCRAA in connection with the reports it sells about consumers located in California.

**ANSWER:** Trans Union states that the allegations of this paragraph are legal conclusions and, so stating, denies them.

10. The FCRA is intended “to protect consumers from the transmission of inaccurate information about them, and to establish credit reporting practices that utilize accurate, relevant, and current information in a confidential and responsible manner.” *Cortez v. Trans Union, LLC*, 617 F.3d 688, 706 (3d Cir. 2010). It requires consumer reporting agencies to utilize reasonable procedures to assure “maximum possible accuracy” when disseminating consumer reports, a

requirement that Trans Union willfully violates when it reports bankruptcy history about consumers who have never filed.

**ANSWER:** Trans Union states that the allegations of this paragraph are legal conclusions and, so stating, denies them.

11. The CCRAA is substantially based on the FCRA, and the two laws are interpreted in tandem. *Carvalho v. Equifax Info. Servs., LLC*, 629 F.3d 876, 889 (9th Cir. 2010).

**ANSWER:** Trans Union states that the allegations of this paragraph are legal conclusions and, so stating, denies them.

12. To further the FCRA and CCRAA purposes of ensuring that credit transactions are based on fair and accurate information, the FCRA and CCRAA each include a mechanism by which consumers may dispute inaccurate or incomplete information in their credit files.

**ANSWER:** Trans Union states that the allegations of this paragraph are legal conclusions and, so stating, denies them.

13. When a consumer notifies a CRA that he or she disputes “the completeness or accuracy of any item of information contained in [his or her] file,” the CRA must “conduct a reasonable reinvestigation to determine whether the disputed information is inaccurate and record the current status of the disputed information, or delete the item from the file” within 30 days of receiving the consumer’s dispute. 15 U.S.C. § 1681i(a)(1)(A). *See also* Cal. Civ. Code § 1785.16.

**ANSWER:** Trans Union states that the allegations of this paragraph are legal conclusions and, so stating, denies them.

14. Trans Union uses standardized procedures for conducting reinvestigations of consumer disputes, and for communicating with furnishers regarding consumer disputes.

**ANSWER:** As Plaintiff's allegations are stated and absent a proper definition of the terms employed, Trans Union states that it lacks knowledge or information at this time sufficient to form a belief about the truth of these allegations, which has the effect of a denial under Rule 8(b)(5).

15. In part to assist in compliance with FCRA and CCRAA obligations, the credit data industry has adopted a uniform data format for exchanging information between furnishers of information (such as banks, credit card companies, and other retailers) and credit bureaus, known as "Metro 2."<sup>1</sup>

**ANSWER:** As Plaintiff's allegations are stated and absent a proper definition of the terms employed, Trans Union states that it lacks knowledge or information at this time sufficient to form a belief about the truth of these allegations as they apply to Trans Union, which has the effect of a denial under Rule 8(b)(5). Trans Union states that it lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations, which has the effect of a denial under Rule 8(b)(5). Trans Union states that the remaining allegations of this paragraph are legal conclusions and, so stating, denies them.

16. The Metro 2 format is used to exchange information about the details of consumers' disputes, including providing standardized codes that furnishers can use to instruct credit bureaus to delete certain items of information from consumers' credit files.

**ANSWER:** Trans Union states that the Metro 2® Format speaks for itself. To the extent that Plaintiff misquotes or mischaracterizes the features of the Metro 2® Format, Trans Union denies the allegations as stated. As Plaintiff's remaining allegations are stated and absent a proper definition of the terms employed, Trans Union states that it lacks knowledge or information at this

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<sup>1</sup> See Consumer Data Industry Association, "Metro 2 Format For Credit Reporting" <https://www.cdiaonline.org/resources/furnishers-of-data-overview/metro2-information/> (last visited January 6, 2022).

time sufficient to form a belief about the truth of these remaining allegations as they apply to Trans Union, which has the effect of a denial under Rule 8(b)(5). Trans Union states that it lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations, which has the effect of a denial under Rule 8(b)(5).

17. Trans Union uses the Metro 2 format to communicate with furnishers regarding consumer disputes, and to receive responses from furnishers.

**ANSWER:** Trans Union states that the Metro 2® Format speaks for itself. To the extent that Plaintiff misquotes or mischaracterizes the features of the Metro 2® Format, Trans Union denies the allegations as stated. As Plaintiff's remaining allegations are stated and absent a proper definition of the terms employed, Trans Union states that it lacks knowledge or information at this time sufficient to form a belief about the truth of these remaining allegations, which has the effect of a denial under Rule 8(b)(5).

18. Trans Union regularly uses the Metro 2 format to send communications to data furnishers regarding consumers' disputes of information, including regarding the nature of the consumer's dispute.

**ANSWER:** Trans Union states that the Metro 2® Format speaks for itself. To the extent that Plaintiff misquotes or mischaracterizes the features of the Metro 2® Format, Trans Union denies the allegations as stated. As Plaintiff's remaining allegations are stated and absent a proper definition of the terms employed, Trans Union states that it lacks knowledge or information at this time sufficient to form a belief about the truth of these remaining allegations, which has the effect of a denial under Rule 8(b)(5).

19. Trans Union also regularly receives in response communications from data furnishers which contain Metro 2 codes.

**ANSWER:** Trans Union states that the Metro 2® Format speaks for itself. To the extent that Plaintiff misquotes or mischaracterizes the features of the Metro 2® Format, Trans Union denies the allegations as stated. As Plaintiff's remaining allegations are stated and absent a proper definition of the terms employed, Trans Union states that it lacks knowledge or information at this time sufficient to form a belief about the truth of these remaining allegations, which has the effect of a denial under Rule 8(b)(5).

20. Metro 2 format includes specific codes indicating that a bankruptcy notation should be deleted from a consumer's file.

**ANSWER:** Trans Union states that the Metro 2® Format speaks for itself. To the extent that Plaintiff misquotes or mischaracterizes the features of the Metro 2® Format, Trans Union denies the allegations as stated. As Plaintiff's remaining allegations are stated and absent a proper definition of the terms employed, Trans Union states that it lacks knowledge or information at this time sufficient to form a belief about the truth of these remaining allegations, which has the effect of a denial under Rule 8(b)(5).

21. Separately from bankruptcy information obtained in Metro 2 format from furnishers, Trans Union also obtains records of bankruptcy filings for inclusion in consumers' credit files, to be sold in the "Public Records" section of a Trans Union credit report. If a consumer files for bankruptcy, that filing is contained in the Public Records section. Thus, if there is no bankruptcy filing set forth in the Public Records section of a credit report, it is presumptive information that the consumer did not file [sic] for bankruptcy. In *Clark* and *Hernandez*, which involved Trans Union's misreporting of bankruptcy information about a co-obligor's filing on a non-filing consumer, Trans Union learned that when a credit report contains bankruptcy tradeline



information, it should cross-reference that data with the Public Records section to see whether the consumer actually filed before selling the report.

**ANSWER:** As Plaintiff's allegations are stated and absent a proper definition of the terms employed, Trans Union states that it lacks knowledge or information at this time sufficient to form a belief about the truth of these allegations, which has the effect of a denial under Rule 8(b)(5). Trans Union states that the remaining allegations of this paragraph are legal conclusions and, so stating, denies them.

22. Trans Union regularly obtains and maintains bankruptcy information from multiple sources in connection with consumers' files.

**ANSWER:** As Plaintiff's allegations are stated and absent a proper definition of the terms employed, Trans Union states that it lacks knowledge or information at this time sufficient to form a belief about the truth of these allegations, which has the effect of a denial under Rule 8(b)(5).

23. Trans Union nevertheless fails to use all of the information available in its systems to conduct reinvestigations when consumers dispute the completeness and/or accuracy of consumer disputes of bankruptcy information.

**ANSWER:** As Plaintiff's allegations are stated and absent a proper definition of the terms employed, Trans Union states that it lacks knowledge or information at this time sufficient to form a belief about the truth of these allegations, which has the effect of a denial under Rule 8(b)(5).

24. As a result, Trans Union fails to remove inaccurate bankruptcy information from consumers' files.

**ANSWER:** As Plaintiff's allegations are stated and absent a proper definition of the terms employed, Trans Union states that it lacks knowledge or information at this time sufficient to form a belief about the truth of these allegations, which has the effect of a denial under Rule 8(b)(5).

25. Trans Union is well aware of its duties under the FCRA and associated state laws in connection with the reporting of bankruptcy information about consumers and with responding to consumer disputes regarding bankruptcy information, having been sued in *Clark* and *Hernandez*.

**ANSWER:** As Plaintiff's allegations are stated and absent a proper definition of the terms employed, Trans Union states that it lacks knowledge or information at this time sufficient to form a belief about the truth of these allegations, which has the effect of a denial under Rule 8(b)(5). Trans Union states that the remaining allegations of this paragraph are legal conclusions and, so stating, denies them.

26. Trans Union's failure to utilize the methods learned from *Clark* and *Hernandez* to prevent ongoing bankruptcy misreporting, and failure to use all available information during its reinvestigations harmed Plaintiff and many other consumers across the United States. Trans Union's conduct undercuts the healthy functioning of the consumer credit system by providing inaccurate and misleading credit history information about consumers to potential creditors and service providers.

**ANSWER:** As Plaintiff's allegations are stated and absent a proper definition of the terms employed, Trans Union states that it lacks knowledge or information at this time sufficient to form a belief about the truth of these allegations, which has the effect of a denial under Rule

8(b)(5). Trans Union states that the remaining allegations of this paragraph are legal conclusions and, so stating, denies them.

*The Experience of Plaintiff William Norman Brooks, III*

27. Plaintiff, William Norman Brooks, III, has never filed for bankruptcy.

**ANSWER:** Trans Union states that it lacks knowledge or information sufficient to form a belief about the truth of these allegations, which has the effect of a denial under Rule 8(b)(5).

28. Plaintiff has held various accounts with Bank of America, N.A. (“BoFA”) over the past ten years, including but not limited to a line of credit and a credit card.

**ANSWER:** Trans Union states that it lacks knowledge or information sufficient to form a belief about the truth of these allegations, which has the effect of a denial under Rule 8(b)(5).

29. On January 3, 2020, an unrelated individual named William E. Brooks filed for a Chapter 13 bankruptcy in Mobile, Alabama. *See* Case No. 20-10014 (Bkry. S.D. Ala.) at ECF 1 (herein, the “Alabama Bankruptcy”).

**ANSWER:** Trans Union states that it lacks knowledge or information sufficient to form a belief about the truth of these allegations, which has the effect of a denial under Rule 8(b)(5).

30. The publicly available record of the Alabama Bankruptcy filing identifies one of the debtors as “William Eugene Brooks.” *Id.*

**ANSWER:** Trans Union states that it lacks knowledge or information sufficient to form a belief about the truth of these allegations, which has the effect of a denial under Rule 8(b)(5).

31. Plaintiff has never lived in Alabama. Furthermore, his middle name is “Norman,” and he consistently uses the generational suffix “III.”

**ANSWER:** Trans Union states that it lacks knowledge or information sufficient to form a belief about the truth of these allegations, which has the effect of a denial under Rule 8(b)(5).

32. No BofA accounts appear in the publicly available record of the Alabama Bankruptcy.

**ANSWER:** Trans Union states that it lacks knowledge or information sufficient to form a belief about the truth of these allegations, which has the effect of a denial under Rule 8(b)(5).

33. On or about January 5, 2020, BofA communicated to Trans Union using the Metro 2 format including codes indicating that Trans Union should include bankruptcy notations in Plaintiff's file in connection with the tradelines related to his line of credit and the credit card.

**ANSWER:** Trans Union states that it lacks knowledge or information at this time sufficient to form a belief about the truth of these allegations as they apply to Trans Union, which has the effect of a denial under Rule 8(b)(5). Trans Union states that it lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations, which has the effect of a denial under Rule 8(b)(5).

34. On or about January 15, 2020, Plaintiff requested a copy of his Trans Union file.

**ANSWER:** Trans Union states that it lacks knowledge or information at this time sufficient to form a belief about the truth of these allegations as they apply to Trans Union, which has the effect of a denial under Rule 8(b)(5). Trans Union states that it lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations, which has the effect of a denial under Rule 8(b)(5).

35. In response to his request, Trans Union provided Plaintiff with a "personal credit report" dated January 15, 2020 (the "January 15, 2020 Report").

**ANSWER:** Trans Union states that it lacks knowledge or information at this time sufficient to form a belief about the truth of these allegations as they apply to Trans Union, which has the effect of a denial under Rule 8(b)(5). Trans Union states that it lacks knowledge or

information sufficient to form a belief about the truth of the remaining allegations, which has the effect of a denial under Rule 8(b)(5).

36. The January 15, 2020 Report listed the BofA credit card account with the remark “CHAPTER 13 BANKRUPTCY; CLOSED BY CREDIT GRANTOR.”

**ANSWER:** Trans Union states that it lacks knowledge or information at this time sufficient to form a belief about the truth of these allegations as they apply to Trans Union, which has the effect of a denial under Rule 8(b)(5). Trans Union states that it lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations, which has the effect of a denial under Rule 8(b)(5).

37. The January 15, 2020 Report also listed Plaintiff’s credit cards with Macy’s and The Home Depot with the same bankruptcy remark.

**ANSWER:** Trans Union states that it lacks knowledge or information at this time sufficient to form a belief about the truth of these allegations as they apply to Trans Union, which has the effect of a denial under Rule 8(b)(5). Trans Union states that it lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations, which has the effect of a denial under Rule 8(b)(5).

38. Trans Union did not include the bankruptcy remark on any other accounts on the January 15, 2020 Report, including the BofA line of credit.

**ANSWER:** Trans Union states that it lacks knowledge or information at this time sufficient to form a belief about the truth of these allegations, which has the effect of a denial under Rule 8(b)(5).

39. Trans Union did not include any reference to the Alabama Bankruptcy in any “Public Records” section of the January 15, 2020 report.

**ANSWER:** Trans Union states that it lacks knowledge or information at this time sufficient to form a belief about the truth of these allegations, which has the effect of a denial under Rule 8(b)(5).

40. On January 16, 2020, Plaintiff sent Trans Union a detailed letter disputing its reporting of the bankruptcy remark on the BofA, Macy's and Home Depot accounts, specifically stating that the Alabama Bankruptcy did not pertain to him and explaining the differences between his personal information and that of the true bankruptcy filer.

**ANSWER:** Trans Union states that it lacks knowledge or information at this time sufficient to form a belief about the truth of these allegations as they apply to Trans Union, which has the effect of a denial under Rule 8(b)(5). Trans Union states that it lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations, which has the effect of a denial under Rule 8(b)(5).

41. On or about January 29, 2020, Trans Union sent Plaintiff the results of its reinvestigation of Plaintiff's disputes.

**ANSWER:** Trans Union states that it lacks knowledge or information at this time sufficient to form a belief about the truth of these allegations, which has the effect of a denial under Rule 8(b)(5).

42. As a result of Plaintiff's dispute, Trans Union removed the bankruptcy remark from the BofA credit card account, and confirmed that no bankruptcy remark appeared on the BofA line of credit tradeline.

**ANSWER:** Trans Union states that it lacks knowledge or information at this time sufficient to form a belief about the truth of these allegations, which has the effect of a denial under Rule 8(b)(5).

43. Trans Union nevertheless subsequently placed a bankruptcy remark in Plaintiff's file in connection with the BofA line of credit at some point after January 29, 2020 and before March 11, 2020.

**ANSWER:** Trans Union states that it lacks knowledge or information at this time sufficient to form a belief about the truth of these allegations, which has the effect of a denial under Rule 8(b)(5).

44. On or about March 11, 2020, believing that references to the inaccurate bankruptcy record had been removed from his credit files, Plaintiff applied for a personal loan.

**ANSWER:** Trans Union states that it lacks knowledge or information sufficient to form a belief about the truth of these allegations, which has the effect of a denial under Rule 8(b)(5).

45. On March 11, 2020, Trans Union sold a consumer report about Plaintiff to CoreLogic in connection with Plaintiff's application for credit which reinserted the inaccurate bankruptcy remark in connection of the BofA line of credit.

**ANSWER:** Trans Union states that it lacks knowledge or information at this time sufficient to form a belief about the truth of these allegations, which has the effect of a denial under Rule 8(b)(5).

46. As a result of the inaccurate appearance of the bankruptcy record reported by Trans Union, Plaintiff's application for credit was denied.

**ANSWER:** Trans Union states that it lacks knowledge or information at this time sufficient to form a belief about the truth of these allegations as they apply to Trans Union, which has the effect of a denial under Rule 8(b)(5). Trans Union states that it lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations, which has the effect of a denial under Rule 8(b)(5).

47. Upon information and belief, Trans Union's response to Plaintiff's dispute and its subsequent reporting of bankruptcy information about Plaintiff was pursuant to its usual policies and procedures.

**ANSWER:** As Plaintiff's allegations are stated and absent a proper definition of the terms employed, Trans Union states that it lacks knowledge or information at this time sufficient to form a belief about the truth of these allegations, which has the effect of a denial under Rule 8(b)(5).

48. By following its standardized procedures that it applied to Plaintiff, Trans Union has repeatedly continuously acted, and continues to act, in reckless or conscious disregard of Plaintiff's rights. Trans Union's actions, and its inaction, continue to cause great distress to Plaintiff. As a direct result of Trans Union's conduct, and in addition to the credit denial discussed above, Plaintiff suffered anguish, embarrassment, anxiety, distress, feelings of hopelessness, and sleepless nights.

**ANSWER:** Trans Union denies the allegations contained in this paragraph.

## **V. CLASS ACTION ALLEGATIONS**

49. Plaintiff brings this action on behalf of the following Classes:

- (a) **Inaccurate Bankruptcy Class:** All persons with an address in the United States and its Territories, during the period five years prior to the filing of the Complaint and continuing through the resolution of the case, about whom Defendant sold to a third party a consumer report containing a reference to a bankruptcy, and the individual who was the subject of the report had not filed for bankruptcy.
- (b) **Inaccurate Bankruptcy California Subclass:** All persons with an address in the State of California, during the period five years prior to the filing of the Complaint and continuing through the resolution of the case, about whom Defendant sold to a third party a consumer report containing a reference to a bankruptcy, and the individual who was the subject of the report had not filed for bankruptcy.



- (c) **Tradeline-only Bankruptcy Class:** All persons with an address in the United States and its Territories, during the period five years prior to the filing of the Complaint and continuing through the resolution of the case, about whom Defendant sold to a third party a consumer report containing a bankruptcy remark on a tradeline, but with no reference to a bankruptcy record in the Public Record section of the same report.
- (d) **Tradeline-only Bankruptcy California Subclass:** All persons with an address in the State of California, during the period five years prior to the filing of the Complaint and continuing through the resolution of the case, about whom Defendant sold to a third party a consumer report containing a bankruptcy remark on a tradeline, but with no reference to a bankruptcy in the Public Record section of the same report.
- (e) **Reinserted Bankruptcy Class:** All persons with an address in the United States and its Territories, during the period five years prior to the filing of the Complaint and continuing through the resolution of the case, for whom Defendant removed a bankruptcy record from the consumer's file as a result of a dispute, and about whom Defendant subsequently sold to a third party a consumer report containing a reference to the same bankruptcy filing.
- (f) **Reinserted Bankruptcy California Subclass:** All persons with an address in the State of California, during the period five years prior to the filing of the Complaint and continuing through the resolution of the case, for whom Defendant removed a bankruptcy record from the consumer's file as a result of a dispute, and about whom Defendant subsequently sold to a third party a consumer report containing a reference to the same bankruptcy filing.
- (g) **Reinserted Bankruptcy Tradeline Subclass** All persons with an address in the United States and its Territories, during the period five years prior to the filing of the Complaint and continuing through the resolution of the case, for whom Defendant removed a bankruptcy remark from a tradeline as a result of a consumer's dispute, and whom Trans Union subsequently sold to a third party a consumer report containing a bankruptcy remark on another tradeline from the same furnisher as the previously removed bankruptcy remark.
- (h) **Reinserted Bankruptcy Tradeline California Subclass:** All persons with an address in the State of California, during the period five years prior to the filing of the Complaint and continuing through the resolution of the case, for whom Defendant removed a bankruptcy remark from a tradeline as a result of a consumer's dispute, and whom Trans Union subsequently sold to a third party a consumer report containing a bankruptcy remark on another tradeline from the same furnisher as the previously removed bankruptcy remark.

**ANSWER:** Trans Union denies that this matter may be properly maintained as a class action under Rule 23. Trans Union states that the remaining allegations of this paragraph are legal conclusions and, so stating, denies them.

50. Plaintiff reserves the right to amend the definition of the Classes based on discovery or legal developments.

**ANSWER:** Trans Union denies that the statements contained in this paragraph require a response from Trans Union.

51. **Numerosity. Fed. R. Civ. P. 23(a)(1).** The members of the Classes are so numerous that joinder of all is impractical. Upon information and belief, the number of consumers harmed by Defendant's practices are more numerous than what could be addressed by joinder, and those persons' names and addresses are identifiable through documents or other information maintained by Defendant.

**ANSWER:** Trans Union denies that this matter may be properly maintained as a class action under Rule 23. Trans Union states that the remaining allegations of this paragraph are legal conclusions and, so stating, denies them.

52. **Existence and Predominance of Common Questions of Law and Fact. Fed. R. Civ. P. 23(a)(2).** Common questions of law and fact exist as to all members of the Classes, and predominate over the questions affecting only individuals. The common legal and factual questions include, among others: (1) whether Trans Union maintains reasonable procedures to prevent the reappearance of information that was previously deleted as a result of the dispute, (2) whether Trans Union maintains reasonable procedures to assure maximum possible accuracy of bankruptcy on its consumer reports; and (3) whether Trans Union acted willfully or negligently.

**ANSWER:** Trans Union denies that this matter may be properly maintained as a class action under Rule 23. Trans Union states that the remaining allegations of this paragraph are legal conclusions and, so stating, denies them.

53. **Typicality. Fed. R. Civ. P. 23(a)(3).** Plaintiff's claims are typical of each Class Member. Plaintiff has the same claims for relief that he seeks for absent Class Members.

**ANSWER:** Trans Union denies that this matter may be properly maintained as a class action under Rule 23. Trans Union states that the remaining allegations of this paragraph are legal conclusions and, so stating, denies them.

54. **Adequacy. Fed. R. Civ. P. 23(a)(4).** Plaintiff is an adequate representative of the Classes because his interests are aligned with, and are not antagonistic to, the interests of the members of the Classes he seeks to represent, he has retained counsel competent and experienced in such litigation, and he intends to prosecute this action vigorously. Plaintiff and his counsel will fairly and adequately protect the interests of members of the Classes.

**ANSWER:** Trans Union denies that this matter may be properly maintained as a class action under Rule 23. Trans Union states that the remaining allegations of this paragraph are legal conclusions and, so stating, denies them.

55. **Predominance and Superiority. Fed. R. Civ. P. 23(b)(3).** Questions of law and fact common to the Class members predominate over questions affecting only individual members, and a class action is superior to other available methods for fair and efficient adjudication of the controversy. The damages sought by each member are such that individual prosecution would prove burdensome and expensive given the complex and extensive litigation necessitated by Defendant's conduct. It would be virtually impossible for the members of the Classes to individually redress effectively the wrongs done to them. Even if the members of the Classes

themselves could afford such individual litigation, it would be an unnecessary burden on the courts. Furthermore, individualized litigation presents a potential for inconsistent or contradictory judgments and increases the delay and expense to all parties and to the court system presented by the complex legal and factual issues raised by Defendant's conduct. By contrast, the class action device will result in substantial benefits to the litigants and the Court by allowing the Court to resolve numerous individual claims based upon a single set of proof in a unified proceeding.

**ANSWER:** Trans Union denies that this matter may be properly maintained as a class action under Rule 23. Trans Union states that the remaining allegations of this paragraph are legal conclusions and, so stating, denies them.

## **VI. CAUSES OF ACTION**

### **COUNT I CLASS CLAIM 15 U.S.C. § 1681e(b)**

*Plaintiff Brooks individually and on behalf of the Inaccurate Bankruptcy Class, Tradeline-only Bankruptcy Class, Reinserted Bankruptcy Class, and Reinserted Bankruptcy Tradeline Subclass*

56. Plaintiff incorporates the foregoing paragraphs as though the same were set forth at length here.

**ANSWER:** Trans Union reasserts its answers and responses set forth herein.

57. Pursuant to sections 1681n and 1681o of the FCRA, Defendant is liable for willfully and negligently failing to follow reasonable procedures to assure maximum possible accuracy of the consumer reports it sold in violation of 15 U.S.C. § 1681e(b).

**ANSWER:** Trans Union denies the allegations contained in this paragraph.

**COUNT II**  
**CLASS CLAIM**  
**15 U.S.C. § 1681i(a)(5)(B)**

*Plaintiff Brooks individually and on behalf of the Reinserted Bankruptcy Class and Reinserted Bankruptcy Tradeline Subclass*

58. Plaintiff incorporates the foregoing paragraphs as though the same were set forth at length here.

**ANSWER:** Trans Union reasserts its answers and responses set forth herein.

59. Pursuant to sections 1681n and 1681o of the FCRA, Defendant is liable for willfully and negligently reinserting previously deleted information into a consumer's file without receiving a certification of completeness and/or accuracy, and without providing the required notice to the consumer, in violation of 15 U.S.C. § 1681i(a)(5)(B).

**ANSWER:** Trans Union denies the allegations contained in this paragraph.

**COUNT III**  
**CLASS CLAIM**  
**Cal Civ. Code § 1785.25(a)**

*Plaintiff Brooks individually and on behalf of the Inaccurate Bankruptcy California Subclass, Tradeline-only Bankruptcy California Subclass, Reinserted Bankruptcy California Subclass, and Reinserted Bankruptcy Tradeline California Subclass*

60. Plaintiff incorporates the foregoing paragraphs as though the same were set forth at length here.

**ANSWER:** Trans Union reasserts its answers and responses set forth herein.

61. Trans Union is a consumer credit reporting agency as defined by the CCRAA, and was required to adhere to the requirements of the CCRAA with respect to reports sold about individuals located in the State of California.

**ANSWER:** Trans Union admits that it is a “consumer reporting agency” as that term is defined by the Fair Credit Reporting Act, 15 U.S.C. § 1681, *et seq.* Trans Union states that the remaining allegations of this paragraph are legal conclusions and, so stating, denies them.

62. Pursuant to section 1785.25(a), Defendant is liable for willfully and negligently failing to follow reasonable procedures to assure the maximum possible accuracy of bankruptcy information included on consumer reports.

**ANSWER:** Trans Union denies the allegations contained in this paragraph.

63. Because Plaintiff and the California Subclasses set forth above will seek credit in the future, and because Defendant may continue to improperly report inaccurate bankruptcy information to their prospective creditors on consumer credit reports, there is a real and immediate threat that Plaintiff and the California Subclasses will suffer the same injury in the future.

**ANSWER:** Trans Union denies that this matter may be properly maintained as a class action under Rule 23. Trans Union states that the remaining allegations of this paragraph are legal conclusions and, so stating, denies them.

**COUNT IV  
INDIVIDUAL CLAIM  
Cal. Civ. Code § 1785.16(c)**

*Plaintiff Brooks Individually*

64. Plaintiff incorporates the foregoing paragraphs as though the same were set forth at length here.

**ANSWER:** Trans Union reasserts its answers and responses set forth herein.

65. Pursuant to section 1785.16(c) of the CCRAA, Defendant is liable for willfully and negligently reinserting previously deleted information into a consumer’s file without receiving a

certification of completeness and/or accuracy, and without providing the required notice to the consumer.

**ANSWER:** Trans Union denies the allegations contained in this paragraph.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff prays for judgment against Defendant as follows:

On Counts I and II:

1. An order certifying the case as a class action on behalf of the proposed Classes under Federal Rule of Civil Procedure 23 and appointing Plaintiff and the undersigned counsel of record to represent same;
2. An order entering judgment in favor of Plaintiff and the Classes and against Defendant for statutory and punitive damages pursuant to 15 U.S.C. § 1681n;
3. An order entering judgment in favor of Plaintiff and the Classes and against Defendant for actual damages pursuant to 15 U.S.C. § 1681o;
4. An order granting costs and reasonable attorneys' fees;
5. An award of pre-judgment and post-judgment interest as provided by law; and
6. Such other relief as the Court deems just and proper.

**ANSWER:** Trans Union denies that Plaintiff is entitled to any damages, costs, fees, or other relief from or against Trans Union.

On Count III:

1. An Order certifying the case as a class action on behalf of the proposed California Subclasses under Federal Rule of Civil Procedure 23 and appointing Plaintiff and the undersigned counsel of record to represent same.

2. An order entering judgment in favor of Plaintiff and the California Subclasses and against Defendant for damages pursuant to Cal. Civ. Code §§ 1785.31(a)(1) and 1785.31(a)(2).
3. Entry of an injunction ordering Trans Union to rectify the credit reporting errors and to change its procedures for reporting bankruptcy information about consumers.
4. An order granting costs and reasonable attorneys' fees;
5. An award of pre-judgment and post-judgment interest as provided by law; and
6. Such other relief as the Court deems just and proper.

**ANSWER:** Trans Union denies that Plaintiff is entitled to any damages, costs, fees, or other relief from or against Trans Union.

On Count IV:

1. An Order granting judgment in Plaintiff's favor and against Defendant for actual, statutory, and punitive damages pursuant to Cal. Civ. Code. §§ 1785.31(a)(1) and 1785.31(a)(2).
2. An award for reasonable attorneys [sic] fees and costs pursuant to Cal. Civ. Code § 1785.31.
3. An award of pre-judgment and post-judgment interest as provided by law, and
4. Such other relief as the Court deems just and proper.

**ANSWER:** Trans Union denies that Plaintiff is entitled to any damages, costs, fees, or other relief from or against Trans Union.

### **TRIAL BY JURY**

Plaintiff hereby requests a trial by jury on those causes of action where a trial by jury is allowed by law.

**ANSWER:** Trans Union denies that the statements contained in this paragraph require a response from Trans Union.



**AFFIRMATIVE DEFENSES**

1. Plaintiff has failed to state a claim against Trans Union upon which relief may be granted.
2. Plaintiff's state law and common law claims are pre-empted by the Fair Credit Reporting Act, 15 U.S.C. § 1681, et seq.
3. Trans Union's reports concerning Plaintiff were true or substantially true.
4. Trans Union has at all times followed reasonable procedures to assure maximum possible accuracy of its credit reports concerning Plaintiff.
5. Plaintiff's claims are barred, in whole or in part, by the applicable statute of limitations.
6. Plaintiff's claims are barred, in whole or in part, by 15 U.S.C. §§ 1681h(e) and/or 1681t.
7. At all relevant times, Trans Union acted within the absolute and qualified privileges afforded it under the FCRA, the United States Constitution, applicable State Constitutions and the common law.
8. Plaintiff's claims are barred, in whole, or in part, by the equitable theories of estoppel, waiver and laches.
9. Plaintiff has failed to take reasonable steps to mitigate his damages, if any.
10. Plaintiff's damages are the result of acts or omissions committed by Plaintiff.
11. Plaintiff's damages are the result of acts or omissions committed by the other parties over whom Trans Union has no responsibility or control.
12. Plaintiff's damages are the result of acts or omissions committed by non-parties to this action over whom Trans Union has no responsibility or control.

13. Any claim for exemplary or punitive damages asserted by Plaintiff violates Trans Union's rights under the Due Process and Excessive Fines clauses of the Fifth, Sixth, Eighth and Fourteenth Amendments to the United States Constitution and the analogous provisions of applicable State Constitutions and under the First Amendment of the United States Constitution and the analogous provisions of applicable State Constitutions.

14. Trans Union reserves the right to assert additional defenses as may become apparent through additional investigation and discovery.

WHEREFORE, Defendant Trans Union, LLC, by counsel, denies that Plaintiff is entitled to judgment or to any of the relief sought, and respectfully requests that judgment be entered in its favor and against Plaintiff on all counts set forth in the Complaint, and that Trans Union, LLC, be awarded its costs incurred in defending this action, along with such other relief as this Court deems equitable and just.

Date: March 7, 2022

Respectfully submitted,

s/ Katherine E. Carlton Robinson

Katherine E. Carlton Robinson, Esq.

(IN #31694-49)

(admitted *Pro Hac Vice*)

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*Counsel for Defendant Trans Union, LLC*

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the foregoing has been filed electronically on the **7<sup>th</sup> day of March, 2022**. Notice of this filing will be sent to the following parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's electronic filing.

James A. Francis, Esq. <a href="mailto:jfrancis@consumerlawfirm.com">jfrancis@consumerlawfirm.com</a>	Lauren KW Brennan, Esq. <a href="mailto:lbrennan@consumerlawfirm.com">lbrennan@consumerlawfirm.com</a>
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The undersigned further certifies that a true copy of the foregoing was served on the following parties via First Class, U.S. Mail, postage prepaid, on the **7<sup>th</sup> day of March, 2022** properly addressed as follows:

Tammy G. Hussin, Esq. Hussin Law 1596 North Coast Highway Encinitas, CA 92024	
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/s/ Katherine E. Carlton Robinson

Katherine E. Carlton Robinson, Esq.

(IN #31694-49)

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